

**ACT 645**  
**GHANA SHIPPING ACT, 2003**

ARRANGEMENT OF SECTIONS

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and Proprietary Interest in Ships*

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## ACT 645 GHANA SHIPPING ACT, 2003(1)

**AN ACT to consolidate with amendments the law on regulation of ships and the maritime industry and to provide for related matters.**

## PART ONE

*Restriction on Trading in Ghanaian Waters; Registration, Building, Importation and Licensing of Ships and Proprietary Interest in Ships*

**1. Restriction on trading in Ghanaian waters**

(1) A ship shall not trade in or from Ghanaian waters unless the ship,

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

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

(3) A person not qualified to own a Ghanaian ship as specified in section 2 shall not engage in a charter, or otherwise engage a Ghanaian ship for local trade in Ghanaian waters except in accordance with the conditions directed in writing by the Board of the Ghana Maritime Authority.

(4) A Ghanaian ship trading in any waters in Ghana and a ship trading in or from Ghanaian waters shall provide evidence of financial responsibility against risks of damage to third parties in the form directed in writing by the Board of the Ghana Maritime Authority.

(5) Where the master, owner or agent of a ship contravenes a provision of subsection (1), (2) or (4) or where a person contravenes subsection (3) the master, owner, agent or that person commits an offence and is liable on summary conviction to a fine not exceeding the cedi equivalent of US \$1 million and the ship shall be detained until the fine is paid.

**2. Qualifications for owning a Ghanaian ship**

Except where otherwise provided by any other enactment, a ship is not a Ghanaian ship unless the ship is owned by,

- (a) a citizen,
- (b) a body corporate registered under the Companies Act, 1963 (Act 179),
- (c) a partnership registered under the Incorporated Partnership Act, 1962 (Act 152),
- (d) a foreign individual or a foreign company in registered joint venture relationship with a Ghanaian national or company, and
- (e) any of the persons specified in paragraph (a), (b) or (c) who charters ships on bare boat charter.

**3. Obligation to register and Regulations on Ghanaian ships**

(1) A ship owned by any of the persons described in paragraphs (a), (b), (c) and (e) of section 2 shall be registered in Ghana unless,

- (a) the ship is licensed to operate solely within Ghanaian waters, or
- (b) the ship is exempt from being licensed under section 40.

(2) A foreign ship owned by a person or a body corporate in registered joint venture relationship with a Ghanaian may be registered in Ghana.

(3) A Ghanaian Government ship shall be registered in one of the register books provided for under

section 13.

(4) The Director-General may detain a ship wholly owned by persons qualified to own a registered or licensed Ghanaian ship where the master of the ship fails to produce the certificate of registry or a licence on demand until that evidence is produced.

(5) A ship required to be registered under this Act, shall not be recognised as a Ghanaian ship and shall not be entitled to rights and privileges accorded a Ghanaian ship unless it is registered.

(6) Where the Director-General has a doubt as to the qualification of a ship registered under this Part, the Director-General may direct the Registrar of Ships to demand that evidence be produced to the satisfaction of the Director-General within the time that the Director-General may specify that the ship is qualified to be registered.

(7) Where the Director-General specifies a time limit within which satisfactory evidence of qualification has to be given to the Registrar and it is not given, the ship shall be de-registered.

(8) The Minister may make Regulations on matters relating to the obligation to register ships.

#### **4. Application for registration**

(1) Application for the registration of a ship shall be made to the Registrar of Ships,

- (a) in the case of an individual, by the person requiring to be registered as owner or agent;
- (b) in the case of a number of persons by one or more of those persons, or their agent; and
- (c) in the case of a body corporate, by the body corporate or its agent.

(2) The Registrar shall demand satisfactory proof of ownership before registration.

#### **5. Declaration of ownership**

(1) A person shall not be registered as the owner of a Ghanaian ship or of a share in it unless that person or in the case of a body corporate the person authorised by the body corporate under section 4 (1) to make the application on its behalf, has made a declaration of ownership in the prescribed form.

(2) The declaration shall be accompanied by a certificate of survey for the ship and shall include the following particulars of the applicant and the ship:

- (a) the full name and address of the applicant,
- (b) the national status or in the case of a body corporate a statement of the constitution and business interests as proof of its qualification to own a Ghanaian ship,
- (c) a statement of the time when and the place where the ship was built, or if the ship was built outside Ghana 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 Ghana, a statement of the name by which it was registered,
- (d) the number of shares in the ship in respect of which the person or the body corporate is entitled to be registered as owner, and
- (e) a statement that to the best of the knowledge and belief of the applicant an unqualified person does not have a legal or beneficial interest in the ship or any share in it.

(3) For the purposes of this section, “**beneficial interest**” has the meaning assigned to it by section 79 of this Act.

## **6. Building and sale of vessels**

(1) A person shall not undertake in Ghana the building of a ship unless that person has been granted a licence to do so by the Minister responsible for Industries in consultation with the Minister and the Minister responsible for Agriculture where the ship is a fishing vessel.

(2) The design for the building of a ship is subject to the approval of the Minister or the body charged by law with the responsibility.

(3) The building of a ship in Ghana shall be supervised by a surveyor employed by the person who commissioned the building of the ship and the employer shall submit periodic progress reports of the work on the ship to the Minister.

(4) A person shall not sell or offer for sale, whether within or outside Ghana, a new ship built in Ghana unless there has been issued in respect of that ship a Certificate of Seaworthiness by the Minister in the prescribed form.

(5) The Minister may in consultation with the Board of the Ghana Maritime Authority make Regulations prescribing

- (a) the standards and specifications for the design and construction of different types of ships, and
- (b) the forms of application, licence and Certificate of Seaworthiness described in this section.

