



SAINT

LUCIA

CHAPTER 13.27

SHIPPING ACT

Revised Edition

Showing the law as at 31 December 2001

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

SHIPPING ACT

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FORMS AND FEES UNDER THE MERCHANT SHIPPING ACTS OF THE UNITED KINGDOM – Section 491

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SCHEDULE **259**

CHAPTER 13.27

SHIPPING ACT

(Act 11 of 1994 and 16 of 2000)

AN ACT to make provision for the registration and licensing of ships, matters relating to crews, safety of life at sea and matters incidental thereto.

Commencement [19 November 1994]

PART 1 PRELIMINARY

1. SHORT TITLE

This Act may be cited as the Shipping Act.

2. INTERPRETATION

In this Act except where the context otherwise requires—

“**agent**” means in relation to a ship, any person, not being a managing owner, vested with a specific authority by the owner;

“**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;

“**apprentice**” means a trainee officer and includes a cadet;

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

“**cargo**” includes livestock;

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

“**Caribbean Community**” means the Community established under the Treaty done at Chaguaramas on 4 July 1973;

- “**CARICOM State**” means a member State of the Caribbean Community;
- “**Comptroller**” means the Comptroller of Customs and Excise;
- “**consular officer**” means a person discharging the duties of a consular officer on behalf of the Government of Saint Lucia and when used in relation to a country other than Saint Lucia, means the officer recognised by the Government of Saint Lucia as a consular officer of that other country;
- “**crew**” in relation to a ship includes seamen and apprentices;
- “**Director**” means the Director of Maritime Affairs appointed under section 4, and includes any person lawfully acting under the instructions of or on behalf of the Director;
- “**drugs**” means narcotics and psychotropic substances as defined in the Drugs (Prevention of Misuse) Act;
- “**duly qualified medical practitioner**” means a person registered or licensed under the Registration of Medical Practitioners Act;
- “**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;
- “**foreign ship**” means a ship which is not a Saint Lucian ship;
- “**grain**” includes millet, wheat, maize (corn), oats, rye, barley, rice, pulses and seeds;
- “**Inspector**” means a person appointed as such by the Minister under section 484;
- “**international voyage**” means a voyage from a port in one country to a port in another country;
- “**licensed Saint Lucian ship**” means a ship that is licensed under section 49;
- “**Liens and Mortgages Convention**” means the International Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages, 1967;
- “**local trade in Saint Lucian waters**” means the transport locally of passengers or goods or the carrying out of any

other operation or activity locally, within Saint Lucian waters for profit or reward;

“**machinery**” includes propulsion systems, steering systems, pressurised 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;

“**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;

“**maritime 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;

“**master**” includes every person who lawfully has command or charge of any ship;

“**merchant ship**” means any ship other than a fishing vessel or a ship which forms part of the Defence Force of Saint Lucia;

“**Minister**” means the Minister assigned with the responsibility for shipping;

“**mortgage**” includes a hypothec within the meaning of article 1908 of the Civil Code;

“**officer**” in relation to ships, includes a master and a deck engineer, radio or medical officer;

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

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

- (a) the master, a member of the crew, or a person employed or engaged in any capacity on board the ship on the business of the ship and signed on the ship’s articles of agreement as such a person;
- (b) a child under one year of age; or
- (c) 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;

“**passenger ship**” means a ship which is constructed for, or which is habitually or on any particular occasion used for carrying more than 12 passengers;

“**person qualified to own a Saint Lucian ship**” has the meaning assigned to it in section 12;

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

“**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;

“**port**” means the harbour of Castries and any other harbour or port declared to be such under section 12 of the Customs (Control and Management) Act;

“**Port of Registry**” in relation to any ship means the port where the ship is registered;

“**Principal Receiver**” means the Principal Receiver of Wreck referred to in section 353;

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

“**public officer**” has the meaning assigned to that expression in the Constitution of Saint Lucia;

“**receiver**” means a receiver of wreck so designated under section 353;

“**Registrar of Ships**” means a person appointed as such under section 4, and includes an Assistant Registrar appointed under section 8;

“**Saint Lucia**” includes Saint Lucian waters;

“**Saint Lucian Government ship**” means a ship which belongs to the Government of Saint Lucia but does not include a

ship which forms part of the Defence Force of Saint Lucia;

“**Saint Lucian ship**” means a ship which is—

- (a) registered or licensed in Saint Lucia under this Act;
or
- (b) exempted under this Act from being registered or licensed;

“**Saint Lucian waters**” includes the internal waters and the territorial sea as defined in the Maritime Areas Act;

“**salvage**” includes all expenses properly incurred by a salvor in the performance of salvage services or operations;

“**salvage services**” means services rendered in direct connection with salvage operations;

“**salvor**” means any person rendering salvage services;

“**seafarer**” includes a master, officer and any other category of crew;

“**seaman**” means every person employed or engaged in any capacity on board any ship, and includes apprentices except for the purposes of sections 198 to 223, but does not include a master, pilot or a person temporarily employed on the ship while the ship is in port;

“**ship**” includes every description of vessel used in navigation and not propelled by oars;

“**shipwrecked persons**” means persons belonging to any ship referred to in section 355;

“**Saint Lucia Air and Sea Ports Authority**” means the Saint Lucia Air and Sea Ports Authority established under the Saint Lucia Air and Sea Ports Authority Act;

“**surveyor of ships**” means a person appointed as such under section 4;

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

“**vehicle**” includes any vehicle of any description, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise;

“**vessel**” includes every description of water craft used, or capable of being used, as a means of transportation on water;

“**wreck**” includes—

- (a) flotsam, jetsam, lagan, and derelict found in the waters or on the shores of Saint Lucia;
- (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.

(Amended by Act 16 of 2000)

3. APPLICATION TO GOVERNMENT SHIPS

- (1) Subject to subsection (2), this Act shall not apply—
 - (a) to Saint Lucian Government ships operated for non-commercial purposes;
 - (b) to ships or aircraft of the Saint Lucian Defence Force.
- (2) The Minister may make regulations prescribing the manner and extent to which the provisions of this Act apply to Saint Lucian Government ships operated for non-commercial purposes.

PART 2 ADMINISTRATION OF THE ACT

4. ESTABLISHMENT OF DIVISION

- (1) There is established a Division of Maritime Affairs within the Saint Lucia Air and Sea Ports Authority.
- (2) For the purpose of administering the Division of Maritime Affairs, there shall be a Director of Maritime Affairs who shall be appointed in accordance with section 475 and who shall have general supervision over all matters to which this Act relates.
- (3) In addition to the Director, referred to in subsection (2), the following officers shall be appointed to the Division of Maritime Affairs in accordance with section 475—
 - (a) Registrar of Ships;

- (b) Registrar of Seamen;
 - (c) Principal Receiver of Wrecks;
 - (d) Surveyor of Ships;
 - (e) any other officers are necessary for the purposes of carrying out the functions of the Division of Maritime Affairs.
- (4) Any Act done by, to or before any officer, referred to in subsection (3) or any maritime officer referred to in section 6 in exercise or performance of any power, right or duty conferred or imposed by this Act, shall have the same effect as if done by, to or before the Director.

(Substituted by Act 16 of 2000)

5. POWER OF MINISTER TO GIVE DIRECTIONS

The Minister may give the General Manager of the Saint Lucia Air and Sea Ports Authority 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 the Minister may consider necessary, and the Authority shall take such steps as are necessary or expedient to give effect to them. *(Amended by Act 16 of 2000)*

6. MARITIME OFFICERS

- (1) There may be appointed in accordance with section 475 and for the purposes of this Act, such number of maritime officers for each port in Saint Lucia, as may be necessary. *(Amended by Act 16 of 2000)*
- (2) A maritime officer shall exercise his or her powers and duties under the direction of the Director.

7. SURVEYOR'S POWERS AND DUTIES

- (1) The 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 the Surveyor of Ships shall be performed under the direction of the Director and in accordance with any rules made by the Minister.

8. REGISTRAR OF SHIPS AND ASSISTANT REGISTRAR OF SHIPS

- (1) The Director may be appointed as the Registrar of Ships.
- (2) There may be appointed any person to be an Assistant Registrar of Ships.
- (3) The Registrar of Ships and Assistant Registrar of Ships shall perform their duties under the direction of the Director.

9. MINISTER MAY DELEGATE CERTAIN POWERS AND DUTIES

- (1) The Minister may, by notice made by statutory instrument, delegate to the General Manager of the Saint Lucia Air and Sea Ports Authority, the exercise of any powers, other than the power to make regulations, or the performance of any duties conferred or imposed on the Minister by or under this Act, subject to such conditions and restrictions as may be specified in such notice.
- (2) The exercise of any powers or the performance of any duties by the Minister shall not be affected by any delegation made under subsection (1).
- (3) Every officer purporting to act under any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of such delegation.

(Amended by Act 16 of 2000)

10. REGISTRAR OF SEAMEN

The Director may be appointed as the Registrar of Seamen.

PART 3 RESTRICTION ON TRADING

11. TRADE IN SAINT LUCIAN WATERS

- (1) Subject to subsections (2) and (3) a ship shall not trade in or from Saint Lucian waters unless the ship—
 - (a) is a Saint Lucian ship; or
 - (b) is provided with a certificate of foreign registry or other document similar or equivalent to that required by this Act.
- (2) Subject to the provisions of any regulations made or exemptions given under this Act, or any treaty or agreement with any foreign Government, only Saint Lucian ships may be engaged in local trade in Saint Lucian waters.
- (3) A person or body corporate not qualified to own a Saint Lucian ship as provided by section 12 shall not charter or otherwise engage any Saint Lucian ship for local trade in Saint Lucian waters, except under and in accordance with such conditions as the Minister may direct or prescribe.
- (4) Every Saint Lucian ship trading in any waters and every ship trading in or from Saint Lucian waters shall provide evidence of financial responsibility against risks of damage to third parties, in such a manner as may be prescribed.
- (5) The master, owner or agent of any ship contravening subsections (1), (2) and (4) and any person or body corporate contravening subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 and in addition the ship is liable to be detained.
- (6) Subject to the provisions of subsection (1) this section shall not be deemed to affect the operation of Part 6 of the Customs (Control and Management) Act.

PART 4 REGISTRATION AND LICENSING OF SHIPS AND PROPRIETARY INTERESTS IN SHIPS

Registration of Saint Lucian ships

12. QUALIFICATIONS FOR OWNING A SAINT LUCIAN SHIP

Subject to sections 14 and 15, a ship shall not be registered in Saint Lucia under this Act unless the ship is owned wholly by persons qualified to own a Saint Lucian ship, namely—

- (a) a citizen of Saint Lucia;
 - (b) any person who under the Immigration Act is deemed to belong to Saint Lucia;
 - (c) a citizen of a CARICOM State residing in a member State of the Caribbean Community, where the ship is customarily engaged in international voyages;
 - (d) any individual or corporation in *bona fide* joint venture shipping enterprise relationships with citizens of Saint Lucia, as may be prescribed;
 - (e) any body corporate established under and subject to the laws of Saint Lucia and having its principal place of business in Saint Lucia;
 - (f) such other persons as the Minister may by order made by statutory instrument determine subject to negative resolution of the House of Assembly and the Senate.
- (2) For the purposes of this section a body corporate means a body corporate the majority of shareholders of which are citizens of Saint Lucia.

13. OBLIGATION TO REGISTER SAINT LUCIAN SHIPS

- (1) Whenever a ship is owned wholly by persons qualified to own a registered Saint Lucian ship, that ship shall be registered in the manner provided in this Part unless the ship is—
 - (a) registered in some other country;
 - (b) recognised by the law of a country other than Saint Lucia as a ship of that country, and is by the law of that country exempted from registration;
 - (c) under subsection (2), exempted from registration under this Act;

- (d) required to be licensed and operates solely within Saint Lucian waters; or
 - (e) exempt from being licensed.
- (2) The Minister may by notice, made by statutory instrument, exempt generally or specifically from registration under this Act, a licensed Saint Lucian ship or a class thereof or a ship or a class of ship that is required to be licensed, when operating outside Saint Lucian waters.
 - (3) Subject to section 3 every Saint Lucian ship, and every Saint Lucian Government ship shall be registered in one of the register books kept under 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 Saint Lucian ship or a licensed Saint Lucian ship fails, on demand, to produce the certificate of registration or the licence 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 Saint Lucian ship, and which immediately before the commencement of this Act, is registered in Saint Lucia in accordance with the Merchant Shipping Act of the United Kingdom, 1894, is entitled to be registered under this Act, but subject to such conditions as may be prescribed.
 - (6) A ship required to be registered or licensed under this Act shall not be recognised as a Saint Lucian ship and is not entitled to the rights and privileges accorded to Saint Lucian 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 or she may direct the Registrar of Ships to require that evidence be given to the Minister's 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 30 days, evidence to the satisfaction of the Minister of the title of the ship is not given, the ship is liable to be de-registered.

- (8) The Minister may make regulations for the purpose of giving full effect to this section, and in particular for matters relating to the obligation to register ships and failure to comply with it.

14. APPLICATION FOR REGISTRATION

- (1) An application for the registration of a ship shall be made in the prescribed form—
- (a) in the case of individuals, by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or her or their agent;
 - (b) in the case of bodies corporate, by their agent,
- and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and if appointed by a body corporate, under the common seal of that body.
- (2) The Registrar of Ships may require proof of ownership to his or her satisfaction before proceeding with the registration of a ship.

15. DECLARATION OF OWNERSHIP

- (1) A person shall not be registered as the owner of a Saint Lucian ship or of a share therein until such person, or in the case of a body corporate the person authorised by section 93(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—
- (a) his or her full name and address;
 - (b) a statement of his or her citizenship or national status, or in the case of a body corporate a statement of the constitution and business thereof as proof of its qualification to own a Saint Lucian ship;
 - (c) a statement of the time when and the place where the ship was built, or if the ship was built outside Saint Lucia 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 Saint Lucia a statement of the name by which the ship was so registered;

- (d) a statement of the name of the master and his or her 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 or her 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 89.

16. EVIDENCE ON FIRST REGISTRATION

- (1) On the first registration of a ship the following evidence shall be produced in addition to the declaration of ownership—
- (a) in the case of a ship built in Saint Lucia a builder’s certificate signed by the builder of the ship and containing a true account of—
 - (i) the proper denomination and of the tonnage of the ship as estimated by the builder,
 - (ii) the time when and the place where the ship was built,
 - (iii) the name of the person, if any, on whose account the ship was built, and
 - (iv) if there has been any sale, the Bill of Sale under which the ship or a share therein has become vested in the applicant for registration;
 - (b) in the case of a foreign-built ship, the same evidence as in the case of a ship built in Saint Lucia unless the declarant who makes the declaration of ownership declares that the time and place where the ship was built are unknown to him or her or that the builder’s certificate cannot be procured; in which case there shall be registered only the Bill of Sale under which the ship or a share therein became vested in the applicant for registration; and

- (c) 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 Saint Lucia the builder shall deliver to the owner a signed certificate containing the particulars specified in subsection (1)(a).
- (3) If any builder fails to comply with subsection (1) or (2) or wilfully makes a false statement in a certificate given thereunder, he or she commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

17. RESTRICTION ON REGISTRATION

A ship which is or has been registered in any country is not eligible for registration under this Act unless—

- (a) in the case of a ship which is or has been registered in a country which is party to the Liens and Mortgages Convention, 1967—
 - (i) a certificate has been issued by such country to the effect that the ship has been de-registered, or
 - (ii) a certificate has been issued by such a country to the effect that the ship will be de-registered on the day that the new registration is effected;
- (b) in the case of a ship which is or has been registered in any other country, evidence satisfactory to the Minister that—
 - (i) the ship has been de-registered on the day that the new registration is effected, or
 - (ii) the ship's foreign registration has been cancelled or will be cancelled on the day that the new registration is effected, and
 - (iii) no mortgages are outstanding against the ship, or
 - (iv) where there are mortgages outstanding against the ship, the mortgagees have consented in writing to the de-registration or cancellation of the ship's foreign registration.

18. CANCELLATION OF REGISTRATION

The registration of a ship shall be cancelled if at any time the ship—

- (a) appears to be registered also in a foreign registry; or
- (b) ceases to comply with the qualifications for the ownership of Saint Lucian ships as required by section 12; or
- (c) appears to have been lost or broken up.

19. RESTRICTION ON DE-REGISTRATION OF SHIPS

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

20. PORT OF REGISTRY

- (1) The port of Castries shall be the port of registry for the registration of ships.
- (2) The Minister may, by order made by statutory instrument, declare any other port of Saint Lucia as a port of registry.

21. REGISTER BOOKS

- (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 a register book shall be made in accordance with the following provisions—
 - (a) the property in a ship shall be divided into 64 shares;
 - (b) subject to the provisions of this Part with respect to joint owners or owners by transmission, not more than 64 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 5 may be registered as joint owners of a ship or of any share 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 in its corporate name.
- (3) As soon as the requirements of this Act preliminary to registration of a ship have been complied with the Registrar of Ships shall enter in the register book the following particulars respecting the ship—
- (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 the origin of the ship stated in the declaration of ownership;
 - (d) the name, address, occupation and nationality of the owner of the ship 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, 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 of Ships 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 registry contains any provision express, implied or constructive, restricting the use of the vessel or imputing any measure of continued control thereof by the government of a foreign country.

- (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 of Ships 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) maritime liens or other charges.

22. DOCUMENTS TO BE RETAINED BY THE REGISTRAR OF SHIPS

On the registration of a ship the Registrar of Ships shall retain in his or her possession the following documents—

- (a) the certificate of survey;
- (b) the builder's certificate, if any;
- (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.

23. NAME OF SHIP

- (1) Every ship registered in the register book for ships shall have a name; and 2 or more ships shall not bear the same name.
- (2) A Saint Lucian ship shall not be described by any name other than that by which it is registered.
- (3) The Registrar of Ships may refuse the registration of any ship by the name by which it is proposed to register that ship if the name is already the name of a registered Saint Lucian ship or a name so similar as is calculated or likely to deceive, or offend the public interest.

24. CHANGE OF NAME OF SHIP

- (1) A change may not be made in the name of a Saint Lucian ship without the previous written consent of the Registrar of Ships.

- (2) Application for a change of name shall be made on the prescribed form.
- (3) The Registrar of Ships may not grant permission to change the name of a Saint Lucian ship, unless the Registrar of Ships is satisfied that all registered mortgagees of the ship have been notified of the proposed change of name.
- (4) An approval for a change of name shall be granted by the Registrar of Ships 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.

25. IDENTITY MARKS FOR FISHING VESSELS

- (1) On the registration of a fishing vessel the Registrar of Ships shall allocate to that vessel a combination and sequence of letters and numerals (hereinafter called the “identity mark”) which the Registrar of Ships 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 that fishing vessel under this section on each side of that vessel’s bow and shall show the Port of Registry on the stern.
- (4) The master and owner of a fishing vessel which displays an identity mark not allocated to that vessel under this section commits an offence.

26. OFFENCES UNDER SECTION 24 AND 25

A person commits an offence who contravenes or permits any other person under his or her control to contravene section 24 or 25.

27. CALL SIGN

A 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.

28. REGISTER BOOK FOR SHIPS UNDER CONSTRUCTION

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

29. SURVEY AND MEASUREMENTS OF SHIPS

- (1) Every ship before registration shall be surveyed by a Surveyor of Ships and the tonnage of the ship ascertained in accordance with the provisions of any Regulations made under this Part.
- (2) The Surveyor of Ships shall grant a certificate of survey specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may be required by the Registrar of Ships.
- (3) The certificate of survey shall be delivered to the Registrar of Ships before registration.

30. MINISTER TO MAKE TONNAGE REGULATIONS

- (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 \$5,000 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 the ship 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 the ship and, where it has been assigned to the ship 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 Saint Lucia.
- (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.

31. TONNAGE ONCE ASCERTAINED TO BE TONNAGE OF SHIP

- (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 thenceforth 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 the tonnage of the ship ascertained and registered according to the tonnage regulations.

32. TONNAGE OF FOREIGN SHIP

- (1) Where it appears to the Minister that a foreign 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 Saint Lucia, be deemed to be of the tonnage denoted in the certificate of registry of the ship or other national certificates relating to tonnage in the same manner, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a Saint Lucian ship is deemed to be the tonnage of that ship.

- (2) Any space shown by the certificate of registry 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 Saint Lucian ships, 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 Saint Lucian 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 that ship 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.

33. FOREIGN AND OTHER MEASUREMENTS

- (1) Where a ship has been measured and registered as a foreign ship or has already been measured without being registered as a Saint Lucian ship, a Surveyor of Ships 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 or herself that there have been no changes of measurement since the making of the register or certificate that he or she proposes to use; and where any such changes have

been made he or she shall remeasure the ship to the extent made necessary by the changes.

34. ALTERATIONS BETWEEN SURVEYS

Where any alteration or reconstruction of a Saint Lucian ship is made that could affect the ship's classification, measurement, tonnage or load line, the owner or master of the ship shall, within 30 days after the completion of the alteration or reconstruction, advise the Registrar of Ships of the alteration or reconstruction and give him or her details thereof.

35. APPOINTMENT OF SURVEYORS OF SHIPS

- (1) The Minister may appoint duly qualified persons within or outside Saint Lucia as Surveyors of Ships 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 Saint Lucia 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.

36. MARKING OF SHIPS

- (1) Every ship shall, before being registered in Saint Lucia be marked permanently and conspicuously in accordance with the regulations made under this Part.
- (2) Where the Registrar of Ships is satisfied that a ship is insufficiently or inaccurately marked, he or she may suspend the certificate of registry of the ship or in the absence of such certificate he or she may detain the ship until the insufficiency or inaccuracy has been remedied to his or her satisfaction.
- (3) The Minister may make regulations exempting any class of ship from all or any of the requirements of this section.

Certificate of Registry

37. CERTIFICATE OF REGISTRY

- (1) On the completion of the registration of a ship the Registrar of Ships shall grant a certificate of ship's registry in such form as may be prescribed.
- (2) The certificate of registry shall include—
 - (a) the name of the owner of the ship, his or her occupation and address, and if there is more than one owner, 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 of the tonnage of the ship.

38. POWER TO MAKE REGULATIONS IN RELATION TO CERTIFICATE OF REGISTRY

The Minister may make regulations relating to—

- (a) the grant of a new certificate of registry;
- (b) the loss of a certificate of registry;
- (c) the keeping of a record of masters;
- (d) the endorsement of a change of ownership on a certificate of registry;
- (e) the delivery up of the certificate of registry of a ship that is lost or broken up or has ceased to be a Saint Lucian ship.

39. ISSUE AND CUSTODY OF CERTIFICATE OF REGISTRY

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

- (3) Every person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (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.

40. IMPROPER USE OF CERTIFICATE OF REGISTRY

If the master or owner of a Saint Lucian ship uses or attempts to use for the purposes of navigation of such ship a certificate of registry not legally granted in respect of the ship he or she, in respect of each such use or attempt, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment and the ship is liable to forfeiture.

41. PROVISIONAL CERTIFICATE OF REGISTRY

- (1) Where the owners of a ship intend to apply to have the ship registered as a Saint Lucian ship but there is no Registrar of Ships immediately available, a proper officer or other appropriate authority designated to act on behalf of the Government may grant to the owner or master of the ship, on his or her application, which shall include a statutory declaration, a provisional certificate stating—
 - (a) the name of the ship;
 - (b) the time and place of the purchase of the ship and the names of the purchasers;
 - (c) the name of the master of the ship;
 - (d) the best particulars respecting the tonnage;
 - (e) the time and place of the construction of the ship; and
 - (f) any other relevant particulars which can be obtained,and shall forward a copy of the certificate at the first convenient opportunity to the Registrar of Ships.
- (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 registry until the expiration of 6 months after its date of issue or until the arrival of the ship at a port in Saint Lucia, 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 of registry is granted under this section shall, within 10 days of the ship's first arrival thereafter at a port in Saint Lucia, or within 30 days after the expiration of the 6 months period referred to in subsection (3), deliver the certificate to the Registrar of Ships.
- (5) Any master who fails to comply with subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

42. TEMPORARY PASS IN LIEU OF CERTIFICATE OF REGISTRY

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 Saint Lucia to any other port within or outside Saint Lucia, 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 of Ships 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 registry; and the Registrar of Ships when so directed shall grant the pass accordingly.

Registration of Alterations and Registration Anew

43. REGISTRATION OF ALTERATIONS

- (1) When a Saint Lucian 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 within 30 days after the completion of the alteration to the Registrar of

Ships; 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 Saint Lucian ship under subsection (1), the Registrar of Ships 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 of Ships may suspend the certificate of registry 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 commits an offence and on summary conviction is liable to a fine not exceeding \$2,000 and, in addition, to a fine of \$100 for every day during which the offence continues after conviction.

44. PROCEDURE FOR REGISTRATION OF ALTERATIONS

- (1) For the purposes of the registration of an alteration in a Saint Lucian ship, the ship's certificate of registry shall be produced to the Registrar of Ships within 60 days after the alteration, and the Registrar of Ships shall either—
 - (a) retain the certificate and grant a new certificate of registry 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 on endorsement having been made shall be altered by the Registrar General in the register book.

45. PROVISIONAL CERTIFICATE WHERE SHIP REGISTERED ANEW

- (1) Where a Saint Lucian ship is outside of Saint Lucia and consequent upon notification as to alterations in the ship the Registrar of Ships directs that the ship is 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 or her application, either a provisional certificate, describing the

ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

- (2) Where a proper officer or other appropriate authority grants a provisional certificate or provisionally endorses a certificate under this section, the proper officer or other appropriate authority shall add to the certificate or endorsement a statement that the same is made provisionally.
- (3) A provisional certificate or a provisionally endorsed certificate issued under this section shall be valid for a period of 6 months after its date of issue or until the next arrival of the ship at a port in Saint Lucia whichever is sooner.
- (4) The master of every ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section shall, within 10 days of the ship's arrival thereafter at a port in Saint Lucia or within 30 days of the expiration of the 6 month period referred to in subsection (3) whichever is the sooner, deliver that certificate to the Registrar of Ships and, if any master fails to comply with this subsection, he or she commits an offence and is liable to a fine of \$1,000.
- (5) Where a provisional certificate is granted to or a certificate is endorsed with respect to any ship under this section, application for registration of that ship anew shall be made to the Registrar of Ships within 4 months of the issue of the provisional or provisionally endorsed certificate and the other requirements requisite for registration anew shall be complied with. When the owner of the ship fails to comply with this subsection he or she commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 and, in addition, to a further fine of \$100 for every day during which the offence continues after conviction.

46. REGISTRATION ANEW ON CHANGE OF OWNERSHIP

Where the ownership of any Saint Lucian ship is changed, the Registrar of Ships may, on the application of the owner of the ship, direct that the the ship be registered anew, although registration anew is not required under this Act.

47. PROCEDURE ON REGISTRATION ANEW

- (1) Where a ship is to be registered anew, the Registrar of Ships shall proceed as in the case of first registration of the ship and on the receipt of the existing certificate of registry and upon compliance with the other pre-requisites to registration, or such of them as the Registrar of Ships thinks material, the Registrar of Ships shall make such new registration and grant a certificate of registry accordingly.
- (2) When a ship is registered anew the former register of the ship shall be considered closed, except so far as relates to any unsatisfied mortgage entered on it; but the names of all persons on the former register appearing to be interested in the ship as owners or mortgagees or holders of 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.

48. RESTRICTION ON RE-REGISTRATION OF WRECKED OR ABANDONED SHIPS

Where a ship has ceased to be registered as a Saint Lucian 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 Saint Lucian ship, the ship shall not be re-registered until such ship has, at the expense of the applicant for re-registration, been surveyed by a Surveyor of Ships and certified by that surveyor to be seaworthy.

49. SHIPS TO BE LICENSED

- (1) Subject to subsections (2) and (3), every ship under 24 metres in length shall be licensed under this Act.
- (2) The following ships shall be exempt from being licensed under this Act—
 - (a) pleasure craft of less than 5 metres in length not equipped with propulsion machinery;
 - (b) pleasure craft of less than 3 metres in length equipped with propulsion machinery of not more than 5 horse power; and
 - (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 the Minister may stipulate.

50. QUALIFICATIONS FOR OWNING A LICENSED SAINT LUCIAN SHIP

- (1) A ship shall not be licensed in Saint Lucia unless it is owned wholly by persons referred to in section 12.
- (2) No more than 8 persons may be recorded as joint owners of a licensed Saint Lucian ship.
- (3) Within 7 days, or such further time as may be allowed by the Minister, after a change of ownership of a licensed Saint Lucian ship, the owner shall in writing notify the Registrar of Ships of such change.
- (4) Where the owner of a licensed Saint Lucian ship ceases to be resident in Saint Lucia or where that owner 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).

51. OPERATING RESTRICTIONS

- (1) Subject to subsection (2) a licensed Saint Lucian ship shall—
 - (a) operate only within Saint Lucian waters;
 - (b) comply with such conditions as may be endorsed on the licence.
- (2) The Minister may in writing exempt a licensed Saint Lucian ship from any of the provisions of subsection (1).

52. REGULATIONS FOR LICENSING OF SHIPS

The Minister may make Regulations regarding the licensing of ships and licensed Saint Lucian 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; and
- (g) discipline.

Transfers and Transmissions

53. TRANSFER OF SHIP OR SHARE

- (1) Every transfer of a ship or a share therein to a person qualified to own a Saint Lucian 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
 - (c) be executed by the transferor in the presence of, and be attested by, 2 witnesses.

54. DECLARATION OF TRANSFER

- (1) Where a registered ship or share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until the transfer, or, in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration, in this Part referred to as a “declaration of transfer”, referring to the ship.
- (2) A declaration of transfer shall be in the prescribed form, and shall contain—
 - (a) a statement of the qualification of the transferee to own a Saint Lucian ship, or if the transferee is a body corporate, of the circumstances of the constitution and business of the transferee as proof of the transferee’s qualification to own a Saint Lucian ship; and

- (b) a statement that, to the best of his or her knowledge and belief, the owner of the ship or every owner of every share therein is a person qualified to own a Saint Lucian ship.