(6) The owner, operator and master of a ship built or sold in contravention of subsection (1), (2), (3), or (4) commits an offence and is individually liable on summary conviction to a fine not exceeding five hundred penalty units and in addition the Court may order the forfeiture of the ship in respect of which the offence was committed.

## **7. Importation of a ship**

(1) A person shall not,

- (a) without the prior approval in writing granted by the Minister in accordance with the recommendation of the Authority, import a ship, or
- (b) import into the country a ship,
  - (i) in the case of a trawler, which is older than ten years, or
  - (ii) in the case of a tuna fishing vessel or any other vessel, which is older than fifteen years,

from the date of construction except that a trawler of not more than fifteen years or a tuna vessel or any other vessel of not more than eighteen years from the date of construction, may be imported subject to the acceptance by the Minister in consultation with the Ghana Maritime Authority and on the advice of the Board of a survey report of seaworthiness issued by a recognised international classification authority.

(2) The importer of a ship shall pay the fees and costs determined by the Board, including the cost of an inspection which may be required pursuant to subsection (1) (b).

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of the cedi equivalent of not less than US \$10, 000 and not exceeding US \$100, 000 or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment, and in addition the Court may order the forfeiture of the vessel in respect of which the offence was committed.

## **8. Builder's certificate and evidence required on first registration of a ship**

(1) Where a ship is built in Ghana the builder shall issue to the owner a signed builder's certificate containing

- (a) the true account of the proper denomination and tonnage of the ship as estimated by the builder,
- (b) the date and place where the ship was built, and
- (c) the name of the person for whom the ship was built.

(2) A ship builder who fails to comply with subsection (1) or wilfully makes a false statement in a certificate submitted, commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(3) On the first registration of a ship the following evidence shall be produced by the applicant in addition to the declaration required under section 5:

- (a) the builder's certificate specified under subsection (1);
- (b) if there has been a sale, the bill of sale under which the ship or a share in her has become vested in the applicant;
- (c) in the case of a foreign-built ship, a builder's certificate unless the applicant declares
  - (i) that the date and place of its building are unknown to the applicant, or
  - (ii) 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 in it became vested in the applicant; and
- (d) in the case of a ship condemned by a competent authority, the official copy of the condemnation document.

## **9. Restriction on registration**

(1) A ship registered in any country is not eligible for registration under this Act unless, in the case of a ship registered in a country which is a party to the International Convention for the unification of the rules relating to Liens and Mortgages, 1993,

- (a) a certificate has been issued by that country to the effect that the ship has been de-registered, or
- (b) a certificate has been issued by that country to the effect that the ship will be de-registered on the day that the new registration is effected in Ghana.

(2) An applicant seeking registration of a ship registered in another country shall satisfy the Registrar of Ships that,

- (a) the ship has been deregistered on the day that the new registration is effected or that the foreign registration has been cancelled or will be cancelled on the day that the new registration is effected; and
- (b) mortgages are not outstanding against the ship or where there are outstanding mortgages against the ship, the mortgagees have consented in writing to the deregistration or

cancellation of the ship's foreign registration.

#### **10. Cancellation of registration**

The registration of a ship shall be cancelled by the Registrar if at any time the ship,

- (a) is found to be also registered in another country,
- (b) ceases to qualify for registration as a Ghanaian ship under section 2, or
- (c) is considered by the Registrar to have been lost or broken up.

#### **11. Restriction on deregistration of ships**

A ship shall not be deregistered without the consent in writing of all registered mortgagees of the ship.

#### **12. Port of registry**

(1) The ports of Takoradi and Tema are the Ports of Registry for the registration of Ghanaian ships.

(2) The Authority may by notice published in the *Gazette* declare any other port of Ghana as a port of Registry.

#### **13. Register books and entries**

(1) The Registrar of Ships shall keep the necessary register books for the purposes of this Act including a register book for,

- (a) merchant ships,
- (b) fishing vessels, and
- (c) ships under construction.

(2) Entries in the registers shall be made in accordance with the following conditions:

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship, except that this provision does not affect the beneficial title of any number of persons or of any company represented by or claiming under or through a registered owner or joint owner;
- (c) a person is not entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding five may be registered as joint owners of a ship or of a share in it;
- (d) joint owners shall be considered as constituting one person only for registration and are not entitled to dispose separately of an interest in a ship, or in a share in it for which they are registered; and
- (e) a body corporate may be registered as owner by its corporate name.

(3) On the completion of the preliminary requirements for the registration of a ship, the Registrar shall enter in the appropriate register the following particulars of the ship:

- (a) the present name of the ship and the previous name and registry;

- (b) the details contained in the certificate of survey;
- (c) the particulars in respect of its origin stated in the declaration of ownership;
- (d) the name, address, occupation and nationality of its owner and where there is more than one owner the percentage of shares held by each owner;
- (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 to it;
- (g) the name of the builder, and the place and year of the building of the ship;
- (h) the description of the main technical characteristics of the ship; and
- (i) the details of any mortgages.

(4) The Registrar shall not register a ship purchased or otherwise acquired from a foreigner or a corporate body where a bill of sale or any other document by which the ship became vested in the applicant for registration contains express, implied or constructive provisions restricting the use of the vessel or imputing a measure of continued control by the government of a foreign country.

(5) Individual owners, joint owners and corporate bodies that have been recorded in the register book as owners shall be regarded as owners of the ship or any part of her.

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

- (a) the date of deletion or suspension of the previous registration of a ship, and
- (b) the name, address, nationality and other details as appropriate of a ship owner who is qualified under section 2.

#### **14. Documents to be retained by the Registrar of ships**

The Registrar shall on the registration of a ship retain

- (a) the certificate of survey,
- (b) the builder's certificate,
- (c) the carving notes,
- (d) any previous bill of sale of the ship,
- (e) the copy of the condemnation,
- (f) all declarations of ownership,
- (g) notice of the name of the ship, and
- (h) the application for registration.