55. REGISTRATION OF TRANSFER

- (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 of Ships with the declaration of transfer, and the Registrar of Ships shall—
 - (a) thereupon enter in the register book the name of the transferee as owner of the ship or the share therein; and
 - (b) endorse on the Bill of Sale the fact of such entry and the date and time at which the entry was made.
- (2) A Bill of Sale of a ship or a share therein shall be entered in the register book in the order of its production to the Registrar of Ships.

56. TRANSMISSION OF PROPERTY IN SHIP ON BANKRUPTCY OR DEATH

- (1) Where the property in a registered ship or share therein is transmitted to any person qualified to own a Saint Lucian 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 the prescribed form, 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 bankruptcy, the declaration of transmission shall be accompanied by such evidence as is admissible in any court in Saint Lucia as proof of the title of persons claiming under a bankruptcy; and

- (c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a grant of probate or letters of administration in the estate of the deceased owner, or in the case of death of a joint owner by proof of survivorship to the satisfaction of the Registrar of Ships.
- (2) The Registrar of Ships 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.

57. ORDER FOR SALE ON TRANSMISSION TO AN UNQUALIFIED PERSON

- (1) Where the property in a registered ship or share therein is transmitted on bankruptcy, death or otherwise to a person not qualified to own a Saint Lucian ship, the High Court may, on application by or on behalf of that 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 an application made under subsection (1) 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 of the case requires.
- (3) Every application for a sale made under subsection (1) shall be made within 30 days after the occurrence of the event on which transmission took place, or within such further time, not exceeding one year from the date of the occurrence of the event, as the Court may allow.
- (4) If an application referred to in subsection (1) is not made within the time stipulated in subsection (3), or if the Court refuses to make an order for sale, the ship or share therein transmitted shall thereupon be liable to forfeiture.

58. TRANSFER OF SHIP OR SHARE BY ORDER OF THE COURT

- (1) Where the High Court, whether under this Part or otherwise, orders the sale of any ship or 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 that person were the registered owner.
- (2) The Registrar of Ships shall comply with any requisition of 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.

59. POWER OF COURT TO PROHIBIT ANY DEALING WITH SHIP

- (1) The High Court may if it thinks fit, without prejudice to the exercise of any other power of the Court, on the application of any interested person, make an order prohibiting for a time specified in the order, any dealing with 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 of Ships, 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.
- (4) An application under this section may be made by summons or otherwise, and either *ex-parte* or upon service of notice on any person as the Court or as Rules of Court may direct.

*Mortgages***60. MORTGAGE OF SHIP OR SHARE THEREIN**

- (1) A Saint Lucian 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) 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.
- (3) If the mortgagor fails to comply with subsection (2) the mortgage debt shall, at the election of the mortgagee, become immediately due and payable, despite anything to the contrary in the mortgage.
- (4) Mortgages shall be recorded by the Registrar of Ships in the order and time in which they are produced to the Registrar of Ships for that purpose, and the Registrar of Ships shall endorse and sign a memorandum on each mortgage indicating that it has been recorded by him or her and stating the date and time that it was recorded.
- (5) The transfer of a mortgage or its transmission shall not affect the order of priority of the mortgage.
- (6) A mortgage executed outside Saint Lucia and produced before a proper officer duly authorised to receive the same may be recorded by the Registrar of Ships on the advice of such proper officer.

61. MORTGAGE OF PROVISIONALLY REGISTERED SHIPS

- (1) Where a ship is provisionally registered, a mortgage executed outside Saint Lucia may be produced to a consular officer who shall notify the Registrar of Ships of the production of the mortgage and the names of the parties thereto, with the amount secured, and the mortgage shall as soon as possible be produced to the Registrar of Ships to be recorded.
- (2) Where the Registrar of Ships has received notice of the provisional registration of a ship and of the production of a mortgage relating to the ship, the mortgage shall be deemed to be registered and its priority shall be preserved from the time of receipt by the Registrar of Ships of the notice of the mortgage, or whichever first happens, and the Registrar of Ships shall make an appropriate entry in the register book of ships.
- (3) The provisions of section 60(2) shall apply to mortgages under this section as they apply to mortgages under that section.

However the day and hour of record shall not derogate from any priority preserved under subsection (2) of this section.

- (4) On the final registration of a ship provisionally registered under this section the priority of any mortgage recorded under this section shall be preserved despite that such provisional registration may have ceased to have effect before the final registration.

62. ENTRY OF DISCHARGE OF MORTGAGE

- (1) When a registered mortgage is discharged, the Registrar of Ships shall, on production of the mortgage, with a receipt for the mortgage money or other release endorsed thereon and duly signed and attested, make an entry in the register book 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 mortgagee, shall vest in the person in whom it would have vested if the mortgage had not been made, having regard to intervening acts and circumstances, if any.

63. PRIORITY OF MORTGAGES

If there are several mortgages registered in respect of the same ship or a share therein, the mortgagee shall, despite 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.

64. MORTGAGEE NOT TREATED AS OWNER

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

65. MORTGAGEE TO HAVE POWER OF DISPOSAL

- (1) Every registered mortgagee shall, subject to subsection (2), have power—

- (a) absolutely to dispose of the ship or share in respect of which he or she is registered; and
 - (b) to give effectual receipts for the purchase money.
- (2) If there is more than one person registered as mortgagee of the same ship or share therein, a subsequent mortgagee shall not, except under the order of the High Court, sell the ship or share without the concurrence of every prior mortgagee.
- (3) Despite the provisions of any other law, every registered mortgagee shall be entitled to enforce his or her 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.
- (4) A registered mortgagee of a Saint Lucian ship shall not without first obtaining an order from the High Court, dispose of the ship or any share therein in respect of which he or she is registered to give receipts for the purchase money.

66. MORTGAGE NOT AFFECTED BY BANKRUPTCY

A registered mortgage of a Saint Lucian 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, although the mortgagor at the commencement of his or her bankruptcy had the ship or share in his or her 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.

67. TRANSFER OF MORTGAGES

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

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

68. TRANSMISSION OF INTEREST IN MORTGAGE ON BANKRUPTCY OR DEATH

- (1) Where the interest of a mortgagee in a Saint Lucian ship or any share therein, is transmitted on the bankruptcy or death 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 be in the prescribed form and 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 required by this Act in the case of a corresponding transmission of the ownership of a Saint Lucian ship or share therein.
- (3) The Registrar of Ships 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 book as mortgagee of the ship or share therein.

69. AUTHORITY TO SELL OR MORTGAGE OUT OF SAINT LUCIA

- (1) Where a registered owner of a Saint Lucian ship or share therein, is desirous of disposing by way of sale or mortgage of that ship or share therein at any place out of Saint Lucia, he or she may make application, by declaration in writing, to the Registrar of Ships.
- (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 70(1), in the case of an application to dispose of a ship by way of sale, the Registrar of Ships shall enable any such applicant to dispose of the ship or share therein in the manner desired in accordance with subsection (4).
- (4) On receiving an application made under this section, the Registrar of Ships 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 Saint Lucia, 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 therein, in respect of which the certificate is given.

70. GENERAL RULES FOR CERTIFICATES OF SALE

- (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 book to be interested therein, as owners or mortgagees.
- (2) The power conferred by any certificate of sale 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 certificate of sale to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying at any time between the giving of the power and the completion of the sale.

- (4) Whenever any certificate of sale contains a specification of the place at which, and a limit of time not exceeding 12 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.

71. PROCEDURE WHERE SHIP UNDER CERTIFICATE GRANTED IN SAINT LUCIA

- (1) Where a Saint Lucian ship is sold, in exercise of a power conferred by a certificate of sale granted under this Part, to persons qualified to own a Saint Lucian ship—
 - (a) a transfer of the ship shall be made by the 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 that the ship has been sold, and shall notify the Registrar of Ships.
 - (b) the ship may be registered anew in the manner provided by this Act; and
 - (c) the Registrar of Ships upon receipt of the certificate of sale and the ship's certificate of registry from a proper officer each of those certificates having endorsed thereon an entry of the fact of the sale of the ship having taken place, shall thereupon enter the sale of the ship in the register book.
- (2) Where a Saint Lucian ship is sold in exercise of a power conferred by a certificate of sale, granted under this Part, to persons not qualified to own a Saint Lucian ship—
 - (a) the certificate of sale and the certificate of registry shall be produced to the proper officer at the place at which the ship is sold and he or she shall retain those certificates, and shall endorse and sign on each of them a statement of the fact of that ship having been sold to persons not qualified to own a Saint Lucian ship;
 - (b) the proper officer making the endorsements required by paragraph (a) shall forward the certificates of sale and the

- certificate of registry, each being duly endorsed, to the Registrar of Ships;
- (c) the Registrar of Ships, upon receipt of the certificates of sale and the certificate of registry, each being endorsed in accordance with paragraphs (a) and (b), shall make an entry of the sale in the register book, and the registration of the ship shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein; and
 - (d) where default is made in the production of the certificates mentioned in this subsection, the persons to whom the ship is sold shall be considered to have acquired no title to or interest in the ship, and the person on whose application the certificate of sale was granted, and the person exercising the powers conferred thereby, are each guilty of an offence.
- (3) Where no agreement for sale is entered into in exercise of the powers conferred by a certificate of sale granted under this Part, that certificate shall be delivered to the Registrar of Ships, and the Registrar of Ships shall thereupon cancel the certificate, and shall enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void.

72. REGISTRATION IN SAINT LUCIA WHERE SHIP SOLD UNDER CERTIFICATE OF SALE GRANTED IN A FOREIGN STATE

- (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, to persons qualified to own a Saint Lucian ship, that may be registered in Saint Lucia in accordance with this section.
- (2) Application for registry shall be made to the Registrar of Ships and there shall be produced to the Registrar of Ships the bill of sale by which the ship is transferred, the certificate of sale and the certificate of registry of the ship.
- (3) The Registrar of Ships, on registering the ship—
 - (a) shall retain the certificates of sale and the certificate of registry, 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 of Ships 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 registry of a ship in Saint Lucia, and also a statement of any registered mortgages or certificates of mortgage enumerated on the certificate of sale.
- (4) On such registry—
- (a) the description of the ship contained in the ship's former certificate of registry may be transferred to the new register book, without the ship 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 book 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 Saint Lucia in the manner provided in this Act and as if any unsatisfied mortgages or existing certificates or mortgage had been entered in the register book at that port.

73. RULES AS TO CERTIFICATE OF MORTGAGE

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 12 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, despite 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 or she would have had and been subject to, if his or her 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 of Ships or proper officer on the production of such evidence as is, by this Act required to be produced to the Registrar of Ships 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 of Ships by whom it was granted, the Registrar 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.

74. LOSS OF CERTIFICATE OF SALE OR MORTGAGE

On proof at any time to the satisfaction of the Registrar of Ships 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 of Ships 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.

75. REVOCATION OF CERTIFICATE OF SALE OR MORTGAGE

- (1) The owner of a Saint Lucian ship, or a share therein, in respect of which a certificate of sale or mortgage has been granted specifying the places where the power thereby given is to be exercised, may, by an instrument under his or her hand, authorise the Registrar of Ships by whom the certificate was granted to give notice to the proper officer at every such place that the certificate is revoked.
- (2) Notice referred to in subsection (1) shall thereupon be given accordingly and be recorded by the proper officer receiving it, and after it is recorded, the certificate of sale or mortgage 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 referred to in subsection (1) 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 notice made under this section, shall inform the Registrar of Ships by whom the certificate of sale or mortgage was granted whether any previous exercise of the power to which the certificate refers has taken place.

76. MARITIME LIENS

Subject to the provisions of this Act the following claims may be secured by maritime liens—

- (a) wages and other sums due to the master, officer and other members of the ship's complement, in respect of their employment on the ship;
 - (b) port, canal and other waterway dues and pilotage dues;
 - (c) claims against the owner in respect of loss of life or personal injury occurring, whether on land or water, in direct connection with the operation of the ship;
 - (d) claims against the owner, based on a wrongful act and not on contract, in respect of loss of or damage to property occurring whether on land or on water, in direct connection with the operation of the ship;
 - (e) claims for salvage, wreck removal and contribution in general average.
- (2) In subsection (1), "owner" includes, in relation to a ship, the charterer, manager or operator of such ship.

77. PRIORITY OF LIENS

The maritime liens set out in section 76 shall take priority over mortgages and preferential rights registered under this Part, or arising under the law relating to bankruptcy, and except as provided in section 79 no other claim shall take priority over them.

78. ORDER OF PRIORITY OF LIENS

The maritime liens set out in section 76 shall—

- (a) rank in the order in which they are set out in that section, so however, that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed;
- (b) in the case of claims arising under section 76(a), 76(b), 76(c) and 76(d), rank *pari passu* among themselves;
- (c) in the case of claims arising under section 76(e), rank in the inverse order of the time when the claim secured

thereby accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average act was performed.

79. RIGHTS OF SHIP BUILDERS AND SHIP REPAIRERS

Where a preferential right arises, pursuant to the provisions of the law relating to bankruptcy, in respect of a ship in the possession of—

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

such rights shall be postponed to all the maritime liens set out in section 76 but may take precedence over any mortgage or other preferential right registered under this Part so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

80. OVERRIDING NATURE OF MARITIME LIENS

The maritime liens set out in section 76 shall arise whether the claims secured by such liens are against the owners, the demise or other charterer, manager or operator of the ship and such liens shall, subject to the provisions of section 84, remain attached to the ship, despite any change of ownership or of registration.

81. CLAIMS ARISING FROM RADIOACTIVE PRODUCTS

A maritime lien shall not attached to a ship to secure a claim under section 76(c) and 76(d) where such claim arises out of or results from the radioactive properties, or a combination of the radioactive properties with toxic, explosive or other hazardous properties, of nuclear fuel or of radioactive products or waste.

82. LIMITATION PERIOD

- (1) The maritime liens relating to a ship set out in section 76 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 ship has been arrested and the arrest has led to

a forced sale under the provisions of the rules of court or any other law in force relating to the sale of property in admiralty proceedings.

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

83. NOTICE OF SALE TO BE GIVEN

Prior to the forced sale of a ship as described in section 82, the executing officer shall give or cause to be given 30 days' written notice of the time and place of such sale to—

- (a) all mortgagees and holders of other preferential rights registered under this Part which have not been issued to the bearer;
- (b) the mortgagees and holders of other preferential rights as have been issued to the bearer, whose claims have been notified to the officer;
- (c) the holders of maritime liens set out in section 76, whose claims have been notified to the officer; and
- (d) the Registrar of Ships.

84. EFFECT OF SALE ON MORTGAGES

- (1) In the event of the forced sale of a ship as described in section 82 and in accordance with the provisions of this Part—
 - (a) all mortgages and other preferential rights registered under this Part, except those assumed by the purchaser with the consent of the holders thereof; and
 - (b) all liens and other encumbrances of whatsoever nature but not including a charter party or contract for the use of the ship,
shall cease to attach to the ship.
- (2) A charter party or contract for the use of the ship shall not be deemed a lien or encumbrance for the purpose of this section.

85. DISPOSITION OF PROCEEDS OF SALE

The costs awarded by the High Court and arising out of the arrest and subsequent sale of a ship shall be paid first out of the proceeds of such sale, and the balance of such proceeds shall be distributed among—

- (a) the holders of maritime liens under section 76;
- (b) the holders of preferential rights under section 79; and
- (c) the mortgagees and holders of other preferential rights registered under this Part,

in accordance with the provisions of this Part and to the extent necessary to satisfy their claims.

86. ISSUE OF CERTIFICATE THAT A SHIP IS FREE OF MORTGAGES, LIENS AND OTHER ENCUMBRANCES

When a ship, registered in any country or a territory thereof, has been the subject of a forced sale in Saint Lucia 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 if the proceeds of such forced sale have been deposited with the authority competent to distribute such proceeds to the persons entitled thereto.

*Miscellaneous***87. PROVISION FOR CASES OF INFANCY AND DISABILITY**

- (1) 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 or her estate, or if there is no such guardian, representative, committee, manager or administrator, any person appointed by any 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.

- (2) All acts done by any person referred to in subsection (1) in the name and on behalf of the incapacitated person shall be as effectual as if done by the incapacitated person.

88. NOTICE OF TRUSTS NOT RECEIVABLE

- (1) A notice of any trust, express, implied or constructive, shall not be entered in the register book or be receivable by the Registrar of Ships.
- (2) Subject to any rights and powers appearing on the register book to be vested in any other person, the registered owner of a Saint Lucian ship or of a share therein shall have power absolutely to dispose of the ship or share therein in the manner provided by this Act and to give effectual receipts for any money paid or advanced by way of consideration.

89. DEFINITION OF BENEFICIAL INTEREST

- (1) In this Part the expression “beneficial interest” includes interests arising under contract or otherwise.
- (2) 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 of Ships;
 - (b) the powers of disposition and of giving receipts, conferred by this Act on registered owners and mortgagees; and
 - (c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Saint Lucian ships,

beneficial 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.

90. LIABILITY OF BENEFICIAL OWNERS

Where any person has any beneficial interest, otherwise than by way of mortgage, in any Saint Lucian 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 instituted for the enforcement of any such penalties against both or either of the aforesaid persons, with or without joining the other of them.

91. REGISTRATION OF MANAGING OWNER

- (1) The name and address of the managing owner of every ship registered in Saint Lucia 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 that person 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, commits an offence and on summary conviction is liable, in proportion to his or her interest in the ship, to a fine not exceeding in the aggregate \$1,000 in respect of each time the ship leaves any port in Saint Lucia.

92. POWER TO DISPENSE WITH DECLARATIONS OR EVIDENCE

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

93. MODE OF MAKING DECLARATION

- (1) Declarations required to be made under this Act shall be made before—

- (a) the Registrar of Ships;
 - (b) a magistrate;
 - (c) a justice of the peace;
 - (d) a proper officer; or
 - (e) any person authorised by law or under this Act to administer oaths.
- (2) Declarations required to be made under this Act may be made on behalf of a body corporate—
- (a) by the secretary; or
 - (b) any other officer of the body corporate, authorised by that body for the purpose.

94. ADMISSIBILITY IN EVIDENCE OF REGISTER BOOK AND OTHER DOCUMENTS

- (1) Any person may, on application to the Registrar of Ships during the hours of his or her official attendance, and on payment of such fee as may be prescribed, inspect any register book.

The following documents shall be admissible in evidence—

- (a) any register book required to be kept or maintained under this Act, on its production from the custody of the Registrar of Ships or other person having the lawful custody thereof;
 - (b) a certificate of registry or a licence issued under this Act, and signed by the Registrar of Ships or a proper officer;
 - (c) an endorsement on a certificate of registry or on a licence signed by the Registrar of Ships or a proper officer;
 - (d) every declaration made in pursuance of this Act in respect of a Saint Lucian ship.
- (3) A copy or transcript of the register book of a Saint Lucian ship kept by the Registrar of Ships shall be admissible in evidence and have the same effect to all intents as the original register book of which it is a copy or transcript.

95. FORGERY OF DOCUMENTS

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 register book, builder's certificate, certificate of survey, certificate of registry, declaration, bill of sale, instrument of mortgage under this Act or any entry or endorsement required by this Act to be made in or on any such document commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.

96. FALSE DECLARATIONS

- (1) Any person who, in any declaration made in the presence of, or produced to the Registrar of Ships or proper officer under this Act, or in any document or other evidence produced to the 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, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
- (2) Without prejudice to the provisions of subsection (1) any person who wilfully makes a false declaration concerning the qualification of himself or herself or of any other person or any body corporate to own a Saint Lucian ship commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.
- (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.

97. PROCEDURE ON FORFEITURE OF SHIP

Where any ship has, either wholly or as to any share therein, become subject to forfeiture under this Act the ship may be seized and detained in accordance with the provisions of section 459 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 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.

98. LIABILITIES OF SHIP NOT RECOGNISED

Where a Saint Lucian ship is by this Act required to be registered, then such a ship, if not so registered, shall not be entitled to any benefits, privileges or advantages usually enjoyed by a Saint Lucian ship, so however that as regards the payment of dues the liability to fines and forfeitures and the punishment of offences committed on board such ship, or by any person belonging to such ship, shall be dealt with in the same manner in all respects as if the ship was a recognised Saint Lucian ship.

99. FORMS

- (1) The several instruments and documents specified in this Act shall be in the prescribed form or as near thereto as circumstances permit.
- (2) The Minister may make such alterations in the forms so prescribed as he or she may deem requisite.
- (3) The Registrar of Ships shall not be required, without the special direction of the Minister, to receive and enter in the register book any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share therein, or any interest therein which is made in any form other than the prescribed form or which contains any particulars other than those required in such form.

100. INSTRUCTIONS TO REGISTRAR OF SHIPS

The Minister may for carrying this Act into effect give such instructions to the Registrar of Ships regarding—

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

101. RETURNS TO BE MADE BY THE REGISTRAR OF SHIPS

The Registrar of Ships shall transmit to the Minister returns in such form and at such times as the Minister may direct, of all registrations, transfers, transmissions, mortgages and other dealings with ships which have been registered by or communicated to the Registrar of Ships and of the names of the persons concerned in the same and such other particulars as may be directed by the Minister.

PART 5 NATIONAL CHARACTER AND FLAG

102. NATIONAL CHARACTER OF SHIP TO BE DECLARED ON CLEARANCE

- (1) The Comptroller shall not grant a clearance to any ship until the master of such ship has declared to the Comptroller the name of the nation to which the ship belongs, and the Comptroller shall thereupon write that name on the clearance.
- (2) If a ship attempts to proceed to sea without the clearance referred to in subsection (1) the ship may be detained until the declaration referred to in that subsection is made and other conditions relating to the issue of a clearance are met.

103. NATIONAL COLOURS

The national flag of Saint Lucia constitutes the national colours of a Saint Lucian ship.

104. RIGHT TO FLY THE FLAG OF SAINT LUCIA

- (1) A ship registered or licensed in accordance with this Act shall be entitled to fly the national flag of Saint Lucia.
- (2) This section shall not be construed to prohibit Saint Lucian ships which are exempt from registration or licensing under this Act from using the national colours of Saint Lucia in Saint Lucian waters.

105. SHOWING OF NATIONAL COLOURS

- (1) Subject to such exemptions as may be prescribed, a Saint Lucian ship shall hoist the Saint Lucian national colours between sunrise and sunset—
 - (a) on a signal being made to the ship to such effect by a ship in the service of the Government;
 - (b) on entering or leaving any Saint Lucian or foreign port;
 - (c) when passing a warship of any navy; and
 - (d) while in a Saint Lucian port.
- (2) If default is made in complying with the provisions of this section the master of the ship commits an offence and is liable to a fine not exceeding \$500.
- (3) Where any Saint Lucian ship hoists any colours or pendant usually worn by ships of the defence force of Saint Lucia, or hoists the national colours of any other country, the master of the ship, or the owner thereof if he or she is on board the ship, and every other person hoisting the pendant or colours, commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 and to seizure of the colours or pendant.

106. PENALTY FOR UNDULY ASSUMING SAINT LUCIAN CHARACTER

- (1) If a person uses the Saint Lucian flag and assumes the Saint Lucian national character on board a Saint Lucian ship owned in whole or in part by any person not qualified to own a Saint Lucian ship, for the purpose of making the ship appear to be a Saint Lucian 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 the forfeiture mentioned in subsection (1), the burden of proving the title to use the Saint Lucian flag and assume the Saint Lucian national character shall lie upon the person using and assuming the same.

107. NATIONAL FLAG ON FOREIGN SHIP

- (1) A person who uses or permits any person to use the Saint Lucian flag on board a foreign ship for the purpose of making that ship appear to be a Saint Lucian ship commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 and to imprisonment for a period not exceeding 6 months.
- (2) In any proceedings under this section the burden of proving the right to use the flag and to assume the appearance of a Saint Lucian ship is upon the person using the Saint Lucian flag.

108. PENALTY FOR USING NATIONAL COLOURS IF NOT QUALIFIED

Where a person who is not qualified to own a registered Saint Lucian ship becomes an owner of a Saint Lucian ship, otherwise than by such transmission as is provided for in this Act, and that ship uses the national colours and assumes the national character of Saint Lucia, the ship is liable to forfeiture.

109. PENALTY FOR CONCEALING SAINT LUCIAN CHARACTER OR ASSUMING FOREIGN CHARACTER

- (1) If the master or owner of a Saint Lucian 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 Saint Lucian character of the ship from any person entitled by the law of Saint Lucia 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 a Saint Lucian ship commits or is privy to the commission of the offence referred to in subsection (1) he

or she is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

110. LIABILITIES OF SHIP NOT RECOGNISED AS A SAINT LUCIAN SHIP

Where by this Act a ship which is owned wholly by persons qualified to own a registered Saint Lucian ship, is not recognised as a Saint Lucian ship, that ship shall not be entitled to any benefits, privileges, advantages or protection usually enjoyed by Saint Lucian ships or to use the national colours or assume the national character of Saint Lucia; 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 person belonging to the ship shall be dealt with in the same manner in all respects as if the ship were registered in Saint Lucia and recognised as a Saint Lucian ship.

PART 6 MANNING AND CERTIFICATION

111. REGULATIONS REGARDING MANNING AND QUALIFICATIONS OF PERSONS SERVING IN SAINT LUCIAN SHIPS

- (1) The Minister may make such regulations as he or she considers necessary or expedient to provide for the manning requirements for Saint Lucian ships, the qualifications of officers and seamen of such ships and for connected matters, and without prejudice to the generality of such powers, may make regulations—
 - (a) determining the categories of Saint Lucian ships by reference to their gross tonnage or other appropriate measurements, 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 Saint Lucian ship, or any ship engaged in local trade in Saint Lucian 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, authorisation or otherwise and to satisfy such other conditions as may be prescribed, and providing for the grant, revocation, extension, validation, suspension, endorsement or variation of such certificates;
 - (f) prescribing standards of competency to be attained and other conditions to be satisfied, subject to any exceptions allowed by or under the regulations, by officers and other seamen of any description in order to be qualified for the purposes of this Part;
 - (g) prescribing the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
 - (h) 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;
 - (i) providing for the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;
 - (j) providing for the programmes of training and the curricula of study to be followed in the training of seafarers;

- (k) providing for the establishment, maintenance and operation of schools for the training of persons for certification as seafarers, and designating institutions as recognised or affiliated places of training;
 - (l) prescribing the manner in which inquiries may be instituted before a Board of Inquiry appointed under section 114, the procedure to be followed in the conduct of such proceedings and matters incidental to or consequential on such proceedings;
 - (m) prescribing the rights and obligations of holders of certificates of competency, proficiency or qualification, and licences, and the offences for which such certificates and licences may be suspended or cancelled;
 - (n) prescribing any other matter which may be, or is required by this Act to be prescribed.
- (2) In making Regulations under subsection (1) the Minister shall have due regard to the International Labour Organization Conventions concerning the certification and medical fitness of seafarers and the International Maritime Organization Convention on the Standards of Training, Certification and Watchkeeping for seafarers.
- (3) Regulations made under subsection (1) may, in respect of the breach of any provisions thereof, provide for penalties which shall not exceed a fine of \$10,000 or imprisonment for a term not exceeding 12 months or both such fine and imprisonment.

112. POWER TO EXEMPT

The Minister may exempt any ship or class of ship from the requirements of any regulations made under section 111, and such exemption may be confined to a particular period or to one or more particular voyages.

113. RECOGNITION OF CERTIFICATES ISSUED ABROAD

- (1) Where the laws of any other State provide for the examination for, and grant of, certificates to persons intending to act as masters, deck officers, engineer officer or ratings on board ships, and the Minister is satisfied that all examinations and related requirements for admission to the examinations in that

other State are such as to be equally effective as the examinations and related requirements for the same purpose under this Act, the Minister may deem the certificates so granted to be at least equivalent to those granted under this Act.

- (2) Where a person holding a certificate referred to in subsection (1) is desirous of serving on a Saint Lucian ship as master, deck officer, engineer officer or rating, the Minister may direct that—
 - (a) where the person is a citizen of Saint Lucia, that person be granted a certificate of equivalent grade under this Act;
 - (b) where the person is not a citizen of Saint Lucia, that person be issued with a licence, authorising him or her to serve on a Saint Lucian ship in the same capacity as if his or her 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 its 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 5 years from the date of issue, and may be renewed upon such conditions as may be prescribed.
- (4) The Minister may, by notice made by statutory instrument, declare the names of those States to which subsection (1) applies.

114. BOARD OF INQUIRY

- (1) When there has been any allegation that a seafarer—
 - (a) is suffering from any habit or any mental or physical condition rendering him or her unfit to be a seafarer;
 - (b) is guilty of dishonesty, incompetence or misconduct in the performance of his or her functions as a seafarer;
 - (c) procured his or her certificate of competency or licence as a result of any misleading, false or fraudulent misrepresentation;

the Minister may appoint a board of inquiry of at least one person but not more than 3 persons, at least one of whom shall

have served as a senior officer on board a ship, to enquire into the allegation.

- (2) A board of inquiry appointed under subsection (1) shall have all the powers of a person holding a preliminary inquiry under section 439.
- (3) The board of inquiry shall, at the conclusion of its investigation, send a full report of the proceedings and evidence to the Minister.

115. CANCELLATION OR SUSPENSION OF CERTIFICATES OR LICENCES

- (1) Where the Minister receives a report from a Board of Inquiry appointed under section 114, the Minister may, if it appears to him or her that any of the allegations against the seafarer are substantiated, order that the certificate or licence of the seafarer be suspended or cancelled.
- (2) The Minister may order the suspension or cancellation of a certificate or licence issued under this Act if the holder is convicted by any court in Saint Lucia of an offence relating to or connected with shipping matters and in this regard the Minister may also exercise any of the powers granted to him or her under section 438.
- (3) Where the Minister orders the suspension or cancellation of a certificate or licence issued under this Act, written notification of such suspension or cancellation shall be given to the person whose certificate or licence is to be suspended or cancelled, and such notice shall direct that the certificate or licence shall be delivered up to the Director at such place and at such time as indicated in the notice.
- (4) Where in any case a certificate or licence is believed on reasonable grounds not to be genuine or is held by some person not entitled to it, any person authorised by this Act or any other written law to peruse the certificate or licence may impound it; and if the certificate or licence is impounded it shall be sent to the Minister who may, in his or her discretion, cause such investigations to be made as he or she thinks fit and may, subsequent to such investigations, order the suspension or cancellation of the certificate or licence.