#### **15. Name of ship**

(1) A merchant ship registered in the register for merchant ships shall have a name but two or more merchant ships shall not bear the same name.

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

(3) The Registrar may refuse to register a ship by the name she is proposed to be registered, if that name is already the name of a registered Ghanaian ship, a name which is similar to a ship already

registered or is a name likely to deceive or offend the public.

(4) Where the Registrar refuses to register a ship by a proposed name, the Registrar shall direct the applicant to make the necessary rectification and the Registrar shall not register the ship under the proposed name, until the directives have been complied with.

#### **16. Change of name of a ship**

(1) A change of the name of a Ghanaian ship shall not be made without the consent of the Registrar.

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

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

(4) The Registrar shall grant the approval for a change of the name of a ship and the registration shall be carried out in the manner specified in the Regulations.

(5) A person who contravenes or permits a person under that person's control to contravene a provision of this section or of the Regulations commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

#### **17. Identity marks for fishing vessels**

(1) The Registrar shall allocate to a fishing vessel on registration a combination and sequence of letters and numbers which is the identity mark and shall be entered in the relevant register book.

(2) Two fishing vessels shall not be allocated the same identity mark.

(3) A registered fishing vessel shall display the identity mark allocated to it on both sides of the bow of the ship and shall show the name of the ship's port of registry on the stern.

(4) The master and the owner of a fishing vessel which displays an identity mark not allocated to the vessel, or fails to display the vessel's identity mark commits an offence and are each liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **18. Call sign**

A merchant ship or fishing vessel which is equipped with a wireless radio transmitting station or with a radio telephone installation, shall also possess an internationally registered code designation in the form of international call letters or numbers as appropriate to the flag state of registration assigned to the ship.

#### **19. 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 the ship is placed on another register after its completion.

### *Tonnage Measurement of Ships*

#### **20. Survey**

(1) A ship shall be surveyed and its tonnage ascertained before registration by a surveyor of ships

appointed under section 26.

(2) The surveyor shall grant a certificate of survey specifying the ship's tonnage and build and any other particulars descriptive of the identity of the ship as the Registrar may require.

(3) A ship shall not be registered without the submission to the Registrar of a certificate of survey.

## **21. Tonnage Regulations**

(1) The Minister may, by legislative instrument, make Tonnage Regulations

- (a) to provide for a method for ascertaining the tonnage of a ship,
- (b) to make different provisions for different descriptions of ships or for the same descriptions of ships in different circumstances, and
- (c) to prohibit or restrict the carriage of goods or stores in spaces not included in the assessment of the net tonnage of a ship.

(2) The Minister shall in making the Tonnage Regulations, incorporate the International Convention on Tonnage Measurement of Ships, 1969 including amendments to it.

## **22. Tonnage once ascertained to be tonnage of ship**

(1) Where the tonnage of a ship has been ascertained in accordance with the Tonnage Regulations, that tonnage shall be registered as the tonnage of that ship.

(2) The tonnage of a ship once ascertained shall be entered in every subsequent registration of that ship unless

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

and in each case the ship shall be remeasured and her tonnage ascertained and registered in accordance with the Tonnage Regulations.

## **23. Tonnage rules of foreign ships**

(1) Where the Director-General is satisfied that the tonnage rules of a foreign country are substantially the same as the Tonnage Regulations of Ghana, the Director-General may direct that the tonnage denoted in the ship's certificate of registry or any other certificate of Registry be considered as the tonnage of that ship.

(2) Where a surveyor inspects a foreign ship and certifies to the Director-General that the construction and equipment of the ship do not meet the standard required of a Ghanaian ship of the same tonnage, the surveyor shall remeasure the ship and assign a tonnage in accordance with this Act or the Regulations made for the purpose under this Act by deducting from the tonnage the space occupied by seafarers or apprentices as shown on the certificate of registry or any other certificates relating to the foreign ship.

(3) The Director-General may direct that a foreign ship be remeasured where it appears to the Director-General that the tonnage materially differs from the tonnage specified by or under this Act.

## **24. Foreign and other measurements**

(1) A surveyor may accept and use the figures or measurement contained in the latest register where the ship is registered as a foreign ship, or in the case of an unregistered ship, in the latest certificate of

survey relating to that ship.

(2) A surveyor shall be satisfied that there have been no changes of measurement since the making of the register or certificate which the surveyor proposes to use and where changes have been made, the surveyor shall remeasure the ship to the extent of the changes.

## **25. Alterations between surveys**

(1) The owner or master of a Ghanaian ship shall within thirty days after the completion of the alteration or reconstruction of the ship, advise the Registrar of the alteration or reconstruction and give the Registrar details where the alteration or reconstruction could affect the ship's classification, measurement, tonnage or loading.

(2) The owner or master of a ship who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

## **26. Appointment of surveyors for tonnage measurement**

(1) The Authority may appoint duly qualified surveyors within or outside Ghana to survey and measure ships.

(2) The Authority may nominate within or outside Ghana a classification society.

(3) A classification society so nominated may appoint competent persons to survey and measure ships subject to the conditions that the Authority may determine.

## **27. Marking of ships**

(1) A ship shall, before being registered in Ghana, be permanently and conspicuously marked in accordance with the Regulations made under this Part.

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

(3) The Minister may make Regulations to exempt a specified class of ships from any of the provisions of this section in accordance with the advice of the Authority.

## **28. Certificate of registry**

(1) A certificate of registry shall be in the form prescribed by the Minister.

(2) A certificate of registry shall include,

- (a) the name of the owner of the ship, the owner's occupation and address, and if there is more than one owner, the proportions of their interests in the ship,
- (b) the date and place where the ship was built,
- (c) the details given in the certificate of survey, and
- (d) the International Maritime Organisation number of the ship.

## **29. 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 and replacement of certificate of registry;
- (c) the endorsement of a change of ownership on a certificate of registry; and
- (d) the producing of the certificate of registry of a ship that is lost, broken up or has ceased to be a Ghanaian ship.

### **30. Issue and custody of certificate of registry**

(1) The Registrar shall on registration of a ship issue a certificate of registry to the ship.

(2) A 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 a title, lien, charge or any other interest of any owner, mortgagee or other person.

(3) A person shall on demand deliver the certificate of registry in that person's possession to the person entitled to its custody for the purposes of lawful navigation of the ship, or to the Registrar, surveyor of ships, Customs, Excise and Preventive Service Officer or any other person entitled by law to require its delivery.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(5) Where a Court in any proceedings in respect of an offence under this section is satisfied that the certificate is lost, it shall advise the Director-General in writing.

### **31. Improper use of certificate of registry**

Where the master or owner of a Ghanaian ship uses or attempts to use for navigation a certificate of registry not legally granted, the master or owner commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment, and the ship may also be forfeited to the State.

### **32. Provisional certificate of registry**

(1) Where the owner of a ship intends to apply for registration of the ship as a Ghanaian ship but the Registrar is not immediately available, an authorised officer may grant a provisional certificate on an application by the owner which application shall include a statutory declaration stating

- (a) the name of the ship,
- (b) the name and particulars of the owner of the ship,
- (c) the date and place of its purchase and the name of the purchaser,
- (d) that the foreign registry, if any, of the ship has been closed, and
- (e) that the full particulars on the ship's tonnage, date and place of construction and such other particulars as the owner is able to provide are attached,

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

(2) A provisional certificate under this section shall have the effect of a certificate of registry until the expiration of six months after its date of issue or until the arrival of the ship at a port in Ghana whichever

happens first and on the occurrence of either of these events, the provisional certificate shall cease to have effect.

(3) The master of a ship in respect of which a provisional certificate has been granted shall, within ten days of the ship's first arrival at a port in Ghana, deliver the certificate to the Registrar, and where a master fails to comply with these conditions the master commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **33. Temporary pass in lieu of certificate of registry**

(1) Where the Director-General considers that in any special circumstances it is desirable that permission be granted to a ship which is not registered to pass from a port in Ghana to another port within or outside Ghana, the Director-General may in a case where the ship belongs to a country whose law permits the issue of a temporary pass to a Ghanaian ship, direct the Registrar to grant a pass.

(2) The pass granted shall have the same effect as a certificate of registry within the geographical limits.

#### *Registration of Alterations and Registration Anew*

### **34. Registration of alterations of tonnage**

(1) Where a Ghanaian ship is altered so as not to correspond with the particulars relating to tonnage, notification of the alteration shall be given within thirty days of the alteration to the Registrar.

(2) The notice to the Registrar shall be accompanied by a certificate of survey specifying the particulars of the alteration.

(3) The Registrar shall on receipt of a notice of alteration under subsection (1), regulate the alteration or direct that the ship be registered anew.

(4) The Registrar may suspend the certificate of registry of the ship where there is a failure to comply with the requirements specified in subsection (1), (2) or (3).

(5) The owner of a ship commits an offence where there is default in registering anew a ship that has been altered and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment and in addition is liable to a fine of one hundred penalty units for each day during which the offence continues after the conviction.

### **35. Rules for registration of alterations to a registered ship**

(1) For the purposes of registration of any other alteration in a ship, the ship's certificate of registry shall be produced to the Registrar within sixty days after the alteration and the Registrar shall

- (a) retain the certificate and grant a new certificate of registry containing a description of the ship as altered, or
- (b) endorse on the existing certificate of registry, a statement of the alteration.

(2) The Registrar shall enter in the Register book the particulars of the alteration and the fact that a new certificate has been granted or an endorsement has been made.

### **36. Provisional certificate for registration anew**

(1) Where a Ghanaian ship is outside the territories of Ghana and a notification for a new registration is given, a proper officer of the Authority, shall on an application by the master, grant a provisional certificate describing the ship as altered or provisionally endorse the particulars of the alteration on the existing Certificate.

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

(3) The master of a ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section shall, within ten days of the ship's arrival at a port in Ghana or within six months of the date of issue or endorsement of the certificate, whichever is sooner, deliver that certificate to the Registrar.

(4) A master who fails to comply with subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(5) Where a ship in respect of which a provisional certificate is granted under this section first arrives at a port in Ghana, application for registration of that ship anew shall be made to the Registrar and the other requirements for registration shall be complied with.

(6) An owner of a ship who fails to comply with subsection (5) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months and an additional fine of fifty penalty units for each day during which the offence continues after the conviction.

### **37. Change of ownership and registration anew**

The Registrar may, on an application by the owner of a Ghanaian registered ship direct that a new registration be made where the ownership has changed.

### **38. Procedure for new registration**

(1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of a first registration and on the delivery to the Registrar of the existing certificate of registration and in compliance with any other requirement for registration, or in the case of a change of ownership in compliance with any of the requirements that the Registrar thinks material, the Registrar shall re-register the ship, and grant it a certificate of registry.

(2) When a ship is registered anew, the former registration shall be considered as closed, except so far as relates to an unsatisfied mortgage entered into, but the names of all persons formally registered as owners or mortgagees shall be entered on the new register, and the new registration shall not in any way affect the rights of any of those persons.

### **39. Restriction on re-registration of abandoned ships**

Where a Ghanaian registered ship has prior to an application for its registration been wrecked or abandoned or captured by an enemy or for any other reason been transferred to a person not qualified to own a Ghanaian ship, the ship shall not be re-registered until the ship has, at the expense of the applicant

for registration, been surveyed by a surveyor and certified by the surveyor to be seaworthy.

### *Licensing of Ships*

#### **40. Ships to be licensed**

(1) A Ghanaian ship under twenty-four metres in length or fifteen tonnes in weight and every vessel of whatever length or weight trading or operating solely within the inland waters of Ghana shall instead of being registered be licensed.