116. COURT OF FORMAL INVESTIGATION TO RECOMMEND CANCELLATION OR SUSPENSION OF CERTIFICATE

Where a court holding a formal investigation under section 438 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 an officer or seaman who holds a certificate or licence issued under this Act, the court may recommend to the Minister that such certificate or licence be cancelled or suspended.

117. APPEALS AGAINST CANCELLATION OR SUSPENSION

- (1) Any person who is aggrieved by an order of the Minister under section 115, cancelling or suspending a certificate, 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 has been enquired into by a board of inquiry appointed under section 114, allow the appeal and direct that the matter be re-heard by the same board or by another board appointed under that section.
- (3) Where, under section 115, the Minister cancels or suspends a certificate or licence or withdraws approval on the ground that the holder of such certificate has been convicted of an offence, the decision of the Minister shall be final and conclusive.

118. OFFENCES

- (1) Any person who—
 - (a) serves as an officer or seaman on board a Saint Lucian ship without being in possession of a valid certificate appropriate to the capacity in which he or she is engaged to serve; or
 - (b) either on his or her own account or acting as an agent, engages any person as an officer or seaman without taking all necessary steps to ascertain whether such person possesses an appropriate valid certificate,

commits an offence under this Act and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

- (2) For the purpose of subsection (1)(b), where it is established that an officer or seaman has been engaged to serve in any capacity without a valid certificate appropriate to that capacity, the onus shall be on the person who engages that seafarer to prove that he or she has taken all necessary steps to ascertain that the officer or seaman possessed, at the time the seafarer was engaged, a valid certificate appropriate to the capacity in which the seafarer was 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 herself, 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 or she is not entitled;
 - (e) fraudulently lends his or her certificate to, or allows it to be used by, any other person; or
 - (f) makes or has in his or her possession any document so closely resembling such certificates as to be calculated to deceive,

commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

- (4) Any person who—
- (a) not being the holder of a valid certificate or licence; or
 - (b) during a period when, under section 115, his or her certificate or licence is suspended or cancelled, as the case may be,

takes or uses any title, addition or description implying or calculated to lead persons to believe that he or she is entitled to serve as an officer or seaman on a Saint Lucian ship commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

- (5) Any officer or seaman who, without reasonable cause, fails to comply with a direction of the Minister under section 115 to surrender his or her certificate or licence commits an offence and is liable on summary conviction to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding 3 months, or to both such fine and imprisonment.

119. PROHIBITION AGAINST GOING TO SEA UNDERMANNED

Subject to section 112, where a Saint Lucian ship goes to sea or attempts to go to sea from any port or a foreign ship goes to sea or attempts to go to sea from any port in Saint Lucia without carrying such officers and other seamen as it is required to carry under this Act or the laws of the flag State as the case may be, that ship may—

- (a) in either case be detained; and
- (b) in the case of a Saint Lucian ship, the owner or master commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

120. PRODUCTION OF CERTIFICATES AND OTHER DOCUMENTS OF QUALIFICATION

Any person who, having been engaged in any of the capacities prescribed under this Part in any Saint Lucian ship, goes to sea in that capacity without being entitled to, and without being in possession of the required certificate or licence, and any person who employs any person in any of the above-mentioned capacities in such ship without ascertaining that the person employed is entitled to, or possesses such certificate or licence, commits an offence.

121. SHIP LEAVING PORT WHILE UNDER DETENTION

If any ship leaves or attempts to leave any port in Saint Lucia while under detention under this Part, the master of that ship commits an offence and is liable, on summary conviction, to a fine of \$15,000.

122. SAVING AND TRANSITIONAL

The provisions of this Act shall not affect the validity of any certificate issued under section 16 of the Intercolonial Passenger Ships Act, 1891, before the commencement of this Act.

**PART 7
ENGAGEMENT AND WELFARE OF SEAMEN***Engagement of Seamen***123. FUNCTIONS OF REGISTRAR OF SEAMEN**

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 Saint Lucian ships and all seamen being citizens of Saint Lucia 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 the Registrar of Seamen for engagement,
 - (ii) seamen shipped or discharged by the Registrar of Seamen,
 - (iii) seamen who produce continuous discharge certificates in proof of service in foreign or Saint Lucian ships,
 - (iv) seamen who serve in Saint Lucian ships.
- (c) to cause copies of the certificates referred to in paragraph (b)(iii) to be kept at the office of the Registrar of Seamen;
- (d) to perform such other duties relating to seamen, apprentices and merchant ships as are by or in pursuance of this or any other written law relating to merchant shipping entrusted to him or her.

124. CREW AGREEMENTS

- (1) Subject to subsection (2) the master of every Saint Lucian ship shall enter into an agreement in accordance with this Act with

every seaman whom he or she engages and carries to sea as one of his or her crew, and the master of any ship shall enter into such an agreement with every seaman whom he or she engages in Saint Lucia or carries to sea from Saint Lucia as one of his or her crew.

- (2) Subsection (1) shall not apply in any case where the ship concerned does not exceed 24 metres, and which is not engaged on an international voyage.
- (3) The Minister may waive the requirements stipulated in subsection (1), or he or she may vary the contents of the approved form of the crew agreement in respect of any ship if he or she 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 all vessels including vessels of 24 metres or less in length which are not engaged on international voyage.

125. CONTENTS OF CREW AGREEMENTS

- (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 or her name.
- (2) The crew agreement shall show the place at which it is made, the surname and other names of the seaman, his or her birthplace, and his or her age or date of his or her 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 12 months, and the port at which it is intended the crew shall be discharged, and the places or ports of the world, or geographical limits, 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 is to begin work;
 - (e) the capacity in which each seaman is to serve;
 - (f) the amount of wages which each seaman is to receive;
 - (g) the prescribed scale of the provisions which are to be furnished to seamen;
 - (h) the time that is to expire after arrival at the port of discharge before the seaman is discharged;
 - (i) any regulations as to conduct on board and as to fines, and other lawful punishment for misconduct which have been made by the Minister which the parties agree to adopt;
 - (j) a list of young persons under the age of 18 years and their dates of birth.
- (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.

126. REGULATIONS FOR DISCIPLINARY OFFENCES

For the purpose of maintaining discipline on board Saint Lucian ships, the Minister may make regulations for—

- (a) any misconduct on board as a disciplinary offence and enabling the master or such 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;
- (c) the setting up of a disciplinary committee of persons employed in the ship 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.

127. SAME OFFENCE

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.

128. PROCEDURES RELATING TO CERTAIN CREW AGREEMENTS

The following provisions shall have effect with respect to a crew agreement made in the case of ships trading from and beyond the Saint Lucia waters—

- (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 or she 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 Registrar of Seamen and the other shall be retained by the master and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged 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 24 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 afterwards, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness and the witness shall attest the signature;
- (e) an agreement may be made for a voyage or, if the voyage of the ship averages less than 6 months in duration, may be made to extend over 2 or more voyages, and an

- agreement made to extend over 2 or more voyages is in this section referred to as a “running agreement”;
- (f) a running agreement shall not extend beyond the 12 months’ period of time next following the date of the making of the agreement or the first arrival of the ship at its 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 or she commits an offence;
 - (h) the duplicate crew agreement retained by the Registrar of Seamen on the first engagement of the crew shall be kept by the Registrar of Seamen for a period of 7 years after the expiration of the agreement;
 - (i) except as provided in section 144 a crew agreement shall not purport to deprive any court of its jurisdiction to hear and determine disputes respecting the agreement.

129. FURTHER PROVISIONS AS CREW AGREEMENTS

- (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 or her 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 commits an offence.

130. STIPULATIONS NOT TO BE CONTRARY TO LAW OF FLAG STATE

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.

131. SEAMEN'S CERTIFICATE OF DISCHARGE

- (1) Subject to section 187, the master shall sign and give to a seaman discharged from his or her ship, either on his or her discharge or on payment of his or her wages, a certificate of his or her discharge in an approved form specifying the period of his or her 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 seafarer whose certificate of competency or licence has been delivered to and retained by him or her, return the certificate or licence to the seafarer.

132. CHARACTER REPORT

- (1) When a seaman is discharged from a Saint Lucian ship, the master of that ship 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 or she 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 187 and if the seaman so desires, give the seaman a copy of the character report on him or her.

- (3) A person commits 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 or her.

133. DISCHARGE ON CHANGE OF REGISTRATION

Where a Saint Lucian ship ceases to be registered as such, any seaman employed in the ship shall be discharged from the ship, unless he or she consents in writing to continue his or her employment in the ship and, in such a case the provisions of this Act 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 or her wages as if the ship had remained registered in Saint Lucia.

134. EMPLOYMENT OF CHILDREN

- (1) A person under the age of 16 years shall not be employed in any Saint Lucian 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 or she is satisfied, having due regard to the health and physical condition of the person and to the prospective and immediate benefit to him or her of the employment, that the employment will be beneficial to him or her.
- (2) A person under the age of 18 years shall not be employed in any capacity in any Saint Lucian 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 or she is satisfied that the young person is no longer fit for work.
- (4) A young person under the age of 18 years shall not be employed on work in the engine-room of any ship, unless that young person is an apprentice working under supervision.
- (5) This section shall not apply to a ship in which only members of one family are employed.

135. CHANGES IN CREW OF SHIPS

- (1) The master of every ship trading from and beyond the Saint Lucian waters shall, before leaving Saint Lucia sign and send to the Registrar of Seamen a full and accurate statement, in the prescribed form of every change which takes place in his or her crew before finally leaving Saint Lucia and that statement shall be admissible in evidence.
- (2) Any master who without reasonable cause fails to comply with this section commits an offence.

136. CHANGE OF MASTER

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

137. REGULATIONS FOR CONDITIONS OF SERVICE

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

- (a) the conditions of service of those persons serving in Saint Lucian ships and of Saint Lucian citizens serving in foreign ships;
 - (b) connected matters and, in particular, relating to—
 - (i) apprenticeship to sea service,
 - (ii) engagement by foreign ships of citizens of Saint Lucia,
 - (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,
 - (v) wages in general, and the rights related thereto of persons employed in Saint Lucian 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 location and standards of accommodation and all questions related to the accommodating of seafarers and apprentices on board; and
 - (c) the employment of persons under the age of 18 years.
- (2) In making regulations under subsection (1) the Minister shall have due regard to the International Labour Organisation Convention 147 on Merchant Shipping (Minimum Standards).

138. USE OF ENGLISH LANGUAGE

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

139. CREW'S KNOWLEDGE OF ENGLISH

- (1) Where in the opinion of the Director the crew of a Saint Lucian 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 or her 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 commits an offence.

*Wages***140. TIME AND MANNER OF PAYMENT OF WAGES**

The master or owner of a Saint Lucian ship trading from and beyond the Saint Lucian waters shall pay to each seaman belonging to that ship his or her wages, if demanded, within 2 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.

141. MASTER TO DELIVER ACCOUNT OF WAGES

- (1) The master of every Saint Lucian ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account of the seaman's wages and of all deductions to be made therefrom for any reasons whatever.
- (2) The account shall be delivered to the seaman not less than 24 hours before his or her discharge or paying off.

142. DEDUCTIONS FROM WAGES

- (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 213 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.

143. SETTLEMENT OF WAGES

- (1) When a seaman is discharged, and the settlement of his or her wages completed, he or she shall sign a release, in an approved form, of all claims in respect of the past voyage or engagement; and the release shall be signed by the master or owner of the ship.
- (2) The release, so signed and attested, 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 7 years after the expiration of the agreement and shall be produced on demand made therefor by the Registrar of Seamen or other proper officer.

144. REGISTRAR OF SEAMEN'S DECISION AS TO WAGES

Where a question, of whatever nature and whatever the amount in dispute, between a master or owner and any of his or her crew is raised before the Registrar of Seamen and both parties agree in writing to submit the same to him or her, that Registrar shall hear and decide the question so submitted; and an award made by him or her 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.

145. REGISTRAR OF SEAMEN MAY REQUIRE SHIP'S DOCUMENTS

- (1) In any proceeding under this Act before the Registrar of Seamen relating to wages, claims or discharge of a seaman, the Registrar of Seamen may require the owner or his or her agent or the master or any mate or other member of the crew to produce any log books or other documents in his or her 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 that Registrar shall be met by the owner or master of the ship in dispute.

146. RATE OF EXCHANGE

Where a seaman has agreed with the master of a Saint Lucian ship for payment of his or her wages or any part thereof in a specific currency, any payment of or on account of his or her wages if made in any other currency than that stated in the agreement shall, despite anything in the agreement, be made at the rate of exchange 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.

147. REGISTRAR OF SEAMEN MAY SETTLE WAGE DISPUTE

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 \$500, that 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 of Seamen or the proper officer is of the opinion that the question is one which ought to be decided by a court, that Registrar or proper officer may refuse to decide the question.

148. COURT MAY AWARD INTEREST ON WAGES DUE WHERE THERE IS NO CREW AGREEMENT

In any proceedings by the master of a ship or person employed in a ship other than under a crew agreement for the recovery of any sum due to him or her as wages, the court, unless it appears to it that the delay in paying the sum was due to—

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the person claiming the amount;

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

may order the master or person employed in the ship to pay in addition to the sum due, interest on it at the rate of 20% per annum or such lower rate as the court may specify, for the period beginning 7 days after the sum became due and ending when the sum is paid.

149. ALLOTMENT NOTES

- (1) Subject to this section, a seaman may, by means of an allotment note issued in accordance with regulations made under this Act, allot a part of the wages to which he or she will become entitled in the course of his or her employment in a Saint Lucian 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 or her own name.

150. WAGES WHERE SERVICE TERMINATED

- (1) Where the service of a seaman terminates before the date contemplated in the agreement by reason of the seaman being left on shore at a place abroad by reason of his or her unfitness or inability to proceed on the voyage, such seaman shall be entitled to wages for the 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 or her agreement by reason of the loss or foundering of the ship on which he or she is employed, he or she shall be entitled to receive wages in respect of each day on which he or she is in fact unemployed during a period of 2 months from the date of termination of the service at the rate to which he or she was entitled at that date, except so far as he or she obtains other suitable employment.

151. PROTECTION OF SEAMAN'S RIGHTS AND REMEDIES

- (1) Subject to subsection (3), a seaman's lien on a ship, his or her remedies for the recovery of his or her wages, his or her right to wages in case of the wreck or loss of the seaman's ship, and any right a seaman 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.

152. CLAIMS AGAINST SEAMAN'S WAGES FOR MAINTENANCE

- (1) Where, during a seaman's employment in a ship, expenses are incurred by a public officer for the benefit of any of his or her dependents and the expenses are of a kind specified in the regulations made under this Act, and such further conditions, as may be so specified are satisfied, the public officer may by notice in writing require the persons employing the seaman—
 - (a) to retain for a period specified in the notice such proportion of his or her net wages as may be so specified; and
 - (b) to give to the public officer as soon as may be 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 (3), and give notice in writing of its contents to the seaman.
- (2) For the purposes of this section—
 - (a) the following persons, and no others, shall be taken to be a seaman's dependents, that is to say, his or her spouse and any person under the age of 16 years, whom he or she is liable, for the purposes of any written law, to maintain or in respect of whom he or she is liable under such written 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 her or on his or

her behalf, expenses incurred for providing him or her with accommodation or care or for exercising supervision over him or her, but not expenses shall be specified in the regulations unless they are such that a magistrate's court has power under any enactment in force in Saint Lucia 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 2 or more dependents.
- (4) Where a public officer has served a notice under this section on the persons employing a seaman, a magistrate's 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.
- (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 or her in respect of his or her wages; and the service, on the persons who employed the seaman, of such an order dismissing an order for payment shall terminate the period for which the persons employing the seaman are required to retain the wages.
- (6) An application for an order under this section for the payment of any sum by the persons employing 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 circumstances in respect of which a notice may be served by a public officer under subsection (1);

- (b) any conditions that must be satisfied if a notice is to be served under subsection (1);
- (c) the period that may be specified in a notice to be served under subsection (1) being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his or her ship;
- (d) the form of a notice to be served under subsection (1) and the information to be contained therein;
- (e) the amounts to be deducted from a seaman's wages in computing his or her 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 149.

153. MASTER'S REMEDIES FOR REMUNERATION AND DISBURSEMENTS

- (1) The master of a Saint Lucian ship, so far as circumstances permit, shall have the same rights, liens and remedies for the recovery of his or her wages as a seaman has for his or her wages under this Act or any law.
- (2) The master of a Saint Lucian 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 or her on account of the ship as a master has for the recovery of his or her wages.
- (3) Where, in any proceedings regarding the claim of a master in respect of wages or in respect of the disbursements or liabilities mentioned in subsection (2), any right of set-off or counter-claim is set up, the court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

154. WAGES NOT TO DEPEND ON FREIGHT

- (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 or she has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same although 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 or herself to the utmost to save the ship, cargo and stores, shall bar his or her 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, the wages shall be paid and applied in the same way as the wages of a seaman who dies during a voyage.

155. REFUSAL OR INABILITY TO WORK

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

156. ILLNESS CAUSED BY OWN DEFAULT

- (1) Where a seaman is, by reason of illness, incapable of performing his or her duty, and it is proved that the illness had been caused by his or her own wilful act or default, or is a sickness or infirmity wilfully concealed at the time of the engagement of the seaman, the seaman shall not be entitled to wages for the period during which he or she is, by reason of the illness, incapable of performing his or her duty.
- (2) Subsection (1) does not affect the right of any seaman to any payment or other benefits to which he or she may be entitled under any law providing for compensation to injured or sick workers.

157. COSTS FOR PROCURING CONVICTION

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.

158. IMPROPER DISCHARGE

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

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

without fault and without his or her consent, he or she is entitled to receive from the master or owner, in addition to any wages he or she might have earned, due compensation for the damage caused to him or her by the discharge, not exceeding one month's wages; and he or she may recover that compensation as if it were wages duly earned.

159. PROTECTION OF WAGES

- (1) The following provisions apply to wages due or accruing to a seaman—
 - (a) subject to section 152, 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 although the wages have been sold, assigned, attached or encumbered.
- (2) Subsection (1) does not affect the provisions of this Act with respect to allotment notes.
- (3) This section does not apply 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.

160. LEAVE AND HOLIDAYS

- (1) Every person is entitled after 12 months of continuous service on a Saint Lucian 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 18 working days; and
 - (b) in the case of other members of the crew, not less than 12 working days.
- (2) For the purposes 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 6 weeks in any 12 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 Saint Lucian ship is entitled to 9 days annual leave with pay in lieu of public holidays; and if the length of continuous service is less than 12 months, then the annual leave with pay shall be pro-rated.

161. SEAMAN MAY SUE FOR WAGES

- (1) Subject to section 151, a seaman or apprentice or a person duly authorized on his or her behalf, may, as soon as any wages due to him or her become payable, sue for them in a court having jurisdiction in the place at which his or her service has terminated or at which he or she has been discharged, or at which any master or owner or other person upon whom the claim is made, resides.
- (2) A court upon complaint on oath made to the court 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 or owner or other person, the court may examine upon oath the parties and their respective witnesses regarding the complaint and the amount of wages due, and may make such order for the payment of any wages found due as appears reasonable and just.
- (4) Where a master or owner or other person does not appear, the court, on due proof that the master or owner or other person was duly summoned, may examine on oath the complainant and his or her 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 24 hours after the making of that order, the court 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 3 months.

162. JURISDICTION OF HIGH COURT IN THE RECOVERY OF WAGES

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

163. POWER TO RESCIND CONTRACTS

- (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 relation 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 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

164. PROPERTY OF DECEASED SEAMAN

- (1) Where any seaman belonging to a Saint Lucian 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 of a deceased seaman; and
 - (b) a statement of the wages due to a deceased seaman, the amount of deductions, if any, to be made from the wages and the balance of the wages due.

- (3) The entry referred to in subsection (2) shall be signed by the master and attested by a mate or some other member of the crew.
- (4) The master, if he or she 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) and (2) and the proceeds of the sale mentioned in subsection (4) are in this Act referred to as the “property of the deceased seaman”.

165. DELIVERY OF DECEASED SEAMAN'S PROPERTY

- (1) Subject to subsection (2), the property of the deceased seaman shall be delivered, by the master of the ship by the most practicable means, to the personal representative of the deceased; or, if there is no personal representative, the master shall deliver the property of the deceased seaman 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 seaman 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 seaman.
- (2) A master may deduct from the property of the deceased 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 deceased seaman.

166. FORGERY OF DOCUMENTS

A person commits an offence, who for the purpose of obtaining, either for himself or herself or for any other person, any property of the deceased seaman—

- (a) forges or fraudulently alters any document purporting to show or assist in showing any right to the property of the deceased seaman;
- (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***167. OCCUPATIONAL SAFETY REGULATIONS**

- (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 Saint Lucian 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 issue of any protective clothing or equipment;
 - (d) limit the hours of employment of seamen in any specified operation or in any specified circumstances; and
 - (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.

*Food and Water***168. PROVISIONS AND WATER**

- (1) The Minister may make regulations requiring such provisions and water to be provided for seamen employed in Saint Lucian ships or any class of ships as may be specified in the Regulations.
- (2) The Minister may exempt any ship from any requirement of regulations made under this section, either generally or in respect of a particular voyage.
- (3) Where the provisions of any regulations made under this section are not complied with in the case of a ship the master or owner commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 unless the master or owner proves that the failure to comply was not due to his or her 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 Saint Lucian ship is not satisfied that the provisions or water are in accordance with regulations made under this section the ship may be detained.

169. COMPLAINTS AS TO PROVISIONS AND WATER

- (1) Where 3 or more members of the crew of a Saint Lucian 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 to a 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 in quantity, that person 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 or she commits an offence.

- (3) The person making the examination shall enter a statement of the result of the examination in the official log book and send a report 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 or her statement that there was no reasonable ground for complaint, each of the complainants is liable to forfeit to the owner out of his or her wages a sum not exceeding one week's wages.

170. ALLOWANCE FOR SHORT OR BAD PROVISIONS

- (1) If during the voyage of a Saint Lucian 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 or her 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.

171. WEIGHTS AND MEASURES

- (1) The master of a Saint Lucian 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 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) commits an offence.

172. MEDICAL FITNESS REGULATIONS

- (1) The Minister may make regulations as appear to him or her 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 subsection (1) the Minister shall have due regard to the International Labour Organisation Convention on Standards.

173. CREW ACCOMMODATION REGULATIONS

- (1) The Minister may make regulations with respect to the crew accommodation to be provided in Saint Lucian 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 rooms, mess rooms and galleys in a ship;
 - (c) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
 - (d) provide for the protection of the crew against injury, condensation, heat, cold and noise on a ship;
 - (e) prescribe the water, heating, lighting, ventilation and sanitary facilities to be supplied on a ship;
 - (f) require the submission to a Surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise a Surveyor of Ships or other maritime officer to inspect any such works;
 - (g) provide for the maintenance and repairs 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 register tonnage.
- (3) Regulations made under this section may exempt ships of any description or any ship from any requirements of the Regulations.
- (4) Regulations made under this section may require the master of a ship or any officer authorised by the master 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 commits an offence and the ship may be detained.
- (6) In this section “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, store rooms and catering 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 International Labour Organisation Convention 147 on Merchant Ships (Minimum Standards), including any revisions thereof.

174. CERTIFIED COOK TO BE CARRIED

- (1) Every Saint Lucian ship of 1000 gross tons or more trading from beyond Saint Lucian waters 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 the Minister may exempt a particular ship from the requirements of this section for a specified period.

175. MEDICAL STORES REGULATIONS

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

- (2) The owner and master of every Saint Lucian 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 a Surveyor of ships or other maritime officer is of the opinion that the medicines, medical stores, appliances and books on a Saint Lucian ship are deficient in quantity or quality or are placed in improper receptacles, the Surveyor of ships or other maritime officer shall give notice thereof in writing to the master, owner or agent of the ship, and the ship may be detained.

176. EXPENSES FOR MEDICAL TREATMENT AND BURIAL

- (1) Where the master of, or a seaman belonging to a Saint Lucian ship receives any surgical or medical treatment, or such dental or optical treatment, including the repair or replacement of any appliance, as cannot be postponed without impairing the efficiency of the master or seaman, the reasonable expenses thereof shall be borne by his or her employer.
- (2) Where a master or seaman dies and is buried or cremated outside his or her country of residence, the expenses of his or her burial or cremation shall also be borne by his or her employer.

177. MEDICAL PRACTITIONERS TO BE CARRIED

- (1) Every Saint Lucian ship trading from and beyond the Saint Lucian waters that proceeds to sea with 100 persons or more on board shall carry on board as part of her complement a duly qualified medical practitioner.
- (2) The owner of a Saint Lucian ship commits an offence and is liable on summary conviction to a fine not exceeding \$500 in respect of each day of every voyage of the ship on which the ship is in contravention of subsection (1).

178. WELFARE BOARD FOR SEAMEN'S WELFARE

- (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 or her on the measures to be taken for promoting the welfare of seamen.

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

179. FACILITIES FOR MAKING COMPLAINTS

- (1) Where a seaman while on board a Saint Lucian ship informs the master of the ship that he or she wishes to make a complaint to a court, a 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 or she can make his or her complaint—
 - (a) if the ship is then at a place where there is a court, proper officer or the Registrar of Seamen, at that place; or
 - (b) if the ship is not then at such a place, upon the arrival of the ship at such a place.
- (2) A master of a ship who fails, without reasonable cause, to comply with this section, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

Protection of Seamen from Imposition

180. ASSIGNMENT AND SALE OF SALVAGE

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.

181. SEAMAN'S DEBTS

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

*Provisions as to Discipline***182. MISCONDUCT ENDANGERING LIFE OF SHIP**

- (1) The master or any member of the crew of a Saint Lucian 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 or her 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,

commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.

183. GENERAL OFFENCES AGAINST DISCIPLINE

- (1) Where a seaman or apprentice engaged on a Saint Lucian ship—
- (a) leaves the ship without leave after its arrival at a port and before it is placed in security, he or she is liable to forfeit out of his or her wages a sum not exceeding one week's pay;
 - (b) wilfully disobeys any lawful command, he or she is liable on summary conviction to imprisonment for a term not exceeding one month, and to forfeit out of his or her wages a sum not exceeding 2 days' pay;
 - (c) continually disobeys any lawful command, or continually and wilfully neglects his or her duty, he or she commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months, and to forfeit out of his or her wages for every 24 hours continued disobedience or neglect, either a sum not exceeding 2 days' pay or any expenses properly incurred in hiring a substitute;

- (d) assaults the master or any mate or officer of the ship, he or she commits an offence and is liable on summary conviction to a term of imprisonment not exceeding one year;
 - (e) combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he or she commits an offence and is liable on summary conviction to a term of imprisonment not exceeding one year;
 - (f) wilfully damages his or her ship, or dishonestly misappropriates or converts to his or her own use, or commits criminal breach of trust in respect of, or wilfully damages, any of its stores or cargo, he or she commits an offence and is liable on summary conviction to a term of imprisonment not exceeding one year and to forfeit out of his or her 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, commits an offence and is liable on summary conviction to pay to the master or owner a sum sufficient to reimburse the loss or damage and the whole or a proportionate part of his or her wages may be retained in satisfaction or on account of that liability without prejudice to any further remedy;
 - (h) aids or procures a person to stow away on his or her ship, and that person is afterwards convicted of the offence, the seaman or apprentice commits an offence and is liable on summary conviction to a term of imprisonment not exceeding 6 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 stowaway, and the whole or a proportionate part of the wages of the seaman or apprentice 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 or her refusing duty during a lawful strike after his or her ship has arrived and has been secured in good safety to the satisfaction of the master and the port authority at a port in Saint Lucia.

- (3) A forfeit or other payment imposed in respect of an offence under subsection (1) shall not exceed $\frac{1}{2}$ of one month's salary in any one month, and shall leave the seaman a sum which is sufficient for his or her maintenance and that of his or her dependents.

184. DESERTION AND ABSENCE WITHOUT LEAVE

Where a seaman lawfully engaged or an apprentice belonging to a Saint Lucian ship—

- (a) deserts from his or her ship, he or she commits desertion and is liable on summary conviction to a term of imprisonment not exceeding 3 months, and in addition he or she is liable to forfeit all or any part of the effects he or she leaves on board and the wages which he or she has then earned and, where the master or owner of the ship has engaged a substitute in his or her place at a higher rate of wages than the rate at which wages had been stipulated to be paid to that seaman or apprentice, to satisfy that excess;
- (b) neglects or refuses without reasonable cause to join his or her ship or to proceed to sea in his or her ship, or is absent without leave at any time within the period of 24 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 or her ship or his or her duty, and the act or omission does not constitute or is not treated by the master as constituting the offence of desertion, he or she commits the offence of absence without leave and is liable on summary conviction to a term of imprisonment not exceeding 2 months, and in addition is liable to forfeit out of his or her wages a sum not exceeding 2 day's pay and in addition for every 24 hours of absence either a sum not exceeding 6 days' pay or any expenses properly incurred in hiring a substitute.

185. IMPROPER NEGOTIATION OF ADVANCE NOTE

Where a seaman belonging to a Saint Lucian ship, being lawfully engaged has received under his or her agreement an advance note,

and after negotiating his or her advance note, wilfully or through misconduct fails to join his or her ship or deserts therefrom before the note becomes payable, he or she commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 2 months or to both such fine and imprisonment.

186. SUMMARY REMEDIES NOT TO AFFECT OTHER REMEDIES

Sections 184 and 185 shall not take away or limit any remedy by action or by summary procedure before a court of competent jurisdiction which an owner or master would, but for those provisions, have for any breach of contract in respect of the matters constituting an offence under those sections, but an owner or master shall not be compensated more than once in respect of the same damage.

187. CERTIFICATE OF DISCHARGE MAY BE WITHHELD

Where it is shown to the satisfaction of the Registrar of Seamen that a seaman lawfully engaged in and belonging to a Saint Lucian ship has wilfully or through misconduct failed to join his or her ship, the Registrar of Seamen may direct that the seaman's certificate of discharge shall be withheld for such period as he or she may think fit, and while the seaman's certificate of discharge is so withheld, any person having the custody of the documents may, despite anything in this Act or any other written law, refuse to furnish copies of any of his or her certificates of discharge or certified extracts of any particulars of service or character.

188. FALSE STATEMENTS AS TO LAST SHIP

Where a seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his or her last ship or alleged last ship, or wilfully and fraudulently makes a false statement of his or her own name, he or she commits an offence and is liable on summary conviction to a fine not exceeding \$500.

189. DESERTERS FROM FOREIGN SHIPS

- (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 Saint Lucian ship, the Minister may, by order made by statutory instrument, 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 Saint Lucia from 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 to be delivered to the master or mate of the ship or to the owner of the ship or his or her agent, to be so conveyed.

190. PROOF OF DESERTION WHEN WAGES ARE TO BE FORFEITED

Whenever a question arises whether the wages of a seaman or apprentice are forfeited under this Part for desertion from a Saint Lucian 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) the seaman or apprentice left the ship before the completion of the voyage or engagement; and
- (c) an entry of the desertion of the seaman or apprentice was duly made in the official log book,

and the desertion shall 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 or she had sufficient reasons for leaving his or her ship.

191. APPLICATION OF FORFEITURE

- (1) Where any wages or effects are forfeited under this part for desertion from a ship, the effects may be sold, and the wages or effects or the money arising from the sale of the effects shall be applied towards reimbursing to the master or owner of the ship,

the expenses caused by the desertion 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.

192. QUESTIONS OF FORFEITURE DECIDED IN SUIT FOR WAGES

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, although the seaman or apprentice has not been prosecuted for the offence that gives rise to the question.

193. DEDUCTION OF FINE FROM WAGES

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

194. PERSUADING SEAMAN TO DESERT AND HARBOURING A DESERTER

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 or her ship, or to desert his or her ship, or otherwise to absent himself or herself from his or her duty, he or she commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000.

195. PENALTY ON STOWAWAYS

- (1) Any person who secretes himself or herself and goes to sea in 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, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding 3 months or to both such fine and imprisonment.
- (2) Every person who goes to sea in a ship without the consent mentioned in subsection (1) shall, so long as he or she 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 that person were a member of the crew and had signed the crew agreement.

196. TRADE DISPUTES INVOLVING SEAMEN

- (1) The Trade Union and Trade Disputes Act shall, so far as it relates to the immunity of persons from legal proceedings for acts committed in contemplation or furtherance of a trade dispute, apply to seamen as it applies to other persons.
- (2) Despite anything in any agreement, a seaman employed in a Saint Lucian ship may terminate his or her employment in that ship by leaving the ship in contemplation or furtherance of a trade dispute, after giving to the master not less than 48 hours notice of his or her intention to do so, and shall not be compelled, unless the notice is withdrawn, to go to sea in the 48 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 Saint Lucia and securely moored in a safe berth.
- (3) 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, or any person.

197. OFFENCES TO BE ENTERED IN OFFICIAL LOG BOOK

Where on or in respect of a Saint Lucian ship—

- (a) offence is committed under section 183 or 184; or

- (b) an act of misconduct is committed for which the agreement of the person committing it provides for a fine, and if 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 the ship 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 or her, and may thereupon make such reply thereto as he or she 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 be entered and signed in the official log book, 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 produced or proved, the court hearing the case may in its discretion refuse to receive evidence on the offence or act of misconduct.

Relief and Repatriation of Seamen

198. REPATRIATION OF SEAMEN

- (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 Saint Lucian ship that, where the agreement terminates at a port other than the port of engagement of the seaman, 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 under 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 or her arrival at his or her 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.

199. SEAMAN TO BEAR EXPENSE OF REPATRIATION IN CERTAIN CASES

- (1) A seaman who has been left behind or discharged from his or her ship as a result of his or her—
- (a) desertion;
 - (b) imprisonment; or
 - (c) inability to proceed to his or her ship because of an illness or infirmity that was wilfully concealed at the time of his or her engagement,
- is not entitled to be returned at the expense of the master or owner under section 198.
- (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 for the return of the seaman to a proper return port.
- (3) An owner, master or agent may be reimbursed for any expenses incurred under subsection (2) out of any wages owing to the seaman at the time he or she left the ship or out of the proceeds from the sale of any of his or her effects left on board the ship, or where this is not sufficient, the owner, master or agent may be reimbursed by ordinary process of law.

- (4) Despite subsections (1) or (3), the owner, master or agent shall ensure that the seaman does not become a charge upon the State.

200. DUTY OF REGISTRAR OF SEAMAN WHERE SEAMAN LEFT BEHIND

- (1) Where a seaman is to be left behind or discharged from his or her ship at a port other than his or her port of engagement, the Registrar 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 198 or 199.
- (2) Where a guarantee required under this section is refused the Registrar of Seamen or proper officer may withhold his or her consent to the discharge of the seaman concerned.

201. EFFECT OF WORKMAN'S COMPENSATION

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

- (a) removes any right of the seaman to receive medical treatment under section 198, to the extent that he or she receives that medical aid; and
- (b) removes any right of the seaman to receive maintenance under section 198, to the extent and for so long as he or she receive the periodical payments.

202. APPLICATION TO FOREIGN VESSELS

Sections 198 to 201 apply in respect of a foreign vessel that engages a seaman or apprentice in Saint Lucia; and “owner” in such a case includes any person appointed or nominated by the owner, or the charterer if the vessel is on demise charter, to act as his or her agent and who was so acting at the time the seaman or apprentice was engaged.

203. WAGES AND EFFECTS OF SEAMAN LEFT BEHIND

- (1) Where a seaman belonging to a Saint Lucian 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 or her at the time when he or she 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 48 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 or she 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 of Seamen 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 of Seamen 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 or her desertion, neglect to join his or her ship, or conduct constituting an offence under section 183 or 184, 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.

204. LIABILITY OF MASTER

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

205. LIABILITY OF GOVERNMENT

- (1) The Government is not liable with respect to anything done under section 203, except that, if after the wages or effects of a seaman have been dealt with under that section any legal proceedings are taken 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 respect of those wages, the Minister shall if notice is given to him or her of the proceedings and a reasonable opportunity afforded him or her of complying, comply with any order of the court made as respects the wages or effects so far as he or she can do so out of the wages and effects remitted to him or her in respect of the voyage of the ship.
- (2) The Minister is entitled to appear and be heard in any proceedings referred to in subsection (1) or to be represented by any public officer in his or her Ministry or any other public officer.
- (3) The Minister may, if and so far as he or she 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 203 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 10 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.

- (4) For the purpose of this section, any legal proceedings taken 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.

206. PAYMENT TO GOVERNMENT

- (1) Any sums remitted under section 203 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 203 commits an offence, without prejudice to any other liability to which the ship might be subject.

207. NON-APPLICATION OF SECTION 203

Section 203 does not apply in the case of an absent seaman where—

- (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 or her knowledge been left on board the ship and that he or she 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 \$100;
- (c) the master of the ship satisfies the Registrar of Seamen 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 \$100; 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 48 hours of the arrival of the ship at the port at which the voyage terminates.

208. SALE OF SEAMAN'S EFFECTS

- (1) The effects of a seaman described in section 203 may be sold by the Registrar of Seamen or proper officer in such manner as he or she thinks fit when the effects are delivered to him or her unless the Minister directs to the contrary.
- (2) Where the effects are not sold under subsection (1), the effects may be sold by the Minister as and when he or she thinks fit unless the effects are delivered to the seaman.
- (3) For the purposes of section 203 "effects" includes the proceeds of any sale of the effects of a seaman.

209. MAINTENANCE AND RETURN OF SEAMAN INVOLUNTARILY TERMINATING SERVICE

- (1) Where during the currency of his or her agreement the service of a seaman belonging to a Saint Lucian 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 the seaman is entitled,make adequate provision in accordance with this Act for the 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 the seaman; 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 ;
 - (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 ; or
 - (d) from the person who was the owner of the ship at the time of the transfer of the ship,

at the suit of the Registrar of Seamen or proper officer or other person defraying the expenses, or, if the expenses, have been defrayed out of public moneys, as a debt to the State, by ordinary process of law and in the manner in which wages are recoverable by a seaman.

210. DISCHARGE OF CHANGE OF OWNERSHIP

- (1) Where a Saint Lucian ship is transferred or disposed of, any seaman belonging to that ship shall be discharged unless he or she consents in writing to complete the voyage of the ship if the voyage 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 or her service had terminated otherwise than by his or her consent to be discharged during the currency of the agreement.

211. CERTIFICATE WHEN SEAMAN LEFT BEHIND

- (1) The master of a Saint Lucian 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 cause is unfitness or inability to proceed to sea, desertion, disappearance or otherwise, and 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.
- (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 or she thinks fit, administer oaths and grant or refuse the certificate as he or she thinks just, but a certificate may not be unreasonably withheld.

212. OFFENCES

- (1) Where the master of the ship fails to comply with sections 209, 210, or 211 he or she, without limiting his or her liability under any other provision of this Act, commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (2) In a prosecution for an offence under section 211 the onus of proving that the certificate was obtained, or could not be obtained without unreasonable delay to the ship, or was unreasonably withheld, is upon the master of the ship.

213. ACCOUNT OF WAGES OF SEAMAN LEFT BEHIND

- (1) Where the master of a Saint Lucian ship leaves a seaman behind at any foreign port or place on the ground of his or her unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 211 a full and true account of the wages due to the seaman; and, if that person is a proper officer, the master shall deliver the account in duplicate.
- (2) A master who fails without reasonable cause to deliver the account required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

214. PAYMENT OF SEAMAN'S WAGES

- (1) The master shall pay to the proper officer the wages due to a seaman left behind on the ground of his or her unfitness or inability to proceed to sea, if such officer will receive the wages.
- (2) Where a payment is made under this section, the proper officer, 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 bank draft.

- (4) A master who fails without reasonable cause to pay wages as provided by this section, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

215. APPLICATION OF WAGES OF SEAMAN LEFT BEHIND

Where the wages due to a seaman left behind on the ground of his or her unfitness or inability to proceed to sea are paid to and accepted by the Registrar of Seamen or a proper officer, that Registrar or officer shall—

- (a) where the seaman subsequently obtains employment at or leaves the port at which the payment has been made, 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 the seaman an account of the money received and expended on his or her behalf;
- (b) where the seaman dies before his or her ship leaves the port, the officer will 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 the public expense under this Act, 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.

216. RELIEF OF DISTRESSED SEAMAN

- (1) Where a seaman—
- (a) is found in any place outside Saint Lucia after having been shipwrecked from a Saint Lucian ship; or
 - (b) by reason of having been discharged or left behind from a Saint Lucian ship in any place outside Saint Lucia, 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 the seaman's necessary clothing and maintenance until his or her departure for such a port;
 - (b) in the case of death, for burial expenses; and
 - (c) in addition, in the case of a shipwrecked seaman, for the repayment of any expenses incurred in his or her conveyance to port after his or her shipwreck and his or her 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.

217. REPAYMENT OF RELIEF AND REPATRIATION EXPENSES

- (1) Where any expenses are incurred by a consular officer on behalf of the Government under section 216 or are incurred by the government of a foreign country and are repaid to such foreign country by the Government, the Minister may pay to 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 Parliament.
- (2) All money 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 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, also 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 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 that Government.

218. FORCING ASHORE

A person commits an offence who, being the master or crew member of a Saint Lucian ship, wrongfully forces a seaman ashore and leaves him or her behind, or otherwise causes a seaman to be wrongfully left behind at any place.

219. PROPER RETURN PORT

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 the seaman belongs; or
- (c) in the case of a discharged seaman, some other port agreed to by the seaman at the time of his or her discharge.

220. MANNER OF RETURN

- (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 or her with suitable employment on board a ship that is proceeding to a proper return port and that is in need of men to make up its complement; or
 - (b) providing the seaman with a passage in any ship or aircraft or in other public transport and by providing for his or her maintenance during the journey.
- (3) Where the master of a ship is required under this Part to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage or the expenses of his or her 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 or she is entitled to the appropriate remuneration for work done during the voyage.

221. RETURN OF SEAMAN TO PROPER RETURN PORT

- (1) When any question arises as to what return port a seaman is to be sent, or as to the route by which he or she should be sent, the question shall be decided by the Registrar 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 men to make up its complement and is about to proceed to a proper return port or to a port in the vicinity thereof, if such is the case.
- (3) This section does not relieve the owner from the obligation and expense of returning the seaman to his or her proper return port.

222. MINISTER MAY PROVIDE TEMPORARY RELIEF

- (1) The Minister may, whenever he or she deems it necessary, spend money on the temporary relief, in such manner as the Minister 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 their ship belongs;
 - (b) who are citizens of Saint Lucia 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 seaman belonged and may be recovered by the Minister on behalf of the Government in the same manner as expenses incurred outside Saint Lucia for distressed seamen of Saint Lucian ships are recoverable.

223. UNAUTHORISED PRESENCE ON BOARD SHIP

Where any ship is in a port in Saint Lucia and a person who is neither a public officer nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master thereof or of any other person authorised to give consent; or
- (b) remains on board the ship after being requested to leave by the master, a maritime officer, a police officer, a ports constable or an officer of customs, such person commits an offence and on summary conviction is liable to a fine not exceeding \$1,000.

PART 8**OFFICIAL LOG BOOK AND ORDINARY SHIP'S LOG****224. OFFICIAL LOG BOOK**

- (1) An official log book, in the prescribed form shall be kept in every Saint Lucian ship of not less than 200 gross tons, and in every Saint Lucian ship trading from and beyond Saint Lucian waters.
- (2) The Minister may make Regulations prescribing—
 - (a) the form of official log books;
 - (b) the particulars to be entered in official log books;
 - (c) the persons by whom entries in official log books are to be made, signed or witnessed; and
 - (d) the procedure to be followed in the making of entries in official log books and in the amendment or cancellation of such entries.
- (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 to which it relates it shall be made and dated to show the dates of the occurrence and the entry respecting the occurrence;
 - (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 24 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 the ship, 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.

225. ENTRIES IN OFFICIAL LOG BOOK

The master of a ship for which an official log book is kept shall, subject to any regulations made under section 224, enter or cause to be entered in the official log book particulars of—

- (a) every conviction by a court of a member of the crew and the punishment imposed;
- (b) every offence committed by a member of the 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 the ship, and the punishment imposed;
- (d) the conduct, character and qualifications of each member of the crew or a statement that the master 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 occurring on board the ship;

- (h) every marriage taking place on board the ship, 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.

226. DELIVERY OF OFFICIAL LOG BOOK TO DIRECTOR

- (1) The master or owner of every Saint Lucian ship which is required to carry an official log book under section 224 shall, subject to subsection (2), deliver or transmit such log book for the period covering the previous crew agreement to the Director within 7 days of the discharge of the crew and the closing of such crew agreement.
- (2) Where the crew of a Saint Lucian ship referred to in subsection (1) is engaged under a running agreement as referred to in section 128 the master or owner shall deliver or transmit the official log book to the Director within 21 days of such log book being completed.
- (3) A master or owner of a ship who fails without reasonable cause to comply with this section commits an offence.

227. DELIVERY OF OFFICIAL LOG BOOK WHERE SHIP IS OR LAST WAS

- (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 port in Saint Lucia, within one month, or if the ship is elsewhere, within 6 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.
- (3) The owner or master of a ship who fails, without reasonable cause, to comply with this section commits an offence.

228. OFFENCES IN RESPECT OF OFFICIAL LOG BOOK

- (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 commits an offence and, except as otherwise expressly provided in the Act in respect thereof, is liable on summary conviction to a fine not exceeding \$1,000.
- (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 previous to the arrival of the ship at its final port of discharge of the crew, more than 24 hours after that arrival, commits an offence and is liable on summary conviction to a fine not exceeding \$500.
- (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, commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment.

229. ORDINARY SHIP'S LOG

- (1) All Saint Lucian ships shall carry on board an ordinary ship's log in which shall be recorded the daily activities of the ship and such other particulars as may be prescribed.

- (2) The ordinary ship's log referred to in subsection (1) shall comprise a deck log and an 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.

230. RETURNS OF CREW LISTS

- (1) Every master of a Saint Lucian ship of not less than 200 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 the gross tonnage of the ship;
 - (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 to 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 the ship, 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 Saint Lucian waters or between CARICOM ports shall be delivered or transmitted by the master or owner to the Director not later than 21 days after 30 June and 31 December in each year; and
- (b) in the case of ships other than those referred to in paragraph (a), shall be delivered or transmitted by the master to the Director or other proper officer—
 - (i) within 48 hours after the arrival of the ship at the final port of destination in Saint Lucia, or
 - (ii) upon the discharge of the crew, whichever first happens.
- (3) Where a Saint Lucian 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.
- (5) Where it is required by this Act that a crew list is to be delivered to the Director a copy of that list should be retained by the owner of that ship for a period of 7 years after the date of the delivery of the crew list to the Director; and the owner shall produce the copy if requested to do so by the Director during the 7 year period.

231. RETURNS OF BIRTHS AND DEATHS IN SAINT LUCIAN SHIPS

- (1) The master of a ship registered in Saint Lucia shall, upon arrival at a port or at such other time and place as the Director may, with respect to any ship or class of ships direct, 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 225 to record.
- (2) In respect of any death recorded pursuant to subsection (1) the master shall notify such death to such person, if any, as the deceased may have named as his or her next-of-kin.
- (3) When a return referred to in subsection (1) is made elsewhere than Saint Lucia the proper officer shall send a certified copy of the return to the Director.

232. RETURNS OF BIRTHS AND DEATHS OF SAINT LUCIAN CITIZENS IN FOREIGN SHIPS

The master of any ship not registered in Saint Lucia which, during the course of a voyage, calls at any port or place in Saint Lucian waters, shall, upon arrival in Saint Lucian waters, make a return to the Director of births and deaths which have occurred, if any, of citizens of Saint Lucia on board the ship.

233. PENALTY

The master of any ship who fails to comply with any requirement of section 231 or 232 commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

234. RETURNS TO BE SENT TO THE REGISTRAR OF BIRTHS AND DEATHS

The Director shall cause information contained in any return referred to in sections 231 or 232 to be sent to the Registrar of Births and Deaths.

**PART 9
PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION****235. COLLISION REGULATIONS**

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 by vessels;
- (c) respecting sound signals and other signals and the sound signalling apparatus, to be carried and used by vessels; and
- (d) respecting the steering and sailing rules to be observed by vessels,

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

236. SAINT LUCIAN SHIPS TO OBSERVE COLLISION REGULATIONS

- (1) All owners and masters of Saint Lucian ships and other craft shall obey the collision regulations and shall not carry or exhibit any other lights or use any other sound signals than such as are prescribed by those regulations.
- (2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he or she commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.
- (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.

237. FOREIGN SHIPS IN SAINT LUCIAN WATERS

Regulations made under section 235 together with the provisions of this Part relative thereto or otherwise relating to collisions, shall be observed by all ships and seaplanes and other crafts of foreign registration within Saint Lucian waters, and in any case before a court in Saint Lucia concerning a breach of the collision regulations arising within Saint Lucian waters, foreign ships, seaplanes and other craft shall be treated as if they were ships and seaplanes registered in Saint Lucia.

238. DAMAGE CAUSED BY NON-OBSERVANCE OF COLLISION REGULATIONS

If any damage to person or property arises from the non-observance by any ship, seaplane or craft of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the ship, seaplane or craft at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

239. LOCAL RULES FOR INLAND NAVIGATION

Rules made before the coming into operation of this Act under any other Act concerning lights and signals to be carried, or the steps to be taken for avoiding collision by ships navigating the waters of any

port, river or other area of inland navigation, shall, as regards such ships, have full force and effect until provision therefore is made by regulations made under this Act.

240. INSPECTION TO ENFORCE COMPLIANCE WITH COLLISION REGULATIONS

- (1) A Surveyor of Ships or any other maritime officer may inspect a ship of any nationality in Saint Lucian waters 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 that Surveyor of Ships or other maritime officer finds that the ship is not so provided, he or she shall specify in writing the action required to rectify the deficiency and shall detain the ship until such deficiency is rectified to his or her satisfaction.
- (2) For the purpose of an inspection under this section, a Surveyor of Ships shall have all the powers of an Inspector under section 485.

241. DUTY TO RENDER ASSISTANCE FOLLOWING COLLISION

- (1) After a collision between ships, the master of each ship shall, if and so far as he or she can do so without danger to his or her own ship, crew and passengers, if any—
 - (a) make his or her best efforts to give to the other ship, the master, crew and passengers, if any, 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 or she has ascertained that such ship has no need for further assistance;
 - (c) give the name and port of registry of his or her ship, and the names of the ports from which his or her ship sailed and to which his or her ship is bound to the master of the other ship.
- (2) If the master of a ship fails, without reasonable cause, to comply with any provision of subsection (1), he or she commits an offence and on summary conviction is liable to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

- (3) The failure of the master or person in charge of a ship to comply with the provisions of this section shall not raise any presumption of law that the collision was caused by his or her wrongful act, neglect or default.

242. RECORD OF BOAT AND FIRE DRILLS TO BE KEPT IN OFFICIAL LOG BOOK

- (1) The master of every Saint Lucian ship shall cause a statement to be entered in the official log book or ordinary ship's log, or if there is none, cause other record to be kept, of every occasion on which a boat drill or a fire drill is practised on board the ship, or on which the appliances and equipment required by the rules for life-saving and fire appliances to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination, and where—
 - (a) in the case of a passenger ship, a boat drill or fire drill is not practised on board the ship in any week;
 - (b) in the case of any other ship, a boat drill or fire drill is not practised on board the ship in any 2 weeks;
 - (c) in the case of any ship, the said appliances and equipment are not examined in any such period as is prescribed,the master shall cause a statement to be entered or other record to be kept as aforesaid, of the reasons why the drill was not practised or the appliances and equipment were not examined in that week or two-week period.
- (2) The master of a ship who fails to comply with the requirements of this section commits an offence.

243. CREW TO BE SUFFICIENT AND EFFICIENT

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

244. DANGERS TO NAVIGATION TO BE NOTIFIED

- (1) The master of any Saint Lucian ship upon encountering dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information

accordingly by any means of communication at his or her disposal and in accordance with the regulations to all ships in the vicinity or to such authorities ashore as may be prescribed.

- (2) The Minister may make regulations requiring ships to send out information regarding dangers to navigation and prescribing the manner in which the information is to be sent.
- (3) Every person in charge of a radio station in Saint Lucia or on board any Saint Lucian ship, shall, on receiving such signal as may be prescribed 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 (2) shall transmit the message in the prescribed manner.
- (4) 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 or she has reason to believe that there is such a storm in the vicinity.
- (5) A transmission of messages under this section shall be without charge.

245. MASTER TO PROCEED MODERATELY IN DANGER AREA

- (1) The master of a Saint Lucian ship, when ice is reported on or near his or her course, shall at night proceed at a safe speed adapted to the prevailing circumstances, and if necessary, change his or her 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, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

246. NOTICES TO MARINERS AND NAVIGATIONAL WARNINGS

- (1) The Director shall take appropriate steps to advise the seafaring community and the public of any developing or existing situation which may adversely affect maritime safety.
- (2) Information provided under subsection (1) shall take the form of notices to mariners and navigational warnings which 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 information under this section and a person who without reasonable cause refuses to render such assistance when so requested commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

247. OBLIGATION TO ASSIST VESSELS IN DISTRESS

- (1) The master of a Saint Lucian ship on receiving at sea a signal from any source that a ship or aircraft, or a 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 or she is doing so, and if—
 - (a) the master is unable to proceed to the assistance of the persons; or
 - (b) in the special circumstances of the case he or she considers it unreasonable or unnecessary to proceed to their assistance,

the master shall enter in the official log book the reason for failing to proceed to the assistance of the persons in distress.

- (2) If a master fails to comply with the provisions of this section he or she commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment.

248. RIGHT TO REQUISITION SHIPS WHEN IN DISTRESS

- (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 or her call for assistance, has the right to requisition one or more of those ships as he or she 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 the ship or persons in distress.
- (2) The master of a ship shall be released from the obligation imposed by section 247(1) and, if his or her ship has been requisitioned, from the obligation imposed by subsection (1) of

this section, if he or she is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer necessary.

249. OBLIGATION TO ASSIST PERSONS IN DANGER AT SEA

- (1) The master of a ship shall, so far as he or she can do so without serious danger to his or her 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 or she commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and imprisonment.

250. SALVAGE RIGHTS NOT AFFECTED

Compliance with any of the provisions of this Part shall not affect the right of salvage.

251. REGULATIONS FOR SIGNALS OF DISTRESS

- (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 or any other person uses or displays or causes or permits any person under his or her authority to use or display—
 - (a) any signal of distress or urgency, except in circumstances and for the purposes prescribed; and
 - (b) any signal that is liable to be mistaken for any signal of distress or urgency,

the master or person commits an offence and, in addition to any penalty imposed upon him or her on summary conviction, he or she 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 a master or any other person who contravenes subsection (2) is an officer certificated or licensed under this Act, he or she shall be subject to an inquiry into his or her conduct as provided in section 114.

252. REPORTS OF ACCIDENTS TO SHIPS

When a Ship—

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person;
- (b) has sustained any material damage affecting the seaworthiness or the efficiency of the ship, either in the hull or in any part of the machinery of the ship; or
- (c) has been in collision with another ship,

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

- (2) Every report of accident, damage or collision 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 to 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, damage or collision occurred; and
 - (c) the probable cause of the accident, damage or collision.
- (3) If the owner or managing owner, or in the event of there being no owner or managing owner resident in Saint Lucia, 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, or has been involved in any such collision as is mentioned in subsection (1), he or she shall satisfy himself or herself that the accident, damage or collision has been reported to the Director by the master; and, where any such managing owner or agent has reason to believe that the

accident, damage or collision has not been so reported, he or she 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 or her knowledge and belief, the nature and extent of the accident, damage or collision, 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 commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (5) This section applies to all Saint Lucian ships and to all foreign ships carrying passengers in Saint Lucian waters.

253. LOSS OF SHIP

- (1) If the managing owner or agent of any Saint Lucian 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 or she 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 or her 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) This section applies to—
 - (a) Saint Lucian ships; and
 - (b) ships which are lost or are believed to have been lost in Saint Lucian waters.
- (3) 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 or she has reason to believe such ship to have been lost, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.

PART 10 SAFETY OF LIFE AT SEA

254. INTERPRETATION

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—

- (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 amendments thereof or replacements therefor as the Minister may, by order made by statutory instrument declare to be in effect in respect of Saint Lucia;

“**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-telephony certificate, safety radio telegraphy 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;

“Safety Convention Ship” means a ship to which the Safety Convention applies;

“Surveyor of Ships” includes any person or organisation, duly authorised by the Minister to act as a surveyor for the purpose of surveying ships and issuing Safety Convention certificates.

255. LIST OF SAFETY CONVENTION COUNTRIES

The Minister may by notice made by statutory instrument provide a list of countries, including territories thereof, that have ratified, acceded to or denounced the Safety Convention.

256. APPLICATION OF SAFETY CONVENTION

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

257. REGULATIONS RELATING TO SAFETY AT SEA

- (1) The Minister may make such regulations as he or she considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for safety at sea and for giving full effect to the Safety Convention and such regulations may include matters for which there are no express provisions in the Convention.
- (2) Every omission or neglect to comply with, and every act done without reasonable cause and contrary to the provisions of the Safety Convention and any regulations made under this section, shall be an offence and in respect of any such offence the offender, subject to the provisions of this Act and such Safety Convention or regulations is liable on summary conviction to a fine not exceeding \$10,000.

258. SHIPS IN PORT THROUGH STRESS OF WEATHER

Although any provision of this Part or of any regulations made under this Part is expressed to apply to ships that are not Saint Lucian ships while they are in any port in Saint Lucia, such provision shall not apply to a ship that would not be in any such port but for 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.

259. BREACH OF SAFETY REGULATIONS

In the case of any ship, where—

- (a) the ship is required by the Safety Convention or by the regulations relating thereto to be provided with appliances and the ship proceeds to sea without being so provided;
- (b) any of the appliances with which the ship is so provided is lost or rendered unfit for service while at sea through the wilful fault or negligence of the owner or master;
- (c) the owner or master wilfully neglects to replace or repair at the first opportunity any appliance, lost or rendered unfit;
- (d) appliances are not kept serviceable and ready for use at all times; or
- (e) any provision of the regulations, save such provisions as relate to the carriage of dangerous goods, is contravened or not complied with,

the owner and the master of the ship commit an offence and is each liable on summary conviction to a fine not exceeding \$10,000.

260. APPOINTMENT OF SURVEYORS

- (1) The Minister may appoint at such places as he or she deems advisable, competent persons as Surveyors of Ships to inspect—
 - (a) the boilers and machinery of ships;
 - (b) the equipment of ships, including ships' tackle, and 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 inspection of ships, so far as regards the enforcement of the regulations made under this Part, shall be carried out by a Surveyor of Ships or other duly appointed maritime officer or, subject to such conditions as the Minister may impose, by any corporation or society for the survey and classification of ships authorised by the Minister.