(2) The following ships are exempt from licensing:

- (a) a pleasure craft of less than five metres in length not equipped with propulsion machinery,
- (b) a pleasure craft of less than three metres in length equipped with propulsion machinery of not more than 3.75 kilowatts, and
- (c) ships registered under this Act.

(3) The Authority may in writing exempt, generally or specifically, ships from compliance with subsection (1) on the conditions that the Board of the Authority may determine.

#### **41. Qualifications for owning a licensed Ghanaian ship**

(1) A ship shall not be licensed in Ghana unless it is owned wholly by any of the persons referred to in section 2.

(2) Not more than eight persons may be recorded as joint owners of a licensed Ghanaian ship.

(3) A licensed Ghanaian ship shall within seven days, or a further period that the Director-General may allow, after a change of ownership, notify the Registrar in writing of the change.

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

(5) The Authority may by notice published in the *Gazette* generally or specifically exempt a class of ships required to be licensed from licensing while operating outside Ghanaian waters.

#### **42. Regulations for licensing of ships**

The Minister may make Regulations regarding the licensing of Ghanaian ships, and in particular for,

- (a) the manning, life-saving, safety, pollution prevention and fire-fighting equipment of such ships;
- (b) the examination and certification of officers, skippers, mechanics and deck hands;
- (c) surveys and inspections;
- (d) the appointment of surveyors;
- (e) the keeping of records;
- (f) fees;
- (g) discipline on board; and
- (h) operating permits.

## *Transfer and Transmission of Interest*

### **43. Transfer of ship or shares**

(1) A registered ship or a share in it when disposed of to a person qualified to own a Ghanaian ship shall be transferred by a bill of sale.

(2) The bill of sale shall contain the description of the ship as is contained in the certificate of survey.

(3) The bill of sale shall be in the form prescribed in the Regulations or in any other form acceptable to the Authority and shall be executed by the transferor in the presence of, and attested by, a witness.

### **44. Declaration of transfer**

(1) Where a registered ship or a share in it is transferred, the transferee is not entitled to be registered as owner until the transferee, 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 that refers to the ship and contains a statement of the qualifications of the transferee to own a Ghanaian ship.

(2) Where the transferee is a body corporate, the nature of its business shall be a condition for it to be qualified to own a Ghanaian ship.

### **45. Registration of transfer**

(1) A bill of sale for the transfer of a registered ship or a share in it when duly executed, shall be produced to the Registrar at the port of registry of the ship with the declaration of transfer.

(2) The Registrar shall, on the production of the bill, enter in the relevant register the name of the transferee as owner of the ship or the share, and the Registrar shall endorse on the bill of sale the fact of that entry having been made, with the day and hour of the entry.

(3) A bill of sale of a ship or a share in it shall be entered in the register book in the order of their production to the Registrar.

### **46. Transmission of property on death, insolvency**

(1) Where a registered ship or a share in it is transmitted to a person qualified to own a Ghanaian ship on the death or insolvency of a registered owner, or by a lawful means other than by a transfer under this Act, that person shall authenticate the transmission by signing a declaration of transmission, identifying the ship and containing the several statements required to be contained in a declaration of transfer, or as near as possible as circumstances permit.

(2) There shall also be provided a statement of the manner in which and the person to whom the property has been transmitted.

(3) Where the transmission is consequent on insolvency, the declaration of transmission shall be accompanied with evidence admissible in a Court as proof of the title of persons claiming under insolvency.

(4) Where the transmission is consequent on death, the declaration of transfer shall be accompanied by the instrument of representation or an official extract from it.

(5) The Registrar shall on receipt of the declaration of transmission, enter in the register book the name of the person entitled under the transmission as owner of the ship or of the share of the ship which

has been transmitted.

(6) Where there is more than one person the Registrar shall enter the names of all those persons, except that for the purposes of this Part the number of persons entitled to be registered as owners shall be considered as one person.

#### **47. Order for sale on transmission to unqualified persons**

(1) Where a Ghanaian ship or a share in it is transmitted on death, insolvency or otherwise to a person not qualified to own a Ghanaian ship, the High Court may, on application made by or on behalf of the unqualified person, order a sale of the ship and direct that the proceeds of the sale, after deducting the expenses involved, be paid to the person entitled under the transmission or otherwise as the Court may direct.

(2) The Court may require the evidence that it considers necessary in support of the application, and may make an order on terms and conditions it thinks just, and may generally act in the case as the justice of the case requires.

(3) An application for sale shall be made within thirty days after the occurrence of the event on which the transfer has taken place, or within a further time, not exceeding in the aggregate of one year from the date of the occurrence of the event, that the Court may allow.

(4) Where an application is not made within the time specified in this section or where the Court refuses an order for sale, the ship or the share transmitted is subject to forfeiture under this Act.

#### **48. Transfer of ship on sale by order of court**

Where the High Court orders the sale of a ship or a share in it whether under this Act or any other law, 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 the person named is entitled to transfer the ship or the share as if that person were the registered owner of it.

#### **49. Power of court to prohibit transfer**

(1) The High Court may, on the application by an interested person, make an order prohibiting for a time specified in the order, any dealing with a ship or a share in it.

(2) The Court may make the order on the terms or conditions it thinks just and may generally act in the case as the justice of the case requires and the Registrar, without being made a party to the proceedings, shall on being served with an order or an official copy of the order obey the order.

### *Mortgages*

#### **50. Mortgage of ship or shares**

(1) A registered ship or a share in it may be made a security for a loan or any other valuable consideration, and the instrument creating the security shall be in the form prescribed in the Regulations.

(2) The Registrar shall as circumstances permit and on the production of the instrument creating the security, record the mortgage in the register book at the ship's port of registry.

(3) Mortgages shall be recorded by the Registrar in the order of time in which they are produced to the Registrar.

(4) The Registrar shall by a memorandum signed by the Registrar state on each mortgage that it has been recorded by the Registrar and indicate the day and hour of that record.

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

### **51. Mortgage of provisionally registered ships**

(1) Where a ship is provisionally registered, a mortgage executed outside Ghana may be produced to a consular officer who shall notify the Registrar of the production of the mortgage.

(2) The Registrar shall, as soon as possible record the names of the parties and the amount secured on the mortgage.

(3) Where the Registrar has received notice of a provisional registration of a ship and of the production of a mortgage relating to the ship, the mortgage shall be considered as registered and its priority shall be preserved from the time of receipt by the Registrar of the notice of the mortgage.

(4) The Registrar shall make an appropriate entry in the relevant register book from the time of receipt of the mortgage, or from the time of the receipt of the notice of mortgage, whichever occurs first.

(5) The provisions of subsections (3) and (4) of section 50 shall apply to mortgages under this section as they apply to mortgages under that section, except that the day and hour of record shall not derogate from the priority preserved under subsections (3) and (4) of this section.

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

### **52. Entry of discharge of mortgage**

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

(2) On that entry being made, the interest which passed to the mortgagee shall vest in the person in whom, having regard to intervening acts and circumstances, the interest would have vested if the mortgage had not been made.

### **53. Priority of mortgages**

Where there is more than one mortgage registered in respect of the same ship or share in it, the mortgagees are entitled, despite any express, implied or constructive notice, in priority one over the other, according to the date on which each mortgage is recorded in the register and not according to the date of each mortgage itself.

### **54. Mortgagee not treated as owner**

A mortgagee shall not, by reason of the mortgage, be considered the owner of a ship or a share in it, nor shall the mortgagor cease to be the owner except as may be necessary for making a mortgaged ship or a share in it available as a security for the mortgaged debt.

### **55. Power of sale of mortgagee**

(1) A registered mortgagee has power to dispose of the ship or a share in it in respect of which the

mortgagee is registered and to give effective receipt for the purchase money.

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

(3) A mortgagee referred to in subsections (1) and (2) is entitled to enforce the mortgage by an action *in rem* in admiralty whenever the sum secured by the mortgage is unpaid when due, in accordance with the terms of the deed or instrument collateral to the mortgage.

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

#### **56. Mortgage not affected by bankruptcy**

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

#### **57. Transfer of mortgages**

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

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

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

#### **58. Transmission of interest in mortgage on death, bankruptcy**

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

(2) The transmission shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by evidence as is required by this Part in the case of a transmission of the ownership of a ship or a share in it.

(3) The Registrar shall, on the receipt of the declaration and the production of the evidence specified in this Part, enter the name of the person entitled under the transfer in the register as the mortgagee of the ship or a share in it.

#### **59. Authority to sell mortgage out of Ghana**

(1) Where a registered owner of a Ghanaian ship or a share in it, desires to dispose of the ship or the share in it by sale or mortgage at a place out of Ghana, the registered owner may make application, by declaration in writing, to the Registrar.

(2) The application shall contain

- (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, 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 as may be specified, and
- (c) the time limit within which the power may be exercised.

(3) Subject to section 60 (1), in the case of an application to dispose of a ship by way of sale the Registrar shall enable the applicant to dispose of the ship or the share in the manner required in accordance with subsection (4).

(4) On receipt of an application made under this section, the Registrar shall enter in the register book a statement of the particulars set out 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 of a ship shall
- (a) be in the prescribed form,
  - (b) not authorise a sale or mortgage to be made in Ghana or by a person not named in the certificate, and
  - (c) contain a statement of the particulars set out in the application and also a statement of any registered mortgages or sale and the relevant certificates issued.

## **60. General rules for certificate of sale**

(1) A certificate of sale shall not be granted except for the sale of an entire ship and the certificate shall not be granted under this Part, except on the application made by declaration in writing of the persons who appear on the relevant register to be interested in the ship as owners or mortgagees.

(2) The power conferred by the certificate shall be exercised in conformity with the directions contained in it.

(3) An agreement for sale entered into in good faith in the exercise of the power conferred by the certificate to a purchaser for valuable consideration shall not be invalidated 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 the a certificate contains a specification of the place at which, and a time limit not exceeding twelve months within which the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be invalidated by reason of the bankruptcy or insolvency of the person by whom the power was given.

## **61. Procedure where ship under certificate of sale granted in Ghana**

(1) Where a Ghanaian ship is sold to a person qualified to own a Ghanaian ship, in exercise of a power conferred by a certificate of sale granted under this Part,

- (a) the transfer of the ship shall be made by a bill of sale and the certificate of sale issued shall be produced to a proper officer at the place where the ship is sold who shall endorse the certificate of sale with a statement of the fact that the ship has been sold, and shall forthwith

notify the Registrar;

- (b) the ship may be registered anew in the manner provided by this Act; and
- (c) the Registrar on receipt of the certificate of sale and the ship's certificate of registry from a proper officer shall endorse them to the effect that the ship has been sold and the sale shall be entered in the relevant register.

(2) Where a Ghanaian ship is sold to a person not qualified to own a Ghanaian ship in the exercise of a power conferred by a certificate of sale, granted under this Part,

- (a) the certificate of sale and the certificate of registry shall be produced to the proper officer at the place where the ship is sold, and the officer shall endorse a statement that the ship has been sold to a person not qualified to own a Ghanaian ship;
- (b) the officer making the endorsements shall forward the certificates of sale and registry, each being duly endorsed, to the Registrar;
- (c) the Registrar, shall on receipt of the certificates of sale and registry make an entry of the sale in the relevant register;
- (d) the registration of the ship shall be considered as closed, except as far as it relates to any unsatisfied mortgages or existing certificate of mortgage entered in it;
- (e) where default is made in the production of the certificates mentioned in this subsection, the person to whom the ship is sold shall be considered to have acquired no title to or interest in the ship; and
- (f) the person on whose application the certificate of sale was granted under this subsection, and the person exercising the powers conferred thereby, each commits an offence.