261. SURVEYOR'S POWERS OF INSPECTION

- (1) A Surveyor of Ships may at all reasonable times inspect any ship for the purpose of ensuring that the ship is in compliance with the Safety Convention, the collision regulations and the relevant regulations made under this Act.
- (2) Where a Surveyor of Ships finds that the Safety Conventions or the regulations have not been complied with, he or she shall give written notice to the owner or master of the ship stating in what respect there are defects or deficiencies and what action in his or her opinion, is required to rectify the defects or deficiencies, and the Surveyor shall report the facts to the Director.
- (3) Every notice given under subsection (2) shall be communicated, in a manner directed by the Minister, to the Comptroller or the customs officer of any port at which the ship may seek a clearance and such clearance shall not be granted until further notice is given that the defects or deficiencies referred to in subsection (2) have been rectified.
- (4) Where the Director considers a ship unsafe, or, a passenger ship unfit to carry passengers, or where the machinery or equipment of a ship is defective in any way so as to expose persons on board to serious danger, the Director shall detain that ship, and the Director may also detain any ship in respect of which any of

the provisions of this Act have not been complied with, if in the Director's opinion such detention is warranted in the circumstances.

- (5) Where, under this section, a Surveyor of Ships visits any ship that Surveyor may ask the owner or his or her agent, the master or chief engineer, or any other person on board the ship and in charge or appearing to be in charge of the ship, any questions concerning the ship as the Surveyor thinks fit and every such person so questioned shall fully and truthfully answer every such question.
- (6) A Surveyor of Ships may reasonably require of the owner or his or her agent, the master or chief engineer, or any other person on board or in charge, or appearing to be in charge of the ship, that the machinery of the ship be activated or dismantled so that the Surveyor may satisfy himself or herself as to its condition, and every person of whom such a request is made and who is capable of so doing, shall comply with such requirement.
- (7) Any person who contravenes subsection (5) or (6) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

262. SURVEYOR'S REPORT TO DIRECTOR

A Surveyor of Ships, where satisfied on inspection of a ship that he or she can with propriety do so, shall forward a report to the Director which shall contain a statement showing—

- (a) that the hull and machinery of the ship are sufficient for the service;
- (b) that the hull and machinery of the ship 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 the ship and is 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 the ship may carry; and
- (g) the steam pressure that may be carried on the boilers.

263. SURVEYOR'S RECORD OF INSPECTIONS AND CERTIFICATES

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

264. SURVEY OF PASSENGER SHIPS

Every Saint Lucian passenger ship shall be subjected to the following surveys—

- (a) a survey before the ship is put into service;
- (b) a periodic survey at intervals of not more than 12 months; and
- (c) additional surveys as required under this Act.

265. INITIAL SURVEY OF PASSENGER SHIPS

- (1) The survey made before a passenger ship is put into service shall include a complete inspection of the hull, machinery and equipment of that ship.
- (2) The survey referred to in subsection (1) shall be such as to ensure that the general arrangement, material and scantlings 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 257.
- (3) The survey referred to subsection (1) shall be such as to ensure that the workmanship of all parts of the hull, machinery and equipment of the ship 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.

266. PERIODIC SURVEYS OF PASSENGER SHIPS

- (1) A 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 of the ship, 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 257.
- (2) The lights and sound signals and the distress signals carried by the ship shall also be subject to the survey.

267. ADDITIONAL SURVEYS OF PASSENGER SHIPS

- (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 the life-saving or fire fighting appliances or other equipment of the ship, or whenever important repairs, renewals or replacements are made to the ship.
- (2) 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 respects with the provisions of the Safety Convention and the collision regulations and any other regulations made under this Act.

268. PASSENGER SHIP SAFETY CERTIFICATE

- (1) Where the Minister or such other person as he or she may authorise for the purpose, on receipt of the surveyor's report referred to in section 262, is satisfied that a Saint Lucian ship is in compliance with—

- (a) the requirements of the Safety Convention as regards construction, life-saving and fire fighting appliances, radio and direction finders; and
- (b) such of the regulations 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,

the Minister shall, on the application of the owner of the ship, 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.

269. SHORT VOYAGE CERTIFICATES FOR PASSENGER SHIPS

Where the voyages on which a ship is to be engaged are short international voyages and the ship 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.

270. EXEMPTION AND QUALIFIED CERTIFICATES FOR PASSENGER SHIPS

Where the Minister or such other person as the Minister may authorise for the purpose, on receipt of the surveyor’s report referred to in section 262 in respect of any passenger ship, is satisfied that—

- (a) 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 the ship is to be engaged;
- (b) the ship complies with the remainder of those requirements and that the ship is properly provided with the lights, shapes and means of making sound signals required by the collision regulations,

the Minister 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 certificate, 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.

271. VALIDITY OF PASSENGER SHIP SHORT VOYAGE CERTIFICATES

The Minister, or such other person as the Minister may authorise 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 1200 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 although the voyage exceeds 600 nautical miles between those ports.

272. PASSENGER SHIP SAFETY CERTIFICATE TO BE CARRIED ON BOARD

- (1) Every passenger ship shall, before plying or proceeding to sea from any port in Saint Lucia 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 of passengers is subject.

- (2) Where in the case of a foreign passenger ship the Minister or such other person as he or she may authorise for the purpose, is satisfied upon the production of a Passenger Ship Safety Certificate that the provisions of this Act have been substantially complied with, the ship shall be deemed to have satisfied the requirements of subsection (1).

273. PENALTY FOR CARRYING EXCESS PASSENGERS

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, without prejudice to any other remedy or penalty under this Act, is liable on summary conviction to a fine not exceeding \$200 for every excess passenger.

274. SAFETY EQUIPMENT SURVEY ON CARGO SHIPS

- (1) The life-saving appliances and fire-fighting appliances of Saint Lucian cargo ships shall be subject to survey before the ship is put into service and thereafter at intervals of not more than one year.
- (2) The fire control plans, pilot ladders, lights and sound signals and the distress signals in new and existing Saint Lucian 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.

275. CARGO SHIP SAFETY EQUIPMENT CERTIFICATE

Where the Minister, or such person as the Minister may authorise for the purpose, on receipt of the surveyor's report referred to in section 262 in respect of a Saint Lucian cargo ship, is satisfied that the ship complies with the requirements of the Safety Convention as regards life-saving and fire-fighting appliances and other safety provisions and with such of the regulations relating to safety of life at sea as are applicable to the ship in regard to such voyages as the ship is to be engaged on, and, that the ship is properly provided with the lights, shapes and means of making sound signals required by the collision

regulations, the minister shall, on the application of the owner, issue in respect of the ship—

- (a) where it is not less than 500 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 the ship complies with the said requirements,

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

276. CARGO SHIP EXEMPTION AND QUALIFIED SAFETY EQUIPMENT CERTIFICATES

Where the Minister or such person as the Minister may authorise for the purpose, on receipt of the surveyor’s report referred to in section 262, in respect of a cargo ship, is satisfied that the ship is eligible under this Act for exemption from any of the requirements applicable to that ship under this Act, or from any of requirements of the Safety Convention or regulations made under this Act in relation to such voyages as the ship 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, the Minister may, on the application of the owner, issue in respect of the ship—

- (a) where it is not less than 500 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 complying with any other conditions, specified in the certificate; and
 - (ii) a certificate showing that the ship complies with those requirements of the Safety Convention 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 the ship is not exempt, and the voyages on which the ship 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”.

277. CARGO SHIP RADAR AND RADIO INSTALLATION SURVEYS

The radio and radar installations of Saint Lucian cargo ships and any radio-telegraphy installation in a motor life-boat or portable radio apparatus for survival craft which is carried in compliance with any Regulations made under section 257, shall be subject to survey before the ship is put into service and thereafter at intervals of not more than 12 months.

278. ISSUE OF CARGO SHIP RADIO CERTIFICATE

Where the Minister or such person as the Minister may authorise for the purpose on receipt of the surveyor’s report referred to in section 262, in respect of a cargo ship, is satisfied that the ship complies with the requirements of the Safety Convention as 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 the ship is to be engaged on, the Minister 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 300 gross tons and is to be engaged on international voyages;
- (b) in any other case, a certificate showing that the ship complies with the said requirements,

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

279. CARGO SHIP EXEMPTION AND QUALIFIED RADIO CERTIFICATES

Where the Minister or such person as the Minister may authorise for the purpose, on receipt of the surveyor’s report referred to in section 262, in respect of a cargo ship, is satisfied that the ship is eligible for exemption under this Act, from any of the requirements of the Regulations made under this Act or from any of the requirements of the Safety Convention applicable to the ship as regards radio-

telegraphy, radio-telephony and direction finders and in relation to such voyages as the ship is to be engaged on, and that the ship complies with the remainder of these requirements and is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations, the Minister shall, on the application of the owner, issue in respect of the ship—

- (a) where it is not less than 300 gross tons and is to be engaged on international voyages—
 - (i) an exemption certificate stating which of the requirements of the Safety Convention the ship is exempt from and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trade and complying with the other conditions, specified in the certificate, and
 - (ii) a certificate showing that the ship complies with those requirements from which the ship 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 the ship is not exempt and the voyages on which the ship 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”.

280. RADIO EXEMPTION CERTIFICATES

Where any Saint Lucian ship is wholly exempted by the Minister, or such other person authorised by the Minister 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.

281. CARGO SHIP SAFETY CONSTRUCTION SURVEYS

- (1) Subject to subsections (2) and (3) the hull, machinery and equipment, other than items in respect of which Cargo Ship Safety Equipment Certificates, Cargo Ship Safety Radio

Telegraphy Certificates or Cargo Ship Radio-Telephony Certificates are issued, of a Saint Lucian 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 cargo ship or the efficiency or completeness of the life-saving appliances or other equipment of the cargo ship or whenever important repairs, renewals or replacements are made to the cargo ship.
- (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 cargo ship complies in all respects with the provisions of the Safety Convention and of the collision regulations and any regulations made under this Act.

282. REGULATIONS FOR CARGO SHIP SAFETY CONSTRUCTION REQUIREMENTS AND SURVEYS

- (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 Saint Lucian ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.
- (2) The regulations referred to in subsection (1) shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the hull, equipment and machinery of ships.
- (3) This section applies to—
 - (a) Saint Lucian ships of not less than 500 gross tons;
 - (b) Saint Lucian ships of such lower tonnage and of such description as the Minister may specify; and
 - (c) foreign ships while the ships are within Saint Lucian waters and while the ships are not exempted under this Act,

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

283. ISSUE OF CARGO SHIP SAFETY CONSTRUCTION CERTIFICATE

- (1) Where the Minister, or such person as the Minister may authorise for the purpose is satisfied on receipt of the surveyor's report referred to in section 262, in respect of a Saint Lucian cargo ship to which section 282 applies, that the ship complies with the cargo ship construction and survey regulations applicable to the ship in relation to such voyage as the ship is to be engaged on, the Minister shall, on the application of the owner, issue in respect of the ship—
- (a) where the ship is not less than 500 gross tons and is to be engaged on international voyages, a certificate in the form prescribed by the Convention; and
 - (b) in any other case, a certificate showing that the ship complies with the said regulations,

and any such certificate is in this Act referred to as a "Cargo Ship Safety Construction Certificate".

284. CARGO SHIP EXEMPTION AND QUALIFIED SAFETY CONSTRUCTION CERTIFICATES

Where the Minister or such person as the Minister may authorise for the purpose, on receipt of the surveyor's report referred to in section 262, in respect of a cargo ship, is satisfied that the ship is eligible for exemption under this Act from any of the requirements of the Regulations applicable to the ship and to such voyages as the ship is to be engaged on, and that the ship complies with the remainder of these requirements, the Minister may, on the application of the owner, issue in respect of the ship—

- (a) where the ship is of not less than 500 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 the ship 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 the ship is not exempt and to the voyages on which the ship 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”.

285. VALIDITY PERIOD OF CARGO SHIP SAFETY CONSTRUCTION CERTIFICATE

- (1) A certificate issued under section 283 and a certificate issued under section 284 other than an exemption certificate, shall remain in force for 5 years or such shorter period as may be specified in the certificate but without prejudice to the power of the Minister to cancel the certificate, and an exemption certificate issued under section 284 shall remain in force for the same period as the corresponding qualified certificate.
- (2) The Minister may extend the period for which a certificate under this subsection is issued, to a period not exceeding 6 years.
- (3) 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 authorised by the Minister for the purpose may, if satisfied, on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of 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 may have been issued under this Act.

286. APPEALS AGAINST WITHHOLDING OF SHIP'S CERTIFICATES OR DETENTION

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 the ship being detained in accordance with section 261, he or she may appeal to the High Court.

287. PERIODS OF VALIDITY OF CERTIFICATES

- (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 2 years from the date of the issue of the certificate 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, or such other person as the Minister may authorise for the purpose, 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.

288. EXTENSION OF VALIDITY OF CERTIFICATES

- (1) Where a Saint Lucian ship is not in a port of Saint Lucia on the date of expiry of any certificate issued to that ship under this Act, the Minister, or any person as the Minister may authorise for the purpose, may extend the validity of that certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of 3 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 Saint Lucian port or a port where the ship 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.

289. VALIDITY OF QUALIFIED CERTIFICATE

A qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate; and an exemption certificate shall be of no effect unless it is, by its terms, applicable to the voyage on which the ship is about to proceed.

290. PENALTY FOR BREACH OF EXEMPTION CERTIFICATES

Where an exemption certificate, issued in respect of any Saint Lucian ship specifies conditions on which the certificate is issued and any of those conditions are not complied with, the owner or the master of the ship commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

291. POSTING UP OF CERTIFICATES ON BOARDSHIP

- (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 a 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 this section commits an offence and is liable on summary conviction to a fine not exceeding \$500.

292. SURVEY TO VERIFY COMPLIANCE WITH SAFETY CERTIFICATES

A Surveyor of Ships or any other maritime officer may board any ship for the purpose of verifying—

- (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 the Safety Convention 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 a Safety Convention Certificate, being the equivalent of an exemption certificate, is issued, are complied with.

293. PRODUCTION OF SAFETY CONVENTION CERTIFICATE

- (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 Saint Lucian 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 the ship was a Saint Lucian 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,

shall not avail for the purpose of section 294 unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

294. INSPECTION OF SHIPS HOLDING SAFETY CONVENTION CERTIFICATES

- (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 survey or inspection under section 292, unless there are clear grounds for believing that the condition of the ship or the equipment of the ship does not correspond substantially with the particulars of the certificate, or that the ship and the equipment of the ship 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 or her absence, the nearest diplomatic representative of the ship's flag State;
 - (b) nominated surveyors or recognised organisations 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, the ship shall be entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

295. SHIP NOT TO PROCEED TO SEA WITHOUT APPROPRIATE CERTIFICATE

- (1) A Saint Lucian ship shall not proceed to sea on an international voyage from a port in Saint Lucia 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 is applicable to the voyage on which the ship is about to proceed and to the trade in which the ship is 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, and
 - (iii) a Radio Certificate, or a Qualified Radio Certificate, or an Exemption Radio Certificate.
- (2) Despite the provision in subsection (1) a Saint Lucian 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 the ship were a passenger ship, namely, the certificates referred to in subsection (1)(a).

296. DETENTION OF SHIP FOR NON-PRODUCTION OF CERTIFICATES

The master of every Saint Lucian 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 ship proceeds to sea and a clearance shall not be granted, and the ship may be detained, until the certificates are so produced.

297. SHIPS TO CARRY STABILITY INFORMATION

- (1) Every Saint Lucian passenger ship, regardless of size and every Saint Lucian cargo ship having a length of 24 metres and upwards shall carry on board such information about the ship's stability as may be prescribed.
- (2) The information on stability referred to in subsection (1), 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 required by this section, the owner or master commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

298. PENALTY FOR FORGERY OF SURVEY REPORT OR CERTIFICATE

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,

commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment.

299. NOTICE OF ACCIDENT, DEFECT OR ALTERATIONS AFFECTING THE EFFICIENCY OR SEA-WORTHINESS OF THE SHIP

- (1) The owner or master of a ship shall ensure that 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, is maintained at all times to comply 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, appliances or machinery, which affects the safety of the ship or the efficiency, completeness or seaworthiness of the ship, the owner or master shall, as soon as practicable following such accident, discovery of defect, or alteration, give written notice to the Director containing full particulars of the accident, defect or alteration, as the case may be.
- (3) Where notice is not given as required by subsection (2), the owner or master of the ship commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

300. RESURVEY OF A SHIP FOLLOWING ALTERATIONS OR DAMAGES

- (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 299;
- (b) the hull, equipment, appliances or machinery of the ship have sustained any damage or are otherwise defective or insufficient,

the Director may require the ship to be again surveyed to such extent as the Director 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 the ship.

301. APPLICATION OF THIS PART TO FOREIGN SHIPS

- (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 Saint Lucian waters.
- (2) Despite 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 the Minister 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 extent as would permit any ship to proceed to sea or to make any voyage in an unseaworthy condition.

302. SURVEY OF FOREIGN SHIPS AND ISSUE OF SAFETY CONVENTION CERTIFICATES

- (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 issued under subsection (1) shall contain a statement to the effect that the certificate has been issued at the

request of the Government of the country in which the ship is or will be registered, and the certificate shall have the same force and receive the same recognition as a certificate issued under this Part.

303. ISSUE OF CERTIFICATE BY OTHER GOVERNMENTS

The Minister may request the Government of a country to which the Safety Convention applies, or any organisation authorised to act in that behalf by the Minister, to issue in respect of a Saint Lucian ship any certificate the issue of which is required under this Act; and a certificate issued under 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.

304. EXCEPTIONS

The Safety Convention and the requirements therein, unless it is otherwise provided by regulations made under this Act, shall not apply to—

- (a) ships of war and troop ships;
- (b) cargo ships of less than 500 gross tons with respect to Safety Convention requirements other than those for radio;
- (c) cargo ships of less than 300 gross tons with respect to Safety Convention requirements for radio;
- (d) ships not propelled by mechanical means;
- (e) wooden ships of primitive build;
- (f) pleasure yachts not engaged in trade;
- (g) fishing vessels.

305. REGULATIONS FOR SAFETY REQUIREMENTS AND ISSUE OF LOCAL CERTIFICATES

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 11 LOAD LINES

306. INTERPRETATION

For the purpose 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 ship used for catching fish, whales, seals, walrus or other living resources of the sea;

“**international voyage**” means a voyage between—

- (a) a port or place in Saint Lucia and a Port or place outside Saint Lucia; or
- (b) a port in a Convention country, other than Saint Lucia, and a port in any other country or territory thereof, whether or not a Convention country, which is outside Saint Lucia 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 its 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 Lines Convention**” means the International Convention on Load Lines 1966 and any amendments thereto which the Minister may, by order made by statutory instrument, declare to be in effect for Saint Lucia;

“**Load Lines Convention ship**” means an international Load Line ship belonging to a country to which the Load Lines Convention applies;

“**Load Lines Regulations**” means the Regulations made by the Minister to give effect to the Load Lines Convention;

“**Load Line ship**” means—

- (a) an international Load Line ship, that is to say, an existing ship of not less than 150 gross tons or a new ship of 24 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—

- (a) in the case of a ship registered in or flying the flag of a Convention country, the date from which the Load Lines Convention entered into force for that country;
- (b) in the case of a ship registered in or flying the flag of a country which has declared that the Load Lines Convention applies to that country’s ships, the date of such declaration; or
- (c) in the case of any other ship, the date of the coming into force of this Act.

307. EXCEPTIONS

This Part shall not apply to—

- (a) ships of war;
- (b) pleasure craft not engaged in trade; and
- (c) fishing vessels.

308. COUNTRIES TO WHICH LOAD LINES CONVENTION APPLIES

The Minister may by notice made by statutory instrument publish a list of countries that have ratified, acceded to or denounced the Load Line Convention.

309. LOAD LINE REGULATIONS

The Minister may make such regulations, hereinafter referred to as the “load line regulations” as appear to the Minister to be necessary for the purpose of giving effect to the Load Lines 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 Lines Convention does not apply.

310. CERTIFICATES ISSUED UNDER THE LOAD LINES CONVENTION

- (1) An International Load Line Certificate may be issued to every ship which has been surveyed and marked in accordance with the Load Lines 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.
- (3) The certificates mentioned in this section shall be issued by the Minister, or by any person or organisation duly authorised by the Minister, and in every case the Minister shall assume full responsibility for the certificates.

311. INTERNATIONAL AND LOCAL LOAD LINE CERTIFICATE

- (1) Where a Saint Lucian 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 or her application.
- (2) For the purpose of this section the appropriate certificate—
 - (a) in the case of an existing ship of not less than 150 gross tons, and in the case of a new ship of 24 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 “Saint Lucian Local Load Line Certificate”.

312. CERTIFICATES ISSUED BY OTHER GOVERNMENTS

- (1) The Minister may request the Government of a country which is a party to the Load Lines Convention to issue an International Load Line Certificate in respect of a Saint Lucian 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 the certificate had been issued by the Minister.

- (2) Where a valid Load Line Certificate issued under 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 Lines correspond with the marks specified in the certificate, the ship shall be deemed to be marked as required by this Part.

313. CERTIFICATES ISSUED AT THE REQUEST OF OTHER GOVERNMENT

The Minister may, at the request of the government of a country to which the Load Lines Convention applies, issue an International Load Line Certificate in respect of a ship of that country, if the Minister is satisfied that, as in the case of a Saint Lucian Ship, he or she can properly issue the certificate; and where a certificate is issued at such a request, the certificate shall contain a statement to the effect that it has been so issued.

314. REGULATIONS AS TO THE VALIDITY OF FOREIGN CERTIFICATES

- (1) With a view to determining the validity in Saint Lucia of certificates purporting to have been issued in accordance with the Load Lines Convention in respect of foreign ships, the Minister may make such regulations as appear to him or her to be necessary.
- (2) For the purposes of the provisions of this Part relating to a foreign ship 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.

315. POWER TO MAKE EXEMPTION ORDERS

- (1) Where, in the opinion of the Minister the sheltered nature and conditions of international voyages between ports in Saint Lucia and ports in neighbouring countries make it unreasonable or impracticable to apply all 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 made by statutory instrument specifying those ports, direct that ships plying on such voyages be exempt from the relevant provisions of this Part.

- (2) The Minister may, by order made by Statutory Instrument, direct that vessels under 24 metres in length engaged solely in the coasting trade, or any class of such ships specified in the order, be exempt from some or all of the provisions of this Part.
- (3) Any order made 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.

316. FURTHER POWERS TO EXEMPT SHIPS OF NOVEL DESIGN

- (1) On the application of the owner of a Saint Lucian ship to which this Part applies, and where the ship is either an existing ship of not less than 150 gross tons or a new ship of not less than 24 metres in length, the Minister may exempt the ship if in the opinion of the Minister the ship embodies features of a novel kind such that, 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 Saint Lucian ship to which this Part applies, and which is either—
 - (a) an existing ship of less than 150 gross tons or a new ship of less than 24 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 Saint Lucian ship to which this Part applies is either an existing ship of not less than 150 gross tons or a new ship of not less than 24 metres in length, and 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 the ship is engaged on that voyage.

- (4) Any exemption granted under this section may be granted subject to such conditions as the Minister thinks fit; and where any such exemption is granted subject to conditions, the exemption shall not have effect unless those conditions are complied with.

317. EXTENT OF EXEMPTION

In this Part, any reference to exempting a ship is a reference to exempting the ship either—

- (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.

318. ISSUE OF EXEMPTION CERTIFICATE

- (1) Where the Minister exempts a ship under section 315 or 316 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 section 316(1) or 316(3) is to be called an “International Load Line Exemption Certificate”; and
 - (b) where the exemption is granted under subsection of section 316(2) is to be called a “Saint Lucian 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.

319. DURATION OF EXTENSION OF EXEMPTION

- (1) The load line regulations shall make provision for determining the period which any exemption granted under section 315 or 316 or any certificate issued under section 310, 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
- (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.

320. EFFECT OF LOAD LINE CERTIFICATES

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 are 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.

321. DURATION, RENEWAL AND CANCELLATION OF LOAD LINE CERTIFICATE

- (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 5 years from the date of its issue.
- (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 by the Director for such period not exceeding 5 years on any occasion as the Director 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 12 months after the issue of the certificate for the purpose of ascertaining whether the certificate should remain in force, having regard to subsection (2), and if the ship is not so surveyed, the Minister may cancel the certificate, but may, if the Minister thinks fit extend the said period by a maximum of 3 months.

322. SHIPS NOT TO PROCEED TO SEA WITHOUT LOAD LINE CERTIFICATE

- (1) Subject to any exemption granted by or under this Part, a Saint Lucian ship being an international load line ship shall not proceed to sea on an international voyage unless there is in force in respect of such ship an International Load Line Certificate.
- (2) A Saint Lucian ship, being a local load line ship, shall not proceed to sea unless there is in force in respect of such ship a Local Load Line Certificate.

323. DECK CARGO REGULATIONS

- (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.
- (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 Lines Convention.
- (4) Where any provisions of the deck cargo regulations are contravened—
 - (a) in the case of a Saint Lucian ship; or

- (b) in the case of any other ship while the ship is within any port in Saint Lucia,
- the master of the ship, subject to subsection (5), commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (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 authorised 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 of Ships under this Act.

324. INSPECTION OF SAINT LUCIAN LOAD LINE SHIPS

A Surveyor of Ships or any maritime officer may inspect any Saint Lucian load line ship for the purpose of ensuring that the provisions of this Part have been complied with.

325. NOTICE TO BE GIVEN OF ALTERATIONS AFFECTING POSITION OF SHIP'S LOAD LINES

- (1) The owner or master of a ship in respect of which a Load Line Certificate issued under this Part is in force shall, as soon as practicable after any structural alteration which affects the load line marks is made in the hull or superstructure of the ship, give notice in writing to the 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 commits an offence and each is liable on summary conviction to a fine not exceeding \$5,000.
- (3) The Director may exercise with respect to any such ship his or her powers specified in subsection (4) where the Director 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 the Director 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 as required by the Director and if the owner or master fails without reasonable cause to comply with such requirement the ship may be detained and the owner or master commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

326. SUBMERSION OF LOAD LINES

- (1) A ship shall not 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 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 commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 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 additional fine referred to in subsection (2) shall not exceed \$10,000 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.

- (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.

327. ALTERATION OR DEFACEMENT OF LOAD LINE MARKS

- (1) The owner or master of a Saint Lucian load line ship Alteration or who fails without reasonable cause to keep the ship marked in accordance with this Part commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (2) Any person who conceals, removes, alters, defaces or obliterates or permits any person under his or her control to conceal, remove, alter, deface or obliterate any mark placed on the ship in accordance with this Part, except with the authority of a person entitled under the load line regulations to authorise the alteration of the mark, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

328. SHIPS NOT TO PROCEED TO SEA UNLESS COMPLYING WITH THE LOAD LINE REGULATIONS

- (1) A Saint Lucian load line ship shall not 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 organisation authorised to act in that behalf by the Minister or, at the Minister's 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;
 - (c) the ship is marked on each side with a mark, hereinafter referred to as "deckline", 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 the 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 of the ship is liable on summary conviction to a fine not exceeding \$10,000 and the ship may be detained until it has been so surveyed and marked.

329. PRODUCTION OF LOAD LINE CERTIFICATES OF SAINT LUCIAN SHIPS

The master of every Saint Lucian Load Line Convention ship shall, upon request, produce a valid Load Line Certificate to the Comptroller or customs officer from whom a clearance for the ship from a port in Saint Lucia is demanded, and a clearance shall not be granted and the ship may be detained until the certificate is produced.

330. PRODUCTION OF LOAD LINE CERTIFICATES OF FOREIGN SHIPS

Unless a valid Load Line Certificate is produced in respect of a foreign ship, the provisions of section 329 shall apply to that ship if the ship proceeds or attempts to proceed to sea from a port in Saint Lucia, as the provisions apply to a Saint Lucian ship.

331. SUBMERSION OF LOAD LINES OF FOREIGN SHIPS

The provisions of section 326 shall apply to foreign ships while they are in Saint Lucian waters as they apply to Saint Lucian ships, subject to the following—

- (a) a load line convention ship shall not be detained, and proceedings shall not be taken against the owner or master thereof, by virtue of that section, except after an inspection by a Surveyor of Ships as provided for in 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, the load line appearing by the certificate to indicate the maximum depth to which the ship is 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 permitted in accordance with the load line regulations to be loaded.

332. POSTING UP OF LOAD LINE CERTIFICATE AND ENTRY OF LOAD LINE DETAILS IN SHIP'S LOG BOOK

- (1) Where a Load Line Certificate has been issued under this Part in respect of a Saint Lucian load line ship—
 - (a) the owner of the ship shall 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.
- (2) Before any Saint Lucian load line ship proceeds to sea, the master of that ship shall—
 - (a) enter in the official log book the draught and freeboard relating to the depth to which the ship is loaded, the density of the water in which the ship is floating and all other particulars relating thereto in the form as set out in the official log book; and
 - (b) cause a notice in the prescribed form to be displayed in some conspicuous place on board the ship and the notice shall remain displayed and shall be legible while the ship is at sea.
- (3) The master or owner of any Saint Lucian load line ship who fails to comply with the provisions of this section commits an

offence and is liable on summary conviction to a fine not exceeding \$2,000.

333. INSPECTION OF SHIPS REGARDING LOAD LINES

- (1) A Surveyor of Ships or any maritime officer may board any ship when such ship is within Saint Lucian waters and may demand the production of any Load Line Certificate in force in respect of that ship.
- (2) Where a valid Load Line Certificate is produced to a Surveyor of Ships or a maritime officer the powers of inspecting the ship with respect to load line 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 a Surveyor of Ships or a maritime officer, that Surveyor or maritime officer shall have the same power of inspecting the ship as provided for in section 324 as if the ship were a Saint Lucian load line ship.

334. CONTRAVENTION OF LOAD LINE REGULATIONS AND DETENTION OF SHIP

- (1) Where it is found upon an inspection referred to in section 333 that a ship is loaded in contravention of section 326, the ship may be detained and proceedings may be taken, against the master or owner of the ship under section 326.

- (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 Director.
- (3) Where on an inspection a ship is found to have been so materially altered in respect of the matters referred to in section 333(2)(c) and (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 the Director is satisfied that the ship is fit to proceed to sea without danger to human life.

PART 12

CARRIAGE OF BULK CARGOES

335. BULK CARGO REGULATIONS

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 Organisation and amendments thereto or replacements 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 as they come into force for Saint Lucia.

336. PRECAUTIONS REGARDING GRAIN CARGOES

- (1) Where grain is loaded on board any Saint Lucian ship, or is loaded at any port in Saint Lucia 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, commits 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 Saint Lucia without necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in Saint Lucia so

laden, the owner or master commits an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

- (3) An offence is not committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other cause or force majeure, which neither the master, the owner nor the charterer, if any, could have prevented or forestalled.
- (4) Any person authorised 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.

337. OFFENCES

Any person who contravenes this Part commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

PART 13 DANGEROUS GOODS

338. REGULATIONS IN TO DANGEROUS GOODS

- (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 or with any other Convention which may be accepted by Saint Lucia, and such regulations shall have regard to the International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organisation, as amended.
- (2) Without restricting the generality of subsection (1), 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 the goods may be carried;

- (d) the marking that is to be placed on any package or container in which goods may be placed for shipment;
- (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.

339. CARRIAGE AND MARKING OF DANGEROUS GOODS

- (1) A person shall not send by or carry in a Saint Lucian ship, except in accordance with Regulations made pursuant to section 338, any dangerous goods, save that this section shall not apply to ship's distress signals or to the carriage of military stores under conditions authorised by the Minister.
- (2) A person shall not send by or carry in a Saint Lucian 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 Saint Lucia as it applies to Saint Lucian ships.

340. OFFENCES

A person who contravenes this Part commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 and the ship shall be deemed, for the purposes of this Act, to be unsafe by reason of improper loading.

341. REJECTION AND DISPOSAL OF DANGEROUS GOODS BY THE SHIP

- (1) The master or owner of any ship may refuse to take on board any package or parcel that he or she suspects might contain any dangerous goods and may require the package to be opened to ascertain the nature of the Package and its contents.
- (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 marking or the written notice described in section 339, the master or owner of the ship may cause the goods, together with any package or container thereof, to be disposed of; 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.

342. FORFEITURE OF DANGEROUS GOODS

- (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) despite—
 - (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 14 SEAWORTHINESS OF SHIPS

343. UNSEAWORTHY SHIP

In this Part “unseaworthy ship” means a ship that is by reason of the defective condition of its hull, equipment or machinery, or by reason of undermanning, overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which the ship is intended.

344. SENDING UNSEAWORTHY SHIP TO SEA

- (1) Any person who sends or is a party to sending a Saint Lucian ship to sea in such an unseaworthy state that the life of any

person is likely to be endangered thereby, commits an offence, unless that person proves either—

- (a) that he or she 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, under the circumstances, reasonable and justifiable.
- (2) The master of a Saint Lucian ship who knowingly takes a ship to sea in such an unseaworthy state that the life of any person is likely to be endangered thereby commits an offence, unless he or she proves that taking the ship to sea in such an unseaworthy state was under the circumstances reasonable and justifiable.
- (3) A prosecution under this section shall not be instituted except with the consent of the Director.
- (4) A person who commits an offence against this section, on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

345. DUTY TO ENSURE SEAWORTHINESS

- (1) Despite any agreement to the contrary it is an implied term of every contract whether express or implied, relating to service on board a ship that—
- (a) the owner of the ship;
 - (b) the master; and
 - (c) every agent charged with the loading of the ship or with the preparation of the ship for sea, or the sending of the ship to sea;
- are bound to use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition throughout the voyage.
- (2) This section does not make the owner of a ship liable by reason of the ship being sent to sea in an unseaworthy state when, owing to special circumstances, the sending of the ship to sea in that state was reasonable and justifiable.

346. DETENTION OF UNSEAWORTHY SHIP

- (1) Where, whether on a complaint or representation made to him or her or otherwise, the Director or a Surveyor of Ships has reason to believe that any Saint Lucian ship, or any foreign ship at a port in Saint Lucia is an unseaworthy ship, the Director or a Surveyor of Ships shall, if the complaint or representation is made in sufficient time before the sailing of the ship, ascertain by inspection or survey as necessary, whether or not the ship ought to be detained.
- (2) For the purposes of determining whether or not a ship referred to in subsection (1) is an unseaworthy ship and ought to be detained, and if so, the conditions under which the detention should be made, the ship may be provisionally detained to permit an initial inspection or survey to be carried out by a Surveyor of Ships or other maritime officer.
- (3) Where the Director is satisfied that the ship is an unseaworthy ship, he or she may—
 - (a) in the case of any ship, cause the ship to be detained; and
 - (b) in the case of a Saint Lucian ship, cause the safety certificate or certificate of registry of the ship to be suspended, until he or she is satisfied that the ship is fit to proceed to sea.
- (4) Where the ship is detained under subsection (3), the Director may adopt any measures or means he or she thinks suitable or necessary to prevent the ship from sailing while it is an unseaworthy ship.
- (5) Where any ship is detained or provisionally detained under this section, a written statement of the grounds on which the ship is detained or provisionally detained shall be served on the master of the ship.
- (6) Where a foreign ship has been detained or provisionally detained under this section, a consular officer for the state to which the ship belongs shall be informed.
- (7) Where a ship has been detained under this section, the ship may be inspected or surveyed by a Surveyor of Ships or other maritime officer to investigate any defects or deficiencies believed to exist or to establish if previously notified that defects and deficiencies have been adequately rectified.

- (8) Where any ship is detained or provisionally detained under this section, the owner or master of a ship or a consular officer referred to in subsection (4) may require that a person of his or her choice accompany any person making an inspection or survey under this section.
- (9) A Surveyor of Ships or any other maritime officer acting under this section, shall as soon as practicable after action is completed in connection therewith, forward a full report thereof to the Director together with copies of any reports made upon inspection or survey.
- (10) Any complaint in respect of the seaworthiness of a ship shall be in writing, stating the name and address of the complainant, and a copy of the complaint, including the name and address of the complainant, shall be given to the owner or master of the ship if action is taken under this section.

347. LIABILITY FOR COSTS AND DAMAGES

- (1) Where a ship is detained under this Act, and the ship was, at the time of detention, an unseaworthy ship within the meaning of this Part, the owner of the ship is liable to pay to the Minister any costs of and incidental to the detention and survey of the ship; and those costs are without prejudice to any other remedy, recoverable in the same manner as salvage.
- (2) Where it is proved that there was no reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the detention of an unseaworthy ship, the Minister is liable to pay to the owner of the ship—
 - (a) the owner's costs of and incidental to the detention and survey of the ship; and
 - (b) compensation for any loss or damage sustained by the owner by reason of the detention or survey.

348. COMPLAINANT LIABILITY

Where a ship is detained in consequence of a frivolous or vexatious complaint and the circumstances are such that the Minister becomes liable under this Part to pay to the owner of the ship any cost or compensation, the complainant is liable to pay to the Minister all such

cost and compensation as the Minister incurs or is liable to pay in respect of the detention and survey of the ship.

349. SECURITY FOR COSTS

- (1) Where a complaint is made to the Director or a Surveyor of Ships, that a Saint Lucian ship is unseaworthy, the Minister, or Director may, if he or she thinks fit, require that security to his or her satisfaction be given by the complainant for the costs and compensation that the complainant may become liable to pay under section 348.
- (2) The security may not be required when the complaint—
 - (a) is made by $\frac{1}{4}$, being not less than 3, of the seamen belonging to the ship; and
 - (b) is not frivolous or vexatious in the opinion of the Minister.

350. DESERTION FROM UNSEAWORTHY SHIP

- (1) If in any proceedings against any seaman of any ship for the offence of desertion or absence without leave, it is alleged by $\frac{1}{4}$, or if their number exceeds 20, by not less than 5, of the seamen belonging to the ship—
 - (a) that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or any other reason, not in a fit condition to proceed to sea; or
 - (b) that the crew accommodation in the ship is insufficient or does not comply with the requirements imposed by any Regulations made under section 137,

the Court shall take such steps as are in its power to satisfy itself concerning the truth or untruth of the allegation, and for that purpose the Court—

- (i) shall receive the evidence of the person making the allegation,
- (ii) may summon any other witnesses whose evidence it thinks desirable to hear,
- (iii) shall, if satisfied that the allegation is groundless, adjudicate the case, and

- (iv) shall, if not satisfied that the allegation is groundless, before adjudication cause the ship to be surveyed.
- (2) A seaman charged with desertion or with absence from his or her ship without leave shall not have a right to apply for a survey under this section unless he or she has, before leaving the ship, complained to the master of the circumstances alleged by him or her to justify a survey of the ship.

351. APPOINTMENT OF SURVEYORS OR OTHER MARITIME OFFICERS

- (1) For the purposes of section 350, the court may appoint a Surveyor of Ships or other maritime officer to survey the ship which is the subject of an allegation, and to answer any questions concerning that ship which the court thinks fit to ask.
- (2) A Surveyor of Ships or a maritime officer appointed under subsection (1) to survey any ship shall survey the ship, make a written report thereon to the court, and include in his or her written report an answer to every question put to him or her by the court.
- (3) Any person carrying out a survey of a ship under this section shall have for the purposes thereof all the powers conferred on an inspector by section 261.

352. COSTS OF SURVEY

- (1) The costs, if any, of a survey of a ship made under section 351 shall be determined by the Director according to a prescribed scale of fees.
- (2) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation therein is sufficient or complies with such requirements as may be prescribed, as the case may be, the costs of the survey shall be paid by the person in consequence of whose allegation the survey was made, and such costs may be deducted by the master or owner of the ship from the wages due or to become due to that person.
- (3) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation of the ship is not sufficient or does not comply with such requirements as may be prescribed,

as the case may be, the master or owner of the ship shall pay the costs of the survey, and in addition be liable to pay to the seaman who has been charged in any proceedings referred to in section 350 such compensation as the court may award.

PART 15 WRECK AND SALVAGE

Wreck

353. APPOINTMENT AND POWERS OF PRINCIPAL RECEIVER OF WRECK AND OF RECEIVERS OF WRECK

- (1) The Principal Receiver of Wreck appointed under section 4 shall have all the powers of a receiver throughout Saint Lucia.
- (2) The Director may be appointed to be the Principal Receiver of Wreck.
- (3) The Principal Receiver of Wreck shall exercise general direction and supervision over all matters relating to receivers, wreck and salvage.
- (4) There may be designated by the Minister any person to be a receiver of wreck in any specified area and to perform the duties of a receiver under this Part.

(Amended by Act 16 of 2000)

354. FEES OF RECEIVER

- (1) There shall be paid to every receiver the expenses properly incurred by him or her in the performance of his or her duties and such fees as may be prescribed in respect of such other matters as may be prescribed, and the receiver shall not be entitled to any other remuneration.
- (2) A receiver shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him or her 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 or her expenses and fees are paid, or until security is given therefor to his or her satisfaction.

- (3) Whenever any dispute arises as to the amount payable to any 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 a receiver in respect of any services performed by him or her shall be accounted for to the Government, and shall be applied in defraying any expenses duly incurred in implementing the provisions of this Part and, subject to such application, shall be paid into the Consolidated Fund.

355. DUTY OF RECEIVER WHERE VESSEL IS IN DISTRESS

- (1) Where any vessel is wrecked, stranded or in distress in Saint Lucian waters or on the shores of Saint Lucia, the receiver for the area in which the wreck is situated shall go to such area, and take command of all persons present, and assign such duties and give such directions to each person present as the receiver thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, and of the cargo and apparel of the vessel.
- (2) Any person who, without reasonable excuse, wilfully disobeys the direction of the receiver commits an offence and on summary conviction is liable to a fine not exceeding \$1,000.
- (3) This section shall not be construed to authorise the receiver to interfere in any matter arising between the master and crew of the vessel concerning the management of the vessel, unless the receiver is requested to do so by the master.

356. POWER OF RECEIVER IN CASE OF SHIP IN DISTRESS

- (1) A receiver may, with a view to preserving shipwrecked persons, a vessel, or the cargo or apparel of a vessel—
 - (a) require such persons as the receiver thinks necessary to assist him or her;
 - (b) require the master or other person having the charge of any vessel near at hand to give such aid with his or her

men or vessel as is in the power of the master or person having charge of the vessel; 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) commits an offence and on summary conviction is liable to a fine not exceeding \$1,000.

357. POWER TO PASS OVER ADJOINING LANDS

- (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 of the land, but such person may not cause any more damage to the adjoining lands than is reasonably necessary for the purpose of rendering assistance or saving life.
- (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 caused, and the amount payable in respect of the damage shall, in case of dispute, be determined, and shall, in default of payment, be recoverable, in the same manner as the amount of salvage is 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 or her by this section;
 - (b) impedes or hinders the deposit of any cargo or other articles recovered from a vessel on any 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,

commits an offence and on summary conviction be liable to a fine not exceeding \$5,000.

358. DUTIES OF PERSONS FINDING WRECK

- (1) Where any person finds or takes possession of any wreck within Saint Lucia or brings within Saint Lucia any wreck finding wreck found outside Saint Lucia that person shall, where he or she is the owner of the wreck, give notice to the receiver of the area stating that he or she has found or taken possession or brought such wreck within Saint Lucia, and describing the marks by which the same may be recognised, or where the person is not the owner of the wreck, as soon as possible, deliver the same to the receiver of the area.
- (2) The Minister may dispense with a delivery required under subsection (1) in the case of any wreck upon such condition as the Minister thinks fit.
- (3) A person who fails without reasonable cause to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 and shall, in addition, if he or she is not the owner, forfeit any claim to salvage and is liable to pay to the owner of the wreck, if the wreck is claimed, or to the government, if the wreck is unclaimed, double the value of the wreck to be recoverable in the same manner as a fine imposed under this Act.

359. SUPPRESSION OF PLUNDER AND DISORDER

- (1) Whenever any vessel is wrecked, stranded or in distress in Saint Lucian waters or on the shores of Saint Lucia and any person plunders the wreck, or creates disorder or obstructs the preservation of a ship or of the shipwrecked persons or of the cargo or apparel of the wrecked vessel a receiver may cause such person to be apprehended.
- (2) A 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 or her in so doing.

360. IMMUNITY OF RECEIVER

Where during any time a receiver or a person acting under immunity of his or her orders is engaged in the execution of the duties imposed on the receiver by this Part, some person resists the receiver and that person is killed, maimed or hurt by reason of that resistance, no action, suit or prosecution against the receiver or person acting under his or her orders is maintainable by or on behalf of the person killed, maimed or hurt, unless the receiver or person acting under his or her orders used more force than was reasonably necessary in the circumstances.

361. NOTICE OF WRECK TO BE GIVEN BY RECEIVER

Where a receiver takes possession of any wreck, the receiver shall within 48 hours—

- (a) cause to be posted at the nearest police station, and otherwise published in such manner as the receiver may deem fit, a description of the wreck and of any marks by which the wreck is distinguished; and
- (b) if in his or her opinion the value of the wreck exceeds \$1,000, send a copy of such description to the Director.

362. CLAIMS OF OWNER OF WRECK

- (1) The owner of any wreck which is in the possession of a receiver, upon establishing his or her claim to the wreck to the satisfaction of the receiver within 6 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 or her.
- (2) Where any wreck or other article belonging to or forming part of a foreign vessel which has been wrecked in Saint Lucian waters or on the shores of Saint Lucia or belonging to and forming part of the cargo thereof, is found on or near the shores of Saint Lucia or is brought into any port in Saint Lucia, 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 or 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.

363. SALE OF WRECK

- (1) The Principal Receiver of Wreck may at any time sell any wreck in his or her custody, if in his or her opinion the wreck—
 - (a) is under the value of \$5,000;
 - (b) is so damaged or of so perishable a nature that it cannot with advantage be retained;
 - (c) is not of sufficient value to pay for storage; or
 - (d) has not been removed within a time specified by the Principal Receiver.
- (2) The proceeds of any sale made under subsection (1) shall, after defraying the expenses thereof, be held by the Principal Receiver for the same purposes, and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

364. PENALTY FOR TAKING WRECK AT THE TIME OF CASUALTY

- (1) Where a vessel is wrecked, stranded or in distress in Saint Lucian waters or on the shores of Saint Lucia, 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 a receiver.
- (2) Any person, whether or not the owner of any cargo or article referred to in subsection (1), who conceals or keeps possession of any such cargo or article or refuses to deliver any such cargo or article to a receiver or any person authorised by the receiver to demand such cargo or article, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.
- (3) A receiver or any person authorised by the receiver to demand the delivery to him or her of any cargo or article referred to in subsection (1) may take such cargo or article by force from any person refusing to deliver the cargo or article to him or her.

365. RIGHT TO UNCLAIMED WRECK

The Government is entitled to all unclaimed wreck found within any part of Saint Lucia or found or taken possession of outside Saint Lucia and brought within Saint Lucia, except where the Government has granted to any person the right to any such wreck.

366. WRECKED GOODS SUBJECT TO DUTIES

- (1) All wreck, being foreign goods brought or coming into Saint Lucia shall be subject to the same duties as those to which such goods would be subject if they were imported into Saint Lucia.
- (2) If any question arises as to the origin of any goods referred to in subsection (1), the goods shall be deemed to be the produce of such country as the Comptroller may on investigation determine.
- (3) The Comptroller shall permit—
 - (a) all goods, wares or merchandise saved from any vessel stranded or wrecked on the homeward voyage of the vessel to be forwarded to the port of its original destination; and
 - (b) all goods, wares or merchandise saved from any vessel stranded or wrecked on the outward voyage of the vessel to be returned to the port at which the goods were shipped, but the Comptroller shall take security for the due protection of the Consolidated Fund in respect of those goods.

367. DELIVERY OF WRECK NOT TO PREJUDICE TITLE

Upon delivery of any wreck or payment of the proceeds of sale of any wreck by the Principal Receiver under this Part, the Principal 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.

368. REMOVAL OF WRECK BY PORT OR HARBOUR AUTHORITY

- (1) Where any vessel is sunk, stranded or wrecked or abandoned in any seaport under the control of the Saint Lucia Air and Sea

Ports Authority established under the Saint Lucia Air and Sea Ports Authority Act, hereinafter referred to as the Authority, or in any approach thereto, in such manner, as in the opinion of the Authority, is or is likely to be an obstruction or danger to navigation in that seaport or the approach thereto, the Authority 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 vessel is raised, removed or destroyed;
- (c) subject to subsections (2) and (3), sell in such manner as the Authority thinks fit the vessel or any part of the vessel so raised or removed, and also any other property recovered in the exercise of the Authority's 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.

However, such surplus shall be paid into the Consolidated Fund unless such persons establish a claim thereto within one year of the sale of the vessel.

- (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 7 clear days' notice of the intended sale has been given, either by advertisement in a newspaper published and circulating in or near the district over which the Authority referred to in subsection (1) has control, or in such other manner as the Authority thinks fit.
- (3) At any time before any property is sold under this section, the owner of the property shall be entitled to have the property delivered to him or her on payment to the Authority of the fair market value of the property; and that value shall be ascertained by agreement between the Authority and the owner or, failing such agreement, by some person to be named for the purpose by the Principal Receiver.
- (4) Any sum received under subsection (3) by the Authority in respect of any property shall, for the purposes of subsection (1), be deemed to be the proceeds of sale of such property.
- (5) If the proceeds of sale of any property sold under this section are less than the costs incurred by the Authority when acting

under this section, the Authority may recover, by civil action, such difference from the owner of the vessel.

- (6) The powers conferred by this section on the Authority for the removal of wrecks shall be in addition to, and not in derogation of, any other powers conferred by any other enactment.

369. BREAKING AND REMOVAL OF WRECKS

- (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 salvage or break up such vessel prior to the removal of the vessel from Saint Lucia, that person shall, before commencing salvage or breaking up operations, obtain the written permission of the Principal Receiver.
- (2) On receiving any application for permission to salvage or break up any vessel under this section, the Principal Receiver may grant such permission and may—
 - (a) stipulate such conditions as he or she considers necessary to minimise the risks, or effects of any pollution; and
 - (b) require security in such reasonable amount as he or she may consider necessary to ensure the safe and effective removal of the vessel or any portion thereof.
- (3) Any person who, without the previous written permission of the Principal 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 Saint Lucia commits an offence and on summary conviction is liable to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

370. EXTENT OF POWER OF REMOVAL OF WRECK

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.

371. TAKING WRECK TO A FOREIGN PORT

Any person who takes into any foreign port and sells there any vessel, whether stranded, derelict or otherwise in distress, found in Saint Lucia or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found in Saint Lucia commits an offence and on summary conviction is liable to a fine not exceeding \$10,000 or to imprisonment of a term not exceeding one year or to both such fine and imprisonment.

372. BOARDING

- (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 that person acts under the authority of a receiver.
- (2) Any person who contravenes subsection (1) may be removed by the master of the vessel by force, if necessary, and the person also commits an offence and on summary conviction is liable to a fine not exceeding \$1,000.
- (3) Where a person refuses to allow any other person who is duly authorised by a receiver to board any wreck that person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

373. INTERFACING WITH WRECK

- (1) A person shall not—
 - (a) impede or hinder, or attempt 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) commits an offence and on summary conviction is liable to a fine not exceeding

\$5,000 and to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.

374. SUMMARY PROCEDURE FOR CONCEALMENT OF WRECK

Where a receiver suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner or that any wreck is otherwise improperly dealt with, the receiver may apply to a magistrate for a search warrant under this section.

375. EXAMINATION ON OATH REGARDING VESSELS IN DISTRESS

- (1) Where any vessel is or has been in distress in Saint Lucian waters, a receiver or, in his or her absence, a magistrate, shall, as soon as conveniently may be, examine on oath, which a receiver is hereby empowered to administer, any person belonging to the vessel, or any other person who is able to give any account of the distress or of the cargo or stores of the vessel as to the following matters—
 - (a) the name and description of the vessel;
 - (b) the name of the master and of the owner of the vessel;
 - (c) the names of the owners of the cargo;
 - (d) the names of the ports, from and to which the vessel was bound;
 - (e) the occasion of the distress of the vessel;
 - (f) the services rendered to the vessel; and
 - (g) such other matters or circumstances relating to the vessel or to the cargo on board the vessel as the person holding the examination thinks necessary.
- (2) The person holding the examination under subsection (1) in relation to any vessel shall make a record thereof in writing, and shall send copies to the Minister, the Director and the Principal Receiver; and the Director shall if he or she thinks fit cause a copy of the record to be placed in a conspicuous place in the area in which the vessel was in distress.
- (3) The person holding an examination under subsection (1) shall for the purposes thereof have all the powers conferred on an Inspector by section 484.

*Salvage***376. INTERPRETATION**

For the purposes of sections 377 to 411—

“**damage to the environment**” means 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 the provisions referred to in this Part;

“**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;

“**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;

“**Salvor**” means any person rendering salvage services;

377. NON-APPLICATION TO PLATFORMS AND DRILLING UNITS

Sections 376 to 411 shall not apply to 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 seabed.

378. NON-APPLICATION OF SALVAGE CONVENTION TO FOREIGN STATE-OWNED VESSEL

- (1) Sections 376 to 411 shall not apply to warships or other non-commercial vessels owned or operated by a foreign country and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that country has decided to apply the Salvage Convention to such ships or vessels.
- (2) For the purposes of any proceedings under this Act, a certificate signed by the Secretary General of the International Maritime Organisation, setting out a Country's decision to apply the Salvage 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.

379. SALVAGE OF LIFE

- (1) Where services are rendered—
 - (a) wholly or in part in Saint Lucian waters in saving life from any vessel or aircraft; or
 - (b) life from any Saint Lucian vessel or aircraft,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 or aircraft, shall have priority over all other claims for salvage.
- (3) Under no circumstance shall salvage be due from a person whose life has been saved.

380. SALVAGE OF CARGO

- (1) Where any vessel or aircraft is wrecked, stranded or in a distress in Saint Lucian waters or on the shores of Saint Lucia and services are rendered—
 - (a) by any person assisting the vessel or aircraft or saving the cargo or apparel of the vessel or aircraft or any part thereof;

- (b) by any person, other than a 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, aircraft or other property or preventing or minimising damage to the environment.

381. SERVICES EXCLUDED FROM SALVAGE REMUNERATION

This Part shall not 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 or the cargo thereof which the tug is towing, except where such services are of an exceptional character such as are outside the scope of the contract of towage;
- (c) if the person has caused the distress giving rise to the salvage, either intentionally or through negligence;
- (d) if and to such extent as it appears that the person concealed or unlawfully disposed of any property salvaged.

382. CONDITIONS FOR SALVAGE REMUNERATION

- (1) Except as otherwise provided in section 391 remuneration shall not be due under this Act if the salvage operations had no useful result.
- (2) A salvor shall be entitled to remuneration under this Part despite that the vessel, or aircraft performing the salvage operation and the vessel, aircraft, cargo or other property salvaged belong to the same owner.

383. SALVAGE CONTRACTS

- (1) Section 376 to 411 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.
- (2) The master of a Saint Lucian 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 Saint Lucian vessel shall have the authority to conclude contracts on behalf of the owner of property on board the vessel.
- (3) This section shall not affect, the application of section 385 or the duties to prevent or minimise damage to the environment provided in sections 386(b) and 387(b).

384. ANNULMENT OR MODIFICATION OF CONTRACTS

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 in an excessive degree too large or too small for the services actually rendered.

385. DUTIES OF SALVOR

The salvor shall owe a duty to the owner of the vessel or of other property in danger to—

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a);
- (c) seek assistance from other salvor 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. However the amount of the reward paid to the first salvor shall not be prejudiced where the salvor proves that such a request was unreasonable.

386. DUTIES OF OWNER AND MASTER

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 the salvor during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a), to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

387. POWERS OF THE MINISTER

- (1) The Minister may—
 - (a) give directions in relation to any salvage operation; and
 - (b) take measures in accordance with generally recognised principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.
- (2) The Minister 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 administration, 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 person acting under the directions of the Minister under this section shall exercise due care in preventing or minimising damage to the environment.
- (4) Any public authority or an officer thereof who is 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 any port of vessels in distress;

- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of saving life or property; and
- (d) preventing or minimising damage to the environment.

388. CRITERIA FOR FIXING SALVAGE REWARD

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 salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvors' equipment and the value thereof.

389. RESPONSIBILITY FOR PAYMENT OF REWARD

- (1) Payment of a reward fixed in accordance with section 388 shall be made by the owners of the vessel and of other property interests in proportion to their respective salvaged values.
- (2) For expediency, the owner of a vessel shall pay the reward on behalf of all interests referred to in subsection (1), subject to the owner of the vessel retaining the right to be reimbursed by these other interests.
- (3) The owner of a vessel who makes the payment under subsection (2), may require the other interests to provide security not

exceeding the values of their respective salvaged interests until the owner of the vessel has been fully reimbursed.

390. MAXIMUM AMOUNT OF REWARD

The salvage reward excluding any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property salvaged.

391. SPECIAL COMPENSATION

- (1) Where a salvor has carried out salvage operations in respect of a vessel which, by itself or by virtue of its cargo, threatened damage to the environment and the salvor failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2) the salvor shall be entitled to special compensation from the owner of that vessel equivalent to the salvor's expenses as defined in subsection (3).
- (2) Where in the circumstances set out in subsection (1), the salvor by his or her salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of 30% of the expenses incurred by the salvor; and the court or person determining the award may, where the court or the person deems it fair and just, increase such special compensation further; bearing in mind the criteria set out in section 388; but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.
- (3) For the purposes of subsection (1) and (2), "salvor's expenses" means the out of pocket expenses reasonably incurred by the salvor in the salvage operation, and a fair rate for equipment and personnel actually and reasonably used or employed in the salvage operation, taking into consideration the criteria set out in paragraphs of section 388(h), 388(i) and 388(j).
- (4) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 388.
- (5) Where the salvor, in carrying out the salvage operations, has acted negligently and has thereby failed to prevent or minimise

damage to the environment, the salvor may be deprived of the whole or a part of any special compensation payable under this section.

- (6) This section shall not affect any right of recourse available to the owner of the vessel.

392. SERVICES RENDERED UNDER EXISTING CONTRACTS

A payment is not due under this Act unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

393. APPORTIONMENT BETWEEN SALVORS

- (1) The apportionment of a reward between salvors, fixed under section 388(1), shall be on the basis of the criteria listed in that subsection.
- (2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the country in which that vessel is registered.
- (3) Where the reward referred to in subsection (1) arises from salvage operations which have not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his or her servant; and in the absence of a formal contract, the court or person determining the apportionment and disbursement shall apply general principles of law according to the merits of the case, in order to reach a just and equitable decision.

394. SALVOR'S MISCONDUCT

A salvor may be deprived of the whole or part of the payment due to him or her under this Part to the extent that the salvage operation has become necessary or more difficult because of fault, omission or neglect on the salvor's part, or if the salvor commits fraud or other dishonest conduct.

395. MARITIME LIEN

Nothing in this Part shall affect the salvor's maritime lien under Part 4. However, the salvor shall not enforce his or her maritime lien when reasonable security for his or her claim, including interest and costs, has been duly tendered or provided.

396. DUTY TO PROVIDE SECURITY

- (1) A person liable for a payment under this Act shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.
- (2) Without prejudice to subsection (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owners of the cargo provide security to the satisfaction of that owner of the vessel or of the salvor for the claims against them, including interest and costs, before the cargo is released.
- (3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which the salvaged vessel or property first arrives after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.
- (4) In the event of any dispute between the salvor and a person liable for a payment under this Act, or between the owner of the vessel and the owner of the cargo referred to in subsection (2), relating to the security to be provided under this section, the tribunal or board having jurisdiction over the salvor's claim may, upon the application of any such party in that behalf, decide the amount and the terms of such security.

397. INTERIM PAYMENT

- (1) The court or person adjudicating the claim of a salvor may, upon the application of the salvor, make an interim order for payment to the salvor of such amount as the court or person may deem fair and just, and on such terms, including terms as to security where appropriate, as may be fair and just in the circumstances of the case.