(3) Where an agreement for sale is not entered into, in exercise of the power conferred by a certificate of sale granted under this Part, that certificate shall be delivered to the Registrar, and the Registrar shall cancel the certificate, and enter the cancellation in the register.

## **62. Registration in Ghana where ship sold under certificate of sale granted by a foreign State**

(1) Where a ship registered in a foreign country is sold in exercise of a power conferred by a certificate of sale granted under the law of that country to a person qualified to own a Ghanaian ship, that ship may be registered in Ghana in accordance with this section.

(2) Application for registration anew shall be made to the Registrar and shall be accompanied with 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, on registration of a ship anew shall,

- (a) retain the certificates of sale and registry, and endorse on each of the certificates an entry of the fact of the sale having taken place;
- (b) forward the certificates to the Registrar at the ship's former port of registry;
- (c) enter in the relevant register the particulars that are, by this Act, required to be entered in it on the first registration of a ship in Ghana; and
- (d) state the registered mortgages or certificates of mortgage enumerated on the certificate of sale.

(4) Where a ship is registered under this Part,

- (a) the description of the ship contained in its former certificate of registry may be transferred into the relevant register without the ship being resurveyed,
- (b) the declaration to be made by the purchaser shall be the same as is required to be made by an ordinary transferee, and
- (c) the persons on the register interested in that ship as owners or mortgagees shall have the same rights, and their rights shall be determined in the same manner, as if that ship had been first registered in Ghana in the manner provided in this Act and as if any unsatisfied mortgages or existing certificates of mortgage had been entered in the register at that port.

### **63. Rules as to certificate of mortgage**

The following rules shall be observed as to a certificate of mortgage:

- (a) the power conferred by the certificate shall be exercised in conformity with the directions contained in the certificate;
- (b) every mortgage executed under the certificate shall be registered by the endorsement of a record on the certificate by the proper officer at the place where the mortgage is executed;
- (c) a mortgage executed in good faith under it shall not be invalidated by reason of the person by whom the power was given dying at any time between the giving of the power and execution of the mortgage;
- (d) if the certificate contains a specification of the place where and a time limit, not exceeding twelve months, within which the power is to be exercised, a mortgage executed in good faith to a mortgagee without notice shall not be invalidated by reason of the bankruptcy or insolvency of the person by whom the power was given;
- (e) a mortgage which is registered on the certificate shall have priority over all mortgages of the same ship or a share created subsequent to the date of the entry of the certificate in the relevant register;
- (f) where there is more than one mortgage registered in respect of a ship the respective mortgagees claiming under them are entitled, despite an express, implied or constructive notice, to priority according to the date and time that each mortgage is registered on the certificate, and not according to the date of the mortgage;
- (g) subject to the preceding rules, a mortgagee whose mortgage is registered on the certificate shall have the same rights and powers, and is subject to the same liabilities, as the mortgagee would have had if the mortgage had been registered in the register book instead of on the certificate;
- (h) the discharge of a mortgage registered on the certificate may be endorsed on the certificate by the Registrar or a proper officer on the production of the evidence that is required by this Act to be produced to the Registrar for the entry of the discharge of a mortgage in the relevant register;
- (i) on the endorsement on the certificate being made, the interest which passed to the mortgagee shall vest in the same person in whom it would have vested if the mortgage had not been made having regard to the intervening acts and circumstances; and
- (j) on the delivery of a certificate of mortgage to the Registrar, the Registrar shall after recording it in the register book in such manner as to preserve the priority of an unsatisfied

mortgage registered in the register book, cancel the certificate and enter the fact of the cancellation in the register.

#### **64. Loss of certificate of sale or mortgage**

On proof at any time to the satisfaction of the Registrar that a certificate of sale or mortgage is lost or destroyed, or is so damaged as to be useless and that the powers given have never been exercised, or, if they have been exercised, then, on proof of the several matters and things that have been done under it, the Registrar may issue a new certificate or direct entries to be made in the register book, or any other things to be done, which might have been made or done if the loss, destruction or damage had not occurred.

#### **65. Revocation of certificate of sale or mortgage**

(1) The owner of a Ghanaian ship, or a share in it in respect of which a certificate of sale or mortgage has been granted may by an instrument signed by the owner authorise the Registrar to give notice to every officer that the certificate is revoked.

(2) Notice shall accordingly be given and be recorded by the authorised officer receiving it.

(3) After the notice has been recorded by the proper officer,

- (a) the certificate shall be considered to be revoked in respect of a sale or mortgage made at that place;
- (b) the notice shall be produced to a person who applies for the purpose of effecting or obtaining a transfer or mortgage under the certificate; and
- (c) an authorised officer shall inform the Registrar by whom the certificate was granted whether a previous exercise of the power to which the certificate refers has taken place.

### *Maritime Liens*

#### **66. Maritime liens**

Subject to this Act, any of the following claims against an owner, demise charterer, manager or operator of a vessel shall be secured by a maritime lien on the vessel:

- (a) claims for wages and any other sums due to the master, officers and the other members of the vessel's complement in respect of their employment on the vessel including costs of repatriation and social insurance contributions payable on their behalf;
- (b) claims in respect of loss of life or personal injury occurring, whether on land or water, in direct connection with the operation of the vessel;
- (c) claims for reward for salvage of the vessel;
- (d) claims for ports, canal and other waterway dues and pilotage dues;
- (e) claims based on tort arising out of physical loss or damage caused by the operations of the vessels other than loss of or damage to cargo, containers and passengers' effects carried on the vessel.