- (2) In the event of any interim payment under subsection (1) the security provided under section 396 shall be reduced accordingly.

398. STATE-OWNED CARGOES

Non-commercial cargoes owned by a State and entitled at the time of salvage operations, to sovereign immunity under generally recognised principles of international law, shall not be subject to seizure, arrest or detention by any legal process, or to any proceedings *in rem*, without the express consent of the State owner of such cargoes.

399. HUMANITARIAN CARGOES

Humanitarian cargo donated by a State shall not be subject to seizure, arrest or detention, where that State has agreed to pay for salvage services rendered in respect of such humanitarian cargo.

400. DETERMINATION OF SALVAGE DISPUTES

- (1) A dispute as to the amount of salvage, whether of life or property and whether the services for which it has been claimed were rendered within or outside Saint Lucia arising between the salvor and the owner of any vessel, aircraft, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined summarily by a magistrate in any case where—
 - (a) the parties to the dispute consent;
 - (b) the value of the property saved does not exceed \$10,000;
or
 - (c) the amount claimed does not exceed \$5,000.
- (2) Subject to subsection (1) any dispute as to salvage shall be determined by the High Court, but if the claimant does not recover in the High Court more than \$20,000, he or she shall not be entitled to recover any costs, charges or expenses incurred by him or her in the prosecution of his or her claim unless the court certifies that the case is a fit one to be tried by the High Court.

- (3) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.
- (4) The court or the arbitrators to whom a dispute as to salvage is referred for determination, may, for the purpose of determining any such dispute, call to their assistance as an assessor any person knowledgeable in maritime affairs; and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his or her services such sum as may be prescribed.

401. SUMMARY DETERMINATION OF SALVAGE DISPUTES

- (1) A dispute relating to salvage which has to be determined summarily as set out in section 400 shall—
 - (a) where the dispute relates to the salvage of a wreck, be referred to the magistrate having jurisdiction at or near the place where the wreck is found; or
 - (b) where the dispute relates to salvage in the case of services rendered to any ship, aircraft, or to the cargo or apparel thereof or in saving life therefrom,
be referred to the magistrate having jurisdiction at or near the port in Saint Lucia into which the ship is first brought after the occurrence which gave rise to the salvage claim.
- (2) A magistrate may, for the purpose of determining any dispute relating to salvage, procure the assistance of any person conversant with maritime affairs as an assessor, and there shall be paid to every such assessor in respect of his or her services and as part of the costs of the proceedings such sum as the Minister may direct.

402. APPEAL IN CASE OF SALVAGE DISPUTES

Where a dispute relating to salvage has been determined by a magistrate or the High Court, any party aggrieved by the decision may appeal therefrom, in accordance with rules of court, in like manner as the case of any other judgement of the magistrate or the High Court, as the case may be. However, such appeal shall not lie unless the sum in dispute exceeds \$5,000.

403. VALUATION OF PROPERTY SALVAGED

- (1) Where any dispute relating to salvage arises, the receiver of the area where the property is situated in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value the property, and where such valuation is made the receiver shall give copies of the valuation to both parties.
- (2) Any copy of a valuation made under subsection (1) signed by the valuer and any certified true copy shall be admissible in evidence in any subsequent proceedings.
- (3) Such fee as the Minister may direct shall be paid in respect of any valuation made under this section by the person applying for such valuation.

404. DETENTION OF PROPERTY BY RECEIVER WHERE SALVAGE PAYMENTS DUE

- (1) Where salvage is due to any person under this Act, the Principal Receiver shall—
 - (a) if 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 of the vessel, detain the vessel or aircraft and cargo or apparel; and
 - (b) if 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 Principal 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 arrest or detention by a court.
- (3) The Principal Receiver may release any vessel, aircraft, cargo, apparel or wreck detained under this section where security is given to his or her satisfaction, or to the satisfaction of a judge of the High Court where the claim for salvage exceeds \$20,000 and any question is raised as to the sufficiency of the security.
- (4) Any security given for salvage under this section to an amount exceeding \$5,000 may be enforced by a competent court in the same manner as if bail had been granted in that court.

405. SALE OF DETAINED PROPERTY

- (1) The Principal Receiver may sell any vessel, aircraft, cargo apparel or wreck detained by him or her under section 404, when the person liable to pay the salvage in respect of which the property is detained is 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 20 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 20 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 30 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 Principal 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, into the Consolidated Fund.

406. APPORTIONMENT OF SMALL AMOUNTS OF SALVAGE

- (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Saint Lucia has been finally determined either by a magistrate in the manner provided by this Part or by agreement, and does not exceed \$10,000, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to a receiver for permission to pay such amount to the Principal Receiver.
- (2) The Principal Receiver may, where he or she 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 or her vessel, aircraft, cargo, apparel and effects, against the claims of all persons whomsoever in respect of the services mentioned in the certificate.
- (4) The Principal Receiver shall, promptly, distribute any amount received by him or her under this section among the persons entitled thereto in such shares and proportions as he or she thinks fit, and may retain any money which appears to him or her to be payable to any person who is absent.
- (5) A distribution of any amount, made by the Principal Receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

407. APPORTIONMENT OF SALVAGE BY HIGH COURT

Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Saint Lucia has been finally ascertained and exceeds \$10,000, and whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Saint Lucia 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 such amount into court to be dealt with as the court directs; and
- (c) may for the purposes aforesaid issue such process as it thinks fit.

408. SALVOR'S RIGHT TO INTEREST

A salvor shall be entitled to be paid interest on any payment due to him or her under this Part, and the amount of such interest shall be at the discretion of the court or person adjudicating the case.

409. SALVAGE SERVICES RENDERED BY GOVERNMENT

- (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 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) This Part shall not prejudice the right of a salvor carrying out salvage under section 387 or under this section to avail himself or herself of the rights and remedies provided in this Part including remuneration where the salvage operation is voluntary and exceptionally beyond his or her normal official duties.
- (4) A claim shall not, by virtue of this section, lie against the Government in respect of anything done or suffered in relation to any postal article.
- (5) 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).

410. LIMITATION OF ACTIONS

- (1) An action shall not be instituted in respect of any salvage services unless judicial or arbitral proceedings therein are

commenced within 2 years after the date of termination of the salvage operations.

- (2) The person against whom a claim is made for salvage services rendered may, at any time during the period of 2 years referred to in subsection (1), extend such period by a declaration to the claimant and may in like manner further extend such period.
- (3) An action for indemnity by a person liable under this Part may be instituted within 2 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.

411. PUBLICATION OF JUDICIAL AND ARBITRAL AWARDS

Subject to the consent of the parties to a salvage action a judicial or arbitral award resulting therefrom may be published in the Gazette.

PART 16 PASSENGER SHIPS

412. POWER OF THE MINISTER TO MAKE REGULATIONS RESPECTING PASSENGER SHIPS

- (1) The Minister may make regulations—
 - (a) respecting accommodation, facilities and provisions on board passenger ships which carry passengers from a port in Saint Lucia;
 - (b) requiring the preparation and furnishing of particulars as to all passengers to or from a port in Saint Lucia;
 - (c) regulating the number of passengers which a ship may carry from a port in Saint Lucia 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 Saint Lucia.
- (2) In making regulations under subsection (1), the Minister shall have due regard to the International Convention on the Carriage of Passengers and their Luggage by Sea, 1974.
- (3) The Minister may waive or vary the regulations referred to in subsection (1) in respect of their application to licensed Saint

Lucian passenger ships operating solely within Saint Lucian waters.

413. OFFENCES IN CONNECTION WITH PASSENGER SHIPS

- (1) Any person on board or attempting to board a passenger ship in Saint Lucian waters commits an offence who—
 - (a) on account of being disorderly or under the influence of alcohol or drugs, is either refused admission to a passenger ship or where the person is already on board and is requested by the owner or any person in the employment of the owner to leave the ship, and after having the amount of any fare paid by him or her returned or tendered to him or her, nevertheless persists in attempting to enter the ship, or where he or she 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;
 - (c) on account of the ship being full, is either refused admission to a passenger ship, or where he or she is already on board, is requested by the owner or any person in the employment of the owner to leave the ship, and after having the amount of any fare paid by him or her returned to or tendered to him or her, nevertheless persists in attempting to enter the ship, or where he or she is already on board, does not leave the ship;
 - (d) travels or attempts to travel in the ship without first paying his or her fare and with intent to avoid payment thereof;
 - (e) having paid his or her 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 the place to which he or she has paid his or her fare, knowingly refuses or neglects to leave the ship;
 - (g) fails, when requested by the master or other officer of the ship either to pay his or her fare or exhibit such ticket or other receipts showing the payment of his or her 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 to obstruct or injure any part of the ship or the machinery or tackle of the ship, or to obstruct, impede or molest any of the crew 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 commits an offence under this section is liable on summary conviction to a fine not exceeding \$5,000 and to imprisonment for one month or to both such fine and imprisonment.

PART 17

LIMITATION AND DIVISION OF LIABILITY

414. INTERPRETATION

For the purpose of this Part—

“**salvage operation**” includes the operations referred to in section 416(1)(d), 416(1)(e) and 416(1)(f);

“**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;

“**shipowner**” includes charterer, manager or operator of a ship;

“**unit of account**” means the special drawing right as defined in Schedule 1 to the International Financial Organisation Act.

415. PERSONS ENTITLED TO LIMIT LIABILITY

- (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, omission or default, the shipowner or salvor is responsible, may limit his or her liability under this Part.

416. CLAIMS SUBJECT TO LIMITATION

- (1) Subject to sections 417 and 418, the following claims shall be subject to limitation of liability regardless of the causes 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 with 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 that 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 minimise loss for which the person liable may limit his or her 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 referred to in, of subsection (1)(d), (1)(e) and (1)(f) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

417. LIABILITY OF SHIPS

For the purposes of this Part, the liability of a shipowner shall include liability in an action against his or her ship, and the act of invoking limitation shall not constitute an admission of liability.

418. CLAIMS NOT SUBJECT TO LIMITATION

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, dependants 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 or her liability in respect of such claims, or if the shipowner is under such contract only permitted to limit his or her liability to an amount greater than that provided for in section 421;
- (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 its sub-soil.

419. CONDUCT BARRING LIMITATION

A person against whom a claim arises shall not be entitled to limit his or her liability if it is proved that the loss resulted from that person's act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

420. COUNTERCLAIMS

Where a person who is entitled to limitation of liability under this Part has a claim against a 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.

421. CALCULATION OF LIMITS OF LIABILITY

The limits of liability for claims other than those provided for in section 422, 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 of 500 tons the following amount in addition to the amount 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 to 30,000 tons, 333 units of account;
 - (C) for each ton from 30,001 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 claim—
 - (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 of 500 tons the following amount in addition to the amount 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.

422. PRIORITIES

- (1) Where the amount calculated in accordance with section 421(a) is insufficient to pay the claims mentioned in that paragraph in full, the amount calculated in accordance with section 421(b) shall be available for payment of the unpaid balance of claims under section 421(a) and such unpaid balance shall rank rateably with claims mentioned under section 421(b).

- (2) Without prejudice to the right of the claim referred to in section 421(a) for loss of life or personal injury, claims referred to in section 424 shall have priority over the claims referred to in section 421(b).
- (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 the salvor is rendering salvage services, shall be calculated according to a tonnage of 1.500 tons.

423. MEASUREMENT OF SHIP'S TONNAGE

- (1) For the purposes of this Part, a ship's tonnage shall be its gross tonnage.
- (2) The measurement of such tonnage in the case of a foreign ship shall be according to section 32.
- (3) In the case of any foreign ship which is incapable of being measured under the provisions of this Act, the Minister shall, on receiving evidence from or at the direction of the court hearing a case in which the tonnage of the ship is in question, concerning the dimensions of the ship as it is found practicable to furnish, give a certificate under his or her hand stating what would in his or her opinion have been the tonnage of that ship if it had been duly measured according to the provisions of this Act and the tonnage so stated in such certificate shall for the purposes of this Part be deemed to be the tonnage of the ship.

424. LIMITATION OF LIABILITY OF AUTHORITIES AND OWNERS OF DOCKS

- (1) Where, without the actual fault or privity of the owner of a dock or canal or any harbour or port authority, any loss or damage is caused to any vessel or to any goods, merchandise or other things on board any vessel, that owner 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 Saint Lucian ship that, at the time of such loss or damage occurring, is, or within a period of 5 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 dock or canal owner or a port or harbour authority, performs any duty or exercises any power, by reason only that the ship has been built or fitted out within such area or that the ship has taken shelter within or passed through such area on a voyage between 2 places both situated outside that area.
- (3) The limitation of liability under this section shall relate to the whole of any loss and damage which may arise upon any one occasion, although such loss or damage may be sustained by more than one person, and shall apply irrespective of the enactment under which the liability arises and despite anything contained in any enactment.
- (4) This section shall not impose any liability on any owner or authority referred to in this section in respect of any loss or damage, in any case where no such liability would have existed if this Act had not been enacted.
- (5) For the purpose 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.

425. LIMIT FOR PASSENGER CLAIMS

- (1) In respect of claims arising on any occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner shall be an amount of 46,666 units of account multiplied by the number of passengers which the ship is authorised to carry according to the ship’s Passenger Ship Safety Certificate or other document authorising the number of passengers the ship is permitted to carry, 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” means any such claims brought by or on behalf of any person carried in that ship—
 - (a) under a contract of passenger carriage; or
 - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

426. CONVERSION OF UNIT OF ACCOUNT TO SAINT LUCIAN FUNDS

The amounts referred to in sections 421 and 425 shall be converted into Saint Lucian dollars according to the value of the Saint Lucian dollar on the date the security or guarantee referred to in section 428 should have been deposited.

427. AGGREGATION OF CLAIMS

- (1) The limits of liability determined in accordance with section 421 shall apply to the aggregate of all claims which arise on any distinct occasion—
 - (a) against a shipowner and any person for whose act, neglect, omission or default the shipowner may be responsible; or
 - (b) against a shipowner rendering salvage services from that ship and a salvor operating from such ship and any person for whose act, neglect, omission or default the shipowner or salvor is responsible; or
 - (c) against a salvor who is not operating from a ship or who is operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect, omission or default the salvor is responsible.
- (2) The limits of liability determined in accordance with section 425 shall apply to the aggregate of all claims subject to the liability which may arise on any distinct occasion against the shipowner and any person for whose act, neglect, omission or default the shipowner may be responsible.

428. PROVISION OF SECURITY

- (1) Any person alleged to be liable and seeking to limit his or her liability under this Part shall deposit into the High Court an amount at least equivalent to the limit provided for in section 421 or section 425 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 any of the persons mentioned in section 427 shall be deemed to have been deposited by those persons.

429. DISTRIBUTION OF PROCEEDS OF SECURITY

- (1) Subject to sections 421, 422 and 425, the proceeds of any security or guarantee deposited with the High Court shall be distributed among the claimants in proportion to their established claims.
- (2) The High 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 rules as to the exclusion of any claimants who do not present their claims within a certain time, and as to payment of costs, as the High Court thinks just.
- (3) A lien or other right in respect of any ship or property shall not 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 where the liability of owners is limited under the provisions of this Part, and all costs incurred in relation thereto may be brought into account pro rata among part owners of the same ship.
- (5) If, before the proceeds of the security or guarantee are distributed, the person liable, or his or her insurer, has settled the claim, such person shall, up to the amount he or she 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 High 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 other claims that are pending.

430. BAR TO OTHER ACTIONS

Where a security or guarantee has been deposited with the Bar High court in accordance with section 428, any person who has 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.

431. RELEASE OF SHIP ON SECURITY

- (1) Where a ship or other property is seized or arrested in connection with a claim which appears to the High Court to be founded on liability to which limitation is applicable under this Part, and in respect of which a security or guarantee is deposited, the High Court shall order the release of the ship or property if the security or guarantee has been deposited in Saint Lucia 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 High Court.
- (2) Subsection (1) shall apply only if the claimant brings a claim before the High Court and the security or guarantee deposited with the High Court is actually available and freely transferable in respect of that claim.

432. RULES AS TO DIVISION OF LOSS

Where, by the fault of 2 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.

However—

- (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) This section shall not—

- (i) operate so as to render any vessel liable for any loss or damage to which the fault of the vessel has not contributed,
- (ii) 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 that person is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his or her liability in the manner provided by law.

433. DAMAGES FOR PERSONAL INJURY

- (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, the liability of the owners of the vessels shall be joint and several.
- (2) This section shall not be construed as depriving any person of any right of defence on which, independently of this section, that person might have relied in an action brought against him or her by the person injured, or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his or her liability in cases to which this section relates in the manner provided by law.

434. DEFINITION OF "FREIGHT"

In this Part "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.

435. RIGHT OF CONTRIBUTION

- (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 owner of one of the vessels, which exceeds the proportion in which the vessel was at fault, that owner may recover by way of contribution the amount of the excess from the owner of the other vessel or vessels to the extent to which

the other vessels were respectively at fault; but no amount shall be 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.

436. LIMITATION OF ACTIONS

- (1) Subject to the provisions of this section, an action shall not be maintained to enforce any claim or lien against a ship or the owner of a ship in respect of any damage or loss to another ship, the cargo, freight, or any property on board the ship, or on board the other ship or in respect of any damages or 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 are commenced within 2 years from the date when the damage or loss or injury was caused or the salvage services were rendered.
- (2) An action shall not be maintained 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.
- (3) Any court of competent jurisdiction may in accordance with the rules of court extend the periods referred to in subsections (1) and (2) to such extent and on such conditions as the court thinks fit, 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 defendant's ship belongs or in the country in which the plaintiff resides or has his or her principal place of business.

PART 18 INQUIRIES AND INVESTIGATIONS

437. INVESTIGATIONS INTO SHIPPING CASUALTIES

- (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;
 - (c) any damage caused by a ship; or
 - (d) any other maritime incident which the Minister may wish to consider under this section,

and, at the time of the occurrence, the ship was a Saint Lucian ship or the ship or ship's boat was in Saint Lucian waters the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Minister.

- (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 Wreck Commissioner appointed under section 439.

438. PRELIMINARY INQUIRY

- (1) For the purpose of a preliminary inquiry under section 437, the person holding the inquiry has the following powers—
 - (a) he or she may go on board any ship, and may inspect any part of the ship or any of the machinery, boats, equipment or articles on board the ship to which this Act applies, without unnecessarily detaining or delaying the ship from proceeding on any voyage;
 - (b) he or she may enter and inspect any premises the entry or inspection of which appears to him or her to be requisite for the purpose of the report which he or she is directed to make;
 - (c) he or she may, by summons under his or her hand, require the attendance of all such persons as he or she thinks fit to make;

- (d) he or she may require and enforce the production of all books, papers or documents which he or she considers important for such purpose;
 - (e) he or she may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him or her to make and subscribe a declaration of the truth of the statements made by him or her in his or her examination.
- (2) Upon conclusion of a preliminary inquiry, the person holding the inquiry shall send to the Minister a report containing a full statement of the case and of that person's opinion thereon accompanied by such report of, or extracts from, the evidence, and such observations, as the person holding the preliminary inquiry thinks fit.

439. FORMAL INVESTIGATIONS

- (1) The Minister may appoint—
- (a) a person appearing to him or her to be suitably qualified, by the holding of, or by having held, judicial office, or by experience as a legal practitioner;
 - (b) a senior public officer; or
 - (c) a senior officer of the defence force,
- to be a wreck commissioner to hold one or more formal investigations.
- (2) The Wreck Commissioner holding a formal investigation shall—
- (a) conduct the investigation with the assistance of one or more assessors with nautical, engineering or other special skills or knowledge; and
 - (b) conduct the investigation in accordance with any regulations made under section 491.
- (3) The Wreck Commissioner may at any time during a formal investigation permit or summon an expert witness to give an opinion based on the expert witness's special knowledge, skill, experience or training in respect of the construction or design of a ship or of a difficult or important scientific principle.

- (4) Despite subsection (1), where any question concerning the cancellation or suspension of an officer's certificate or licence is likely to arise, there shall be at least 2 assessors with appropriate qualifications and experience in the merchant shipping service assisting the Wreck Commissioner.
- (5) The Commissions of Inquiry Act shall apply to a formal investigation as if the investigation were an inquiry under this Act in relation to which the Wreck Commissioner were the chairperson.
- (6) The Wreck Commissioner may make such order with regard to the cost of a formal investigation as the Wreck Commissioner thinks just; and any such costs may be recovered by the Minister from the person ordered to pay them.
- (7) At the conclusion of a formal investigation the Wreck Commissioner shall send to the Minister a full report on the investigation, together with the evidence taken.

440. EXPENSES OF WITNESSES

Every witness summoned to give evidence in a preliminary inquiry under section 438 or a formal investigation under section 439 shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court; and in case of any dispute as to the amount of such expenses, the same shall be referred by the person presiding over the preliminary inquiry or the formal investigation, as the case may be, to the Registrar of the High Court, who, on a request made of him or her for that purpose under the hand of the person presiding over the preliminary inquiry or the formal investigation, as the case may be, shall ascertain and certify the proper amount of such expenses.

441. EFFECT ON CERTIFICATES OR LICENCES

- (1) When, as a result of a formal investigation, Wreck Commissioner—
 - (a) is satisfied that any master, mate or engineer—
 - (i) is unfit to discharge his or her duties whether by reason of incompetence or misconduct or for any other reason,

- (ii) has been seriously negligent in the discharge of his or her duties, or
 - (iii) has failed to give any assistance or information required by section 241; and
- (b) in a case under paragraph (a)(i) or (a)(ii), is further satisfied that that circumstance caused or contributed to a casualty,

the Wreck Commissioner may cancel or suspend any certificate or licence issued under section 111 or section 113 to the officer concerned or may censure the officer.

- (2) Where a certificate or licence is cancelled or suspended under subsection (1), the officer concerned shall deliver that certificate or licence to the Wreck Commissioner or the Director.
- (3) Despite subsection (1), a Wreck Commissioner may not cancel or suspend a certificate or licence unless at least $\frac{1}{2}$ of the number of assessors concur, and each assessor who does not concur shall state in writing his or her dissent and his or her reasons therefor.
- (4) A copy of the report made to the Minister under section 439(7) shall be furnished by the Wreck Commissioner to any officer whose certificate or licence is cancelled or suspended, or who is censured.

442. INQUIRY INTO FITNESS OR CONDUCT

- (1) Where it appears to the Minister that any master, mate or engineer who holds a certificate or licence under section 111 or section 113—
 - (a) is unfit to discharge his or her duties, whether by reason of incompetence or misconduct or for any other reason;
 - (b) has been seriously negligent in the discharge of his or her duties; or
 - (c) has failed to have any assistance or information required by section 241, 247 or 249, or contravened section 251,

the Minister may cause an inquiry to be held by any person qualified under section 439 to be appointed as a Wreck Commissioner and the Minister may, where he or she thinks fit,

suspend the certificate or licence of the master, mate or engineer, pending the outcome of the inquiry, and where a certificate or licence is suspended, the Minister shall require the officer concerned to deliver it to the Director.

- (2) Section 439 applies to an inquiry under this section as if the inquiry were a formal investigation and as if the person holding the inquiry were a Wreck Commissioner.
- (3) A person holding an inquiry under this section may, where satisfied of any of the matters mentioned in subsection (1)(a) to (1)(c), censure the officer or, where at least $\frac{1}{2}$ of the number of assessors concur therein, cancel or suspend any certificate or licence issued to the officer under section 111 or 113.
- (4) When a certificate or licence is suspended under this section, the officer concerned shall, unless he or she has delivered the certificate or licence to the Director under subsection (1), deliver it to the person holding the inquiry or to the Director.
- (5) A copy of the report made to the Minister under section 439(7) shall be furnished by the person holding the inquiry to the master, mate or engineer whose fitness or conduct is inquired into.

443. REHEARING AND APPEAL

- (1) Where an inquiry or formal investigation has been held under this Part, the Minister may, in his or her discretion, order the whole or any part of the case to be reheard.
- (2) It is the duty of the Minister to order a case or part thereof to be reheard—
 - (a) where new and important evidence that could not be produced at the inquiry or investigation has been discovered; or
 - (b) where it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice might have occurred.
- (3) A rehearing under this section—
 - (a) may be held by the person or Wreck Commissioner who held the first inquiry or formal investigation, or by

another person qualified to hold the inquiry or investigation, as the Minister may direct;

- (b) shall be conducted in accordance with regulations made under section 491,

and subject to such regulations, the provisions of this Part that applied to the original inquiry or investigation under section 437 shall apply to the rehearing.

444. APPEALS TO HIGH COURT

Where, as a result of a formal investigation under section 439 or an inquiry under section 442—

- (a) the certificate or licence of any person has been cancelled or suspended, or
- (b) any person has been found to be at fault,

then, where no order is made under section 446 a person described in paragraph (a) or (b) of this section or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing thereof and is affected by the decision of finding, may appeal to the High Court.

445. DELIVERY OF CERTIFICATES OR LICENCES

- (1) A person who fails to deliver a certificate or licence as required by or under section 441 or 442 commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (2) Where a certificate or licence is delivered to any person other than the Director under section 441 or 442 that person shall, as soon as possible, forward the certificate or licence to the Director for retention.
- (3) Where a certificate or licence issued under section 113 is suspended or cancelled under this Part, the Director shall send a copy of the report on the case and of the evidence to the Government of the State by which the foreign certificate of the officer concerned was issued.

446. POWER OF MINISTER TO VARY SUSPENSION OR CANCELLATION

Where a certificate or licence has been suspended or cancelled under section 441 or 442, the Minister may order, where he or she is of the opinion that the justice of the case so requires—

- (a) the re-issue of the certificate or licence or, as the case may be, the reduction of the period of suspension; or
- (b) the granting of a new certificate or licence of the same or a lower grade in place of that cancelled or suspended.

447. REMUNERATION

Such remuneration, if any, as the Minister may direct shall be paid by the Government to the Wreck Commissioner or any assessor or expert witness, and any other officer or person appointed for the purpose of any inquiry or investigation held under this Part.

PART 19 LEGAL PROCEEDINGS

Jurisdiction

448. JURISDICTION OF A MAGISTRATE'S COURT

Subject to any express provision of this Act to the contrary, any offence under this Act shall be punishable by a magistrate's court.

449. PROVISION AS TO JURISDICTION OVER OFFENCES

- (1) For the purpose 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 where the offence or cause of complaint was committed or arose; or
 - (b) in any place where the alleged offender or person complained against may be.
- (2) Where, in any proceedings under this Act, a question arises as to whether or not any ship or person is governed by this Act,

such ship or person shall be deemed to be governed by this Act unless the contrary is proved.

450. JURISDICTION OVER SHIPS OFF THE COAST

- (1) A Court which has jurisdiction in any part of the coast of Saint Lucia shall have jurisdiction over any ship lying or passing off that coast, or being in any bay, channel, lake, river or other navigable water near such coast and over all persons on board that ship or belonging thereto, in the same manner as if the ship or persons were within the limits of the original jurisdiction; save that such jurisdiction shall only be exercised in conformity with any International Convention to which Saint Lucia is a party.
- (2) The jurisdiction conferred by subsection (1) shall be in addition to and not in derogation of any jurisdiction or power conferred by any other law.

451. JURISDICTION AS TO OFFENCES ON BOARD SHIPS

Despite anything contained in any other law, where any person on board any Saint Lucia ship does any act or makes any omission which would be an offence if done or made in Saint Lucia, the person, regardless of the position of the ship at the time of the act or omission, commits that offence and may be tried by any Court having jurisdiction in Saint Lucia.

452. APPLICATION OF FINES

- (1) Where any court imposes a fine under this Act for which no specific application is provided therein, the court may, if it thinks fit, direct the whole or any part of the fine—
 - (a) to be applied in compensating any person for any wrong or damage which the person has sustained by the act or default in respect of which the fine is imposed; or
 - (b) to be applied in or towards payment of the costs and expenses of the proceedings.
- (2) Subject to any direction under subsection (1) or any specific application provided under this Act, every fine shall be paid into the Consolidated Fund.

453. CONVICTION UNDER OTHER LAW

This Act shall not be deemed to prevent the prosecution, conviction or punishment of any person according to any other enactment in force in Saint Lucia so, however, that a person shall not be punished more than once for the same offence.

454. JURISDICTION IN COLLISION AND OTHER CASES

- (1) A court in Saint Lucia shall not entertain an action *in personam* to enforce a claim to which this section applies unless—
 - (a) the defendant resides in Saint Lucia or has a place of business within Saint Lucia;
 - (b) the cause of action arose within Saint Lucian waters or within the limits of a harbour or port of Saint Lucia; 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.
- (2) A court in Saint Lucia shall not entertain an action *in personam* to enforce a claim to which this section applies until proceedings previously brought by the plaintiff in any court outside Saint Lucia 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) and (2) 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 (3) shall not apply to any action or counterclaim if the defendant to the action submits or has agreed to submit to the jurisdiction of the court.
- (5) Subject to subsection (2), where a court has jurisdiction, for the purposes of this Act, the jurisdiction shall extend to 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 court relating to the service of process outside the jurisdiction shall apply and the Chief Justice may

make such provision as may appear to be appropriate, having regard to the provisions of this subsection.

- (6) This section shall not—
 - (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.
- (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 having admiralty jurisdiction, as well as in relation to its admiralty jurisdiction, if any.

455. ACTIONS *IN REM*

In any case in which an action may be brought *in rem* 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 the ship is owned as respects all the shares therein by that person; or
- (b) any other ship which, at the time when the action is brought, is 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 the person has his or her habitual residence or a place of business within Saint Lucia.

456. JURISDICTION AS TO UNSATISFIED MORTGAGES

Where the registration of a ship is considered to be closed on account of a transfer to a person not qualified to own a Saint Lucian ship, any unsatisfied mortgage may, where the ship comes within the jurisdiction of any court in Saint Lucia which has jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court despite the transfer, without prejudice, in cases where the ship has been sold under a judgment of a court to the effect of that judgment.