#### **67. Priority of maritime liens**

Subject to section 74 (5) and (6) the maritime liens set out in section 66 shall take priority over registered mortgages which comply with the following conditions;

- (a) the mortgages have been effected and registered in accordance with the laws of the country in which the vessel is registered;
- (b) the register and any instruments required to be deposited with the Registrar in accordance with the law of the country in which the vessel is registered is open to public inspection and extracts from the register and copies of the instruments can be obtained from the Registrar;
- (c) where the register or an instrument referred to in paragraph (b) specifies at least the name and address of the person in whose favour the mortgage has been effected or that it has been issued to the bearer and the maximum amount secured, if that is the requirement of the law of the country of registration; and
- (d) the maximum amount secured is specified in the instrument creating the mortgage and the date and any other particulars which, according to the law of the country of registration, determine the ranking in relation to other registered mortgages are stated.

### **68. Order of priority of liens**

(1) The maritime liens set out in section 66 shall rank in the order listed, except that maritime liens securing claims for cost of salvage of the vessel shall take priority over all other maritime liens which have been attached to the vessel prior to the time when the operations giving rise to those liens were performed.

(2) The maritime liens set out in paragraphs (a), (b), (d) and (e) of section 66 shall rank *pari passu* as among themselves.

(3) Maritime liens to secure claims for the cost of salvage of a vessel shall rank in the inverse order of the time when the claim secured accrued, and the claims shall be considered to have accrued on the date on which each salvage operation was terminated.

### **69. Rights of ship builders and ship repairers**

Where a preferential right arises, pursuant to the law relating to bankruptcy or insolvency, 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,

the right shall be postponed to all the maritime liens set out in section 66 but may take precedence over a mortgage or any other preferential right registered under this Part so long as the ship is in the possession of the ship builder or ship repairer.

### **70. Characteristics of maritime liens**

Subject to section 68, maritime liens follow the vessel despite a change of ownership or of registration or flag.

### **71. Claims arising from radioactive products**

A maritime lien shall not be attached to a vessel to secure claims set out in paragraph (b) or (e) of section 66 which arises from

- (a) damage in connection with the carriage of oil or any other hazardous or noxious substances by sea for which compensation is payable to the claimants under international conventions or under the laws of Ghana which provide for strict liability and compulsory insurance or any other means of securing the claims; or
- (b) the radioactive properties or a combination of radioactive properties with toxic, explosives or any other hazardous properties of nuclear fuel or radio-active products or waste.

## **72. Extinction of maritime liens**

(1) The maritime liens set out in section 66 are extinguished after a period of one year unless, prior to the expiring of the period, the vessel has been arrested or seized, and the arrest or seizure leads to a forced sale.

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

- (a) with respect to the maritime liens set out in section 66 (a), from the date of the claimant's discharge from the vessel; or
- (b) with respect to the maritime liens set out in section 66 (b) to (e), on the date when claims secured under the section arise, and are not subject to suspension or interruption, except that time shall not run during the period when the arrest or seizure of the vessel is not permitted by law.

## **73. Notice of forced sale**

(1) Prior to a forced sale of a vessel in Ghana, the Authority shall ensure that notice in accordance with this Act is served on,

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

(2) The notice shall be given at least thirty days prior to the forced sale and shall contain,

- (a) the time and place of the forced sale and the particulars concerning the forced sale or the proceedings leading to the forced sale that the Authority shall determine as being sufficient to protect the interest of the persons entitled to notice; or
- (b) where the time and place of the forced sale cannot be determined with certainty, the appropriate time and anticipated place of the forced sale and the particulars concerning the forced sale that the authority conducting the proceedings shall determine as being sufficient to protect the interests of persons entitled to notice.

(3) Where notice is given in accordance with paragraph (b) of subsection (2), additional notice of the actual time and place of the forced sale shall be provided when known but, in any event, not later than seven days prior to the forced sale.

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

(5) In addition to the other provisions of this section, the notice shall be given by press announcement

in the state where the forced sale is to be conducted and, if considered appropriate by the authority conducting the forced sale in any other publications.

#### **74. Effect of forced sale**

(1) On the forced sale of a vessel in Ghana, the registered mortgages, except those assumed by the purchaser with the consent of the holders, and the liens and any other encumbrances of whatever nature shall cease to attach to the vessel, provided that,

- (a) at the time of the sale the vessel is within the jurisdiction of Ghana, and
- (b) the sale was effected in accordance with this Act.

(2) The costs and expenses arising out of the arrest, seizure and subsequent sale of a vessel shall be paid first out of the proceeds of sale and these shall include the costs for the upkeep of the vessel and the crew as well as wages, other sums and costs referred to in section 66 (a), incurred from the time of arrest or seizure.

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

(4) On satisfaction of the claims, the residue of the proceeds shall be paid to the owner and the money shall be transferable through the banks.

(5) In the event of the forced sale of a stranded or sunken vessel following its removal by a public authority in the interest of safe navigation or the protection of the marine environment, the costs of the removal shall be paid out of the proceeds of the sale before any other costs secured by a maritime lien on the vessel.

(6) Where at the time of the forced sale the vessel is in the possession of a shipbuilder or a ship repairer who under this Act enjoys a right of retention, the shipbuilder or ship repairer shall surrender the possession of the vessel to the purchaser, but the shipbuilder or ship repairer is entitled to obtain satisfaction of the claim of the shipbuilder or ship repairer out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens mentioned in section 66.

(7) The Authority shall ensure that the proceeds of a forced sale are transferable.

#### **75. Disposition of proceeds of sale**

The costs awarded by a Court and arising out of the arrest and subsequent sale of a ship shall be paid first out of the proceeds of the sale, and the balance of the proceeds shall be distributed, to the extent necessary to satisfy their claims, among

- (a) the holders of maritime liens under section 66,
- (b) the holders of preferential rights