*Detention and Distress on Ship for Damage Caused***457. DETENTION OF FOREIGN SHIP**

- (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 Saint Lucia or a body corporate resident in Saint Lucia, by any foreign ship; or
 - (b) a claim is made for damages by or on behalf of any citizen of Saint Lucia; in respect of personal injuries, including fatal injuries, against the owner 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 Saint Lucia 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 causing the damage or injury, issue an order for the purposes of subsection (2).
- (2) An order made under this section shall be addressed to any maritime 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, until such time as the owner, master or consignee of the ship—
 - (a) has made satisfaction in respect of the injury or damage referred to in subsection (1); or
 - (b) has given security to be approved by the judge, to abide by the result of any action, suit or other legal proceeding

that may be instituted in respect of such injury or damage 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 to be made will depart from Saint Lucia the ship may be detained so as to allow the application to be made and the result of the application 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 or damage 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 or damage.
- (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.

458. ENFORCING DETENTION OF SHIP

- (1) Where under this Act or any other enactment in force in Saint Lucia a ship is to be detained, an authorised officer may detain the ship.
- (2) If, after the detention of a ship or after service on the master of the ship of any notice of or order for the detention of the ship, the ship goes to sea before being released by the competent authority—
 - (a) the master and owner of the ship; and
 - (b) any other person who sends the ship to sea,each commits an offence and on summary conviction is liable to a fine not exceeding \$10,000 unless the master, owner or other person proves that the ship proceeded to sea without his or her consent and without any negligence on his or her part.
- (3) An authorised officer may, if he or she thinks it necessary to do so, place a police guard on any ship detained under this section.

- (4) If a ship goes to sea when any authorised officer, police guard or Surveyor of Ships is on board the ship in the execution of his or her duties, the owner and master of the ship is liable—
- (a) to pay all expenses arising out of and incidental to the officer, guard or Surveyor being so taken to sea; and
 - (b) on summary conviction, to a fine not exceeding \$1,000 and in addition to \$200 for every day until the officer, guard or Surveyor returns from sea, or until such time in which the officer, guard or Surveyor would be able after leaving the ship to return to the port from which the officer, guard or Surveyor is taken,
- and any expenses ordered to be paid are recoverable in like manner as the fine.
- (5) Any police guard placed on board a ship under subsection (3) is authorised to take such steps as are necessary to prevent the ship from leaving port.
- (6) Any person who opposes or in any way obstructs any authorised officer, police guard or Surveyor of Ships in the execution of their duties under this Act, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.
- (7) In this section “authorised officer” means the Director, a maritime officer, an officer of customs, or any person specially or generally authorised by the Director to detain a ship.

459. COMPTROLLER TO BE INFORMED OF DETENTION OF SHIP

- (1) Where under this Act or any other enactment a ship is or may be detained, the Director shall, notify the Comptroller that such ship is or is liable to be detained.
- (2) Where a notification under subsection (1) has been made to any officer of customs in respect of any ship, Part 6 of the Customs (Control and Management) Act shall apply in the case of such ship.

460. NOTICE TO CONSULAR OFFICER OF DETENTION OF FOREIGN SHIP

- (1) Whenever—
- (a) any foreign ship is detained under this Act; or

- (b) any proceedings are taken under this Act against the master or owner of any foreign ship,

notice shall be served on the consular officer for the country to which the ship belongs, at or nearest the port where the ship is detained.

- (2) The notice to be served under subsection (1) shall specify the grounds on which the ship has been detained or on which the proceedings have been taken.

461. DISTRESS ON SHIP

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 the payment is the master or owner of a ship; and
- (b) the wages, fines or other sums of money is not paid at the time or in the manner prescribed in the order,

the court which made the order may, in addition to any other powers which the court may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, tackle, furniture and apparel of the ship.

462. INQUIRY INTO DEATH ON BOARD

- (1) Where any person dies on board a Saint Lucian ship or any person from a Saint Lucian ship dies at a place outside Saint Lucia, the master shall report the death to the authorities at the first port of arrival and shall submit to the Minister a statement and log extract signed by the master.
- (2) Where the Minister decides to hold an investigation into the cause of death, the Director or any person appointed by the Minister for that purpose shall, on the arrival of the ship at a port inquire into the cause of the death and enter an endorsement in the official log book either to the effect that the statement of the cause of the death in the official log book is in the Director's opinion true, or to the contrary effect, according to the results of the inquiry.

- (3) The Director or person appointed under subsection (1) has, for the purpose of the inquiry, all the powers of a person making a preliminary inquiry under section 438.
- (4) Where in the course of the inquiry it appears to the Director or person holding the inquiry that the death was caused on board the ship by violence or unlawful means, he or she shall report the matter to the Minister and, where the urgency of the situation so requires, take immediate steps for bringing the offenders to justice.

463. SEIZURE AND SALE

- (1) Where the owner of a ship has been convicted of an offence under this Act and a fine has been imposed on the owner, if the fine is not paid, the ship may be seized and after reasonable notice, sold by the Comptroller or any person authorised 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 this Act together with the costs of the seizure and sale shall be disposed of in accordance with rules of admiralty law.

Prosecutions and Compounding of Offences

464. LIABILITY OF SHIPOWNERS

- (1) Where any person is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship, that person, as well as the registered owner, shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein.
- (2) Proceedings may be taken for the enforcement of any penalties referred to in subsection (1) against both or either of the parties referred to therein, with or without joining the other of them.

465. LIABILITY OF BODIES OF PERSONS

- (1) Where any body corporate, firm, society or other body of persons is charged with an offence under this Act, every person who at the time of the alleged offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or body of persons, or was purporting to act in such capacity, is liable to the penalties provided for such offence as if he or she himself or herself was guilty of the offence, unless the person proves—
 - (a) that the offence was committed without his or her knowledge and that such lack of knowledge was not caused by his or her wilful default, omission or neglect; or
 - (b) that having regard to the nature of the person's functions and to all the circumstances, the person exercised all due diligence to prevent the commission of the offence.
- (2) Where any person would be liable under this Act to any penalty for any act, omission, neglect or default, that person is liable to the same penalty for every such act, omission, neglect or default of any clerk, servant or agent in his or her employment or of the clerk or servant of such agent if such act, omission, neglect or default was committed—
 - (a) by such clerk or servant of such person in the course of his or her employment;
 - (b) by such agent when acting on behalf of that person; or
 - (c) by the clerk or servant of such agent when acting in the course of the employment in such circumstances that, had such act, omission, neglect or default been committed by the agent, his or her principal would have been liable under this section.

466. PERSONS WHO MAY PROSECUTE

Prosecutions in respect of offences under this Act may, without prejudice to the provisions of any other enactment relating to prosecutions, be conducted by a maritime officer or by any other officer appointed under this Act and specially authorised in writing in that behalf by the Director.

467. PROSECUTION OF OFFENCES AND PENALTIES

- (1) A person who commits an offence under this Act, for which no specific penalty is provided, is liable to a fine not exceeding \$5,000 and to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.
- (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 which may be imposed on that person, is liable to a fine of \$200 for every day or part thereof during which the offence continues.

468. COMPOUNDING OF OFFENCES

- (1) Despite any other provisions of this Act, the Director may compound any offence under this Act, by accepting from the person reasonably suspected of having committed such offences, a fine not exceeding \$5,000.
- (2) On the payment of any sum of money under subsection (1)—
 - (a) the person reasonably 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.

469. LIMITATION OF ACTIONS IN CIVIL PROCEEDINGS

- (1) Subject to this section, no action shall be maintained to enforce any claim or lien against a ship or its owners in respect of any damage or loss to another ship, its cargo or freight, or to any property on board, or in respect of damages for loss of life or personal injuries suffered by any person on board the ship, caused by the fault of the first-mentioned ship, irrespective of whether such ship be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within 2 years from the date when the damage or loss or injury was caused or the salvage services were rendered.

- (2) An action shall not be maintained under this Act to enforce any contribution in respect of an overpaid proportion of damages for loss of life or personal injuries, unless the proceedings are commenced within 2 years from the date of payment.
- (3) Any court of competent jurisdiction, may, in accordance with the rules of court, extend any such conditions as the court thinks fit and if satisfied that during that 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 ship of the plaintiff belongs, or in which the plaintiff resides or has his or her principal place of business, extend the period to the extent necessary to give a reasonable opportunity.
- (4) This section shall not affect any enactment relating to compensation for workmen.

Evidence and Service of Documents

470. DEPOSITION TO BE RECEIVED IN EVIDENCE WHERE WITNESS CANNOT BE PRODUCED

- (1) Subject to subsection (2) where in the course of any proceedings instituted under this Act before any Court, or before any person authorised 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 Saint Lucia, any deposition that the witness has previously made on oath or affirmation, in relation to the same subject-matter, before any judge or magistrate or before a consular officer in any part of the Commonwealth other than Saint Lucia in any place not within the Commonwealth, shall be admissible in evidence:

However—

- (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 the deposition or affirmation was made; 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 is signed by the judge, magistrate or proper officer before whom it was made.
- (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) This section shall not affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other enactment.

471. PROOF OF ATTESTATION NOT REQUIRED

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 or any of them.

472. ADMISSIBILITY OF DOCUMENTS IN EVIDENCE

- (1) Where any document is by this Act declared to be admissible in evidence, such document shall—
 - (a) on its production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of the 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, shall also be admissible in evidence—
 - (a) if the document is proved to be an examined copy or extract; or

- (b) if the document is signed and certified as a true copy or extract by the officer in whose custody the original document was entrusted,

and that officer shall provide the certified copy or extract to any person applying for the document at a reasonable time, upon payment of the prescribed fee.

- (3) Any person having by law or consent of the 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.

473. NOTICES TO BE IN WRITING

Where by or under this Act any notice, authority, order, direction or other communication is required or authorised 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.

474. SERVICE OF DOCUMENTS

- (1) Where for the purposes of this Act any document is to be served on any person, that document may be served—
 - (a) by delivering a copy of the document personally to the person to be served, or by leaving the copy at the last known place of abode of the person or by transmitting or sending that copy by post;
 - (b) if the document is to be served on the master of a ship, or on a person belonging to a ship, by leaving the document for that master or person on board the 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 Saint Lucia, on the managing owner of the ship or, if there is no managing owner in Saint Lucia, on some agent of the owner residing in Saint Lucia or where no such agent is known or can be found, by affixing a copy of the document in some conspicuous place on board the ship.
- (2) Any person who obstructs the service of any document on any person under the provisions of this Act relating to the detention

of a ship which is unseaworthy, commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.

- (3) Any owner or master of a ship who is party or privy to any obstruction referred to in subsection (2) commits an offence and on summary conviction is liable to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding 6 months, or to both such fine and imprisonment.

475. ALL OFFICERS TO BE PUBLIC OFFICERS

The Director, Maritime officers, and other officers appointed under sections 4 and 6, shall be appointed by the Saint Lucia Air and Sea Ports Authority on such remuneration and on such terms and conditions as it thinks fit. (*Substituted by Act 16 of 2000*)

476. PROTECTION OF PUBLIC OFFICERS AND OTHER PERSONS ACTING UNDER THIS ACT

A suit shall not be maintained against any public officer or any person appointed or authorised under this Act for any purpose of this Act, for or in respect of anything done or omitted to be done by that officer in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him or her by or under this Act.

PART 20 MISCELLANEOUS

477. DEFINITION OF “AUTHORISED OFFICER”

In this Part, “authorised officer” means—

- (a) the Director;
- (b) a Surveyor of Ships;
- (c) a maritime officer; and
- (d) any person appointed by the Director, either generally or in any particular case, to exercise powers under this Act.

478. POWERS OF AUTHORISED OFFICERS TO BOARD SHIPS

- (1) Any authorised officer, either alone or with any other person, may go on board any ship in Saint Lucia whenever that officer—
 - (a) suspects that any offence under this Act has been or is about to be committed in any ship; or
 - (b) considers it necessary for him or her to do so in the discharge of any duty imposed on him or her by this Act or any other enactment.
- (2) If a ship is registered in Saint Lucia, the powers conferred by this section on an authorised officer may also be exercised outside Saint Lucia by a proper officer, in addition to an authorised officer.
- (3) Any master of a ship who, without reasonable excuse, refuses to allow any authorised officer to board the ship in the exercise of the powers conferred on him or her by subsection (1) or (2) commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.

479. POWER TO REQUIRE PRODUCTION OF DOCUMENTS

- (1) Where an authorised officer has reason to suspect that any provision of this Act or any law in force relating to shipping, seamen or navigation is not being complied with, that officer may—
 - (a) require the owner, master or any of the crew of any Saint Lucian ship or any other ship which is in Saint Lucian waters to produce any official log book or other documents relating to the crew or any member thereof in their respective possession or control;
 - (b) require the master of the ship to produce a list of all persons on board his or her ship, and take copies of the official log book or documents, or any part thereof;
 - (c) muster the crew of the ship; and
 - (d) summon the master of the ship to appear and give any explanation concerning the ship or the ship's crew or the official log book or other documents of the ship produced or required to be produced.

- (2) If any person, on being duly required by an authorised officer under this section—
- (a) fails without reasonable cause to produce to that officer any official log book or document as the person is required to produce under this section;
 - (b) refuses to allow any official log book or document to be inspected or copied;
 - (c) impedes any muster of the crew required under this section;
 - (d) refuses or neglects to give any explanation which the person is required under this section to give; or
 - (e) knowingly misleads or deceives any officer authorised under this section to demand any explanation, that person commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.

480. INSPECTION OF SHIPS

- (1) For the purpose of ensuring that the provisions of this Act and any regulations made thereunder are duly complied with, an authorised officer may at all reasonable times inspect any ship and its equipment or any part thereof, any articles on board the ship and any document carried in the ship under this Act or any international convention relating to shipping to which Saint Lucia is a party and if the ship is registered in Saint Lucia the powers conferred by this section may also be exercised outside Saint Lucia by a proper officer in addition to an authorised officer.
- (2) An authorised officer exercising powers under this section—
- (a) shall not unnecessarily detain or delay a ship; and
 - (b) may, if the officer considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of the hull or machinery of the ship.
- (3) Where an authorised officer has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered or licensed in Saint Lucia which if provided on such ship would not be in accordance with any regulations made under section 168, that

officer may enter such premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with such regulations.

- (4) Any person who—
- (a) obstructs an authorised officer in the exercise of his or her powers under this section;
 - (b) fails without reasonable cause to comply with any requirement made under subsection (2); or
 - (c) refuses or fails to give an authorised officer reasonable facilities for the exercise of his or her powers under this section,

commits an offence and on summary conviction is liable to a fine not exceeding \$2,000.

481. POWER OF ARREST

- (1) Any maritime officer, officer of customs, surveyor of ships, police officer or ports constable may arrest without warrant any person offending, in his or her view, against any provision of this Act or any regulations made thereunder and take him or her before a court, to be dealt with according to law.
- (2) Any article, in respect of which any offence referred to in subsection (1) is believed to have been committed, may be seized and taken to a police station, unless sooner given up by order of a court, until the charge relating to such offence is disposed of in due course of law.

482. RETURNS BY SURVEYOR OF SHIPS

- (1) A Surveyor of Ships shall make such returns as the Director requires, with respect to—
 - (a) surveys and inspections of ships;
 - (b) inspections and survey of the machinery, equipment and cargo of ships including the loading of ships, carried out under this Act; and
 - (c) any other details of ships as may be prescribed.
- (2) Every owner, master and engineer of any ship surveyed by a Surveyor of Ships or other maritime officer shall, on demand,

give to the Surveyor or maritime officer such information and assistance as the Surveyor or maritime officer may reasonably require for the purpose of making any return under subsection (1).

- (3) Any owner, master or engineer of a ship who, after demand by a Surveyor of Ships or other maritime officer, fails without reasonable cause to give information or assistance under subsection (2) commits an offence and on summary conviction is liable to a fine not exceeding \$1,000.

483. APPOINTMENT OF INSPECTORS

The Minister may as and when he or she thinks fit appoint any person as an Inspector to report to him or her upon the following—

- (a) the nature and cause of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused;
- (b) whether the provisions of this Act or any Regulations made thereunder have been complied with;
- (c) whether the hull, machinery and equipment of any ship are sufficient and in good condition.

484. POWERS OF INSPECTORS

An Inspector, or any person having the powers of an Inspector, may—

- (a) go on board any ship and inspect such ship or any part of the ship, or any of the machinery, boats, equipment or articles on board to which the provisions of this Act or any regulations or statutory instrument made hereunder apply, so, however, that the ship shall not be unnecessarily detained or delayed from sailing;
- (b) enter and inspect any premises if it appears to the Inspector that the entry or inspection is necessary for the purpose of the report which the Inspector is directed to make;
- (c) by summons under his or her hand require the attendance of all such persons as the Inspector thinks fit to call before him or her, and examine them for the purpose of his or her report;

- (d) require answers or returns to any inquiries which the Inspector thinks fit to make;
- (e) require and enforce the production of all books, papers and documents which the Inspector considers important for the purpose of his or her report;
- (f) administer oaths or, in lieu of requiring or administering an oath, require a person examined by him or her to make and subscribe a declaration of the truth of the statements made by him or her in his or her examination.

485. EXPENSES OF WITNESSES

Every witness summoned under section 484(c) shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before the High Court.

486. OBSTRUCTION OF INSPECTOR

- (1) A person shall not impede or obstruct an Inspector or person having the powers of an Inspector in the execution of his or her duties under this Act, whether on board a ship or elsewhere.
- (2) Any person who impedes or obstructs an Inspector or person having the powers of an Inspector in the execution of his or her duties under this Act commits an offence and on summary conviction is liable to a fine not exceeding \$5,000.

487. POWERS OF DIRECTOR TO PRESCRIBE FORMS

- (1) Subject to any special provisions of this Act, the Director may prepare and sanction forms for any book, instrument or paper required under this Act, other than under Part 4 and may make such alterations in those forms as the Director thinks fit.
- (2) The Director may cause all such forms to be supplied to all customs houses and shipping offices in Saint Lucia, either free of charge or at such moderate charges as the Director may determine.
- (3) Except as provided in subsection (1) every book, instrument or paper required under this Act shall be made in the form, if any, approved by the Director, or as near thereto as circumstances permit, and unless so made, shall not be admissible in evidence

in any civil proceedings on the part of the owner or master of any ship.

- (4) Every book, instrument or paper, if made in the proper form and in accordance with this section, shall be deemed to be in the form required by this Act unless the contrary is proved.

488. EXEMPTION FROM STAMP DUTY

The following instruments shall be exempt from stamp duty—

- (a) any instrument used by or under the direction of the Director in carrying into effect the provisions of this Act;
- (b) any instrument which is by any provision of this Act or any regulations made thereunder required to be in a form approved by the Director, if made in that form.

489. OFFENCES IN RESPECT OF USE OF FORMS

If any person—

- (a) without reasonable cause, uses a form which is not a form approved by the Director in a case where a form approved by the Director is required to be used under this Act; or
- (b) prints, sells or uses any document purporting to be a form approved by the Director under this Act, knowing the same not to be the form approved by the Director, or not to have been prepared or issued by the Director,

that person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

490. POWER TO APPLY ACT TO SHIPS OF OTHER COUNTRIES, AND TO EXEMPT SUCH SHIPS

- (1) Where the Minister is satisfied that any provisions of the law of any foreign country which apply with respect to ships registered in or belonging to that country while they are at any port in Saint Lucia are substantially the same or equally effective as any of the provisions of this Act or any regulations made thereunder, the Minister may by order made by statutory instrument direct that all or any of such provisions of this Act or regulations shall not apply with respect to ships registered in or belonging to that country while they are at any port in Saint

Lucia if it is proved that those ships comply with the corresponding provisions of the law of the country in which they are registered or to which they belong.

- (2) Where the Minister is satisfied that the government of any foreign country desires that any of the provisions of this Act or any regulations made thereunder which do not apply to ships registered in or belonging to that country, or to any class or description of those ships, should so apply either generally or in specified circumstances, and no special provision for such application is made elsewhere in this Act, the Minister may by order made by statutory instrument declare that such provisions of this Act or any regulations made thereunder shall, subject to any limitation prescribed in such order, apply to ships registered in or belonging to that country or, as the case may be, to any class or description of such ships and to the owners, masters and crews and other persons in the service of such ships when not locally in the jurisdiction of such country, in the same manner as if those ships were Saint Lucian ships.

491. GENERAL POWER TO MAKE REGULATIONS

Without prejudice to any other power to make regulations conferred on him or her by this Act, the Minister may make regulations generally for the administration of this Act, and in particular, for the following purposes—

- (a) the enforcement of any international convention relating to this Act and all maritime matters;
- (b) the carriage of passengers and cargo by ship;
- (c) the training and qualification of officers, seamen and fishermen;
- (d) certificates of competency and licences;
- (e) the manning and survey of all ships including fishing vessels;
- (f) the operation of maritime training schools;
- (g) pleasure craft, schooners, droghers, lighters and other craft;
- (h) the exemption of vessels from the provisions of this Act;
- (i) the safety of navigation, load lines and the appointment, duties and powers of Surveyors of Ships;

- (j) licensed Saint Lucian ships;
- (k) ships operating solely within Saint Lucian waters;
- (l) fees, stamp duties and all other payments required under this Act;
- (m) the holding of all inquiries and investigation;
- (n) lighthouses, buoys and beacons;
- (o) prescribing sanctions and penalties by way of fines not exceeding \$5,000 for the contravention of any regulation;
- (p) the categories and classes of Saint Lucian ships by reference to their tonnage capacity, the nature of their cargo and the trade or voyage in which they are engaged, including geographical limits;
- (q) prescribing anything that under this Act is to be prescribed.

492. GENERAL POWERS OF EXEMPTION

Without prejudice to any other powers conferred on him or her by the provisions of this Act or by any regulations made thereunder, the Minister may, subject to such conditions, if any, as the Minister 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 the order; and
- (b) exempt any ship or class or description of ships as may be specified in the order from any specific requirement contained in or prescribed under this Act, if he or she is satisfied that the requirement has been substantially complied with or that compliance is unnecessary in the circumstances of the case.

493. APPLICATION OF INTERNATIONAL CONVENTIONS

- (1) Sections 494 and 495 apply in respect of International Conventions, including amendments thereto and replacements thereof, and other international instruments.
- (2) The Minister may by notice made by statutory instrument publish the International Conventions, including amendments

thereto and replacements thereof and other international instruments, which apply to Saint Lucia.

- (3) The Director shall keep in his or her office a copy of—
- (a) all the Conventions and instruments referred to in subsection (2) that have application in Saint Lucia;
 - (b) all regulations, orders and notices made under this Act,
- and copies shall be made available for inspection on payment of the prescribed fee, if any, by members of the public, seafarers or persons concerned with or having an interest in ships or shipping.

494. CONVENTIONS TO PREVAIL

Where an International Convention or other international instrument applies to Saint Lucia 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.

495. CONTRAVENTION OF INTERNATIONAL CONVENTIONS

Where, in respect of any Saint Lucian ship, there is any contravention of a requirement of any International Convention or other international instrument which applies to Saint Lucia, the Director may suspend the certificate of registry of the ship until the contravention is rectified.

PART 21 FINAL AND TRANSITIONAL PROVISIONS

496. SAVINGS

- (1) The regulations made under the repealed enactments listed in the Schedule shall remain in force until revoked by regulations made under this Act.
- (2) Any instrument which was issued, served or granted under any law which is repealed or which ceases to have effect by virtue of this Act shall, without prejudice to any power to amend such instrument, and subject to such modifications as may be

necessary to bring it into conformity with this Act, continue in force until superseded, revoked or otherwise terminated, and shall be deemed to have been issued, served or granted under this Act, and this Act and any regulations made thereunder shall apply to or in relation to such instrument accordingly.

However, an instrument which is expressed to continue in force for a definite period shall not continue in force after the expiration of that period unless it is renewed or extended in accordance with the provisions of this Act or any regulations made or continued in force thereunder.

- (3) In this section “instrument” means any licence, certificate, validation, exemption, notice or other authority, or any instruction or other requirement, as the circumstances may require.
- (4) A reference in any enactment to any provisions of the Merchant Shipping Acts of the United Kingdom shall, unless the context otherwise requires, be construed as a reference to the equivalent provision of this Act.

497. 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 enactment;
- (b) for the amendment or revocation of any regulations or any part thereof, made under any law repealed by this Act and remaining in force under 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 by this Act;
- (d) generally, for effecting a due and orderly assimilation of the law relating to shipping throughout Saint Lucia in conformity with the purposes of this Act.

SCHEDULE

(Section 496)

PART 1**Column 1****Column 2**

Shipping Act, 1916

The entire Act

Wrecks Act, 1916

The entire Act

Law of Merchant Shipping Act, 1981

The entire Act

PART 2**UNITED KINGDOM LEGISLATION****Column 1****Column 2**

Admiralty Offences (Colonial) Act 1849

Admiralty Offences (Colonial) Act 1860

Colonial Courts of Admiralty Act 1890

Merchant Shipping Act 1894

Merchant Shipping Act 1906

Merchant Shipping Act 1907

Maritime Conventions Act 1911

Merchant Shipping (Safety and Load Line
Conventions) Act 1932In so far as such Acts are
in force in Saint Lucia.Merchant Shipping (Safety Convention) Act
1949

Merchant Shipping Act 1954

Merchant Shipping Safety and Load Lines
Convention (Colonial)Merchant Shipping (International Labour
Convention) Act 1925Merchant Shipping (Liability of Shipowners
etc.) Act 1958

 Revision Date: 31 Dec 2001

FORMS AND FEES UNDER THE MERCHANT SHIPPING ACTS OF THE UNITED KINGDOM – SECTION 491¹

(Gazettes 20-11-1896, 30-5-1908 and 11-5-1912)

Notice is hereby given that the Governor General, acting under the Authority of sections 65 and 89 of the Merchant Shipping Act 1894 of the United Kingdom and with the consent of the Board of Trade, has made certain alterations in the forms set out in the First Part of Schedule 1 to the said Act and has prescribed forms of the instruments and documents specified in the second part of the said Schedule.

The said forms are to be used in Saint Lucia in all transactions relating to ships and such of the forms as are used by the public may be obtained from the Registrar of Shipping.

The following list embraces the Forms in question, namely—

Form No.	1—Certificate of survey.
„ „	2—Declaration of ownership by individual resident or non-resident owner or transferee a natural born subject.
„ „	3—Declaration of ownership by individual owner or transferee resident in Her Majesty's Dominions (naturalized subject, etc.)
„ „	4—Declaration of ownership by individual owner or transferee not resident in Her Majesty's Dominions (naturalised subject, etc.)
„ „	5—Declaration by joint owners or transferees attending together.
„ „	6—Declaration by a joint owner or transferee.
„ „	7—Declaration of ownership (special cases).
„ „	8—Declaration of ownership on behalf of a body corporate.

¹ *Editor's note:* This notice is made under the Merchant Shipping Act, 1894. This Act was repealed to the extent that it was in force in Saint Lucia by the Shipping Act. This notice continues in force under section 496.

- „ „ 9—Certificate of British registry.
 „ „ 10—Bill of sale.
 „ „ 11—Mortgage (to secure principal sum and interest).
 „ „ 12—Mortgage (to secure account current, etc.).
 „ „ 13—Declaration by representative of a deceased owner or
 mortgagee taking by transmission.
 „ „ 14—Declaration of ownership or interest on transmission by
 bankruptcy.
 „ „ 15—Declaration on transmission by marriage.
 „ „ 16—Certificate of mortgage.
 „ „ 17—Certificate of sale.
 „ „ 18—Revocation of certificate of mortgage or sale.
 „ „ 18a—Provisional certificate.

—————

**FEES OF THE REGISTRAR OF SHIPPING AND SHIPPING MASTER
AND OF THE ADMEASURER OF SHIPPING FOR SERVICES
PERFORMED UNDER THE IMPERIAL MERCHANT SHIPPING ACTS**

For registering and granting certificate of registration (on initial registry) for—

	\$	¢
Vessels of 5 tons and under	1	20
„ over 5 tons and under 15	1	80
„ of 15 tons and under 50	2	40
„ „ 50 tons and under 75.....	4	80
„ „ 75 tons and under 100.....	7	20
„ „ 100 tons and under 200.....	9	60
Every additional 100 tons or part of 100	2	40

For registering transfer, transmission, registry anew, transfer of registry, mortgage, and transfer of mortgage—according to the gross tonnage represented by the ships or shares of ships transferred, etc., (e.g. the

Revision Date: 31 Dec 2001

transfer of a $\frac{1}{64}$ share in a ship of 6,400 tons to be reckoned as the transfer of 100 tons)—

	\$	¢		\$	¢
Under 10 tons	60		40 tons or under 50 tons	3	00
10 tons or under 20 tons	1	20	50 „ „ „ 75 „	3	60
20 „ „ „ 30 „	1	80	75 „ „ „ 100 „	4	20
30 „ „ „ 40 „	2	40	100 „ „ „ 125 „	4	80
And for every additional 50 tons, or part of 50 tons, up to 500 tons.....					60
After which, for every 100 tons or part of 100 tons.....					60
For allowing inspection of a Register Book					24
For a certified copy of the particulars entered on the registry of a ship, together with a certified statement showing the ownership at the time					24
(The “certified statement” will be a copy of the “summary” as then existing with Christian names in full.)					
For a certified copy of any declaration or document, a copy of which is made evidence by the Merchant Shipping Act, 1894 of the United Kingdom (See section 64).....					24
For any other certified extract from the Register, for every folio of 90 words.....					08
Deposit of ship’s articles — Vessels under 10 tons					36
Do do — Vessels over 10 tons					60
Endorsing change of master — Vessels under 10 tons					24
Do do — Vessels over 10 tons					48
For engagement or discharge of each mate, steward or seaman — For a vessel under 10 tons.....					24
For a vessel over 10 tons					48
Measurement of tonnage, for each measured transverse section.....	1				80
Clearance of vessels — if above 50 tons.....					96

Do do — if under 50 tons 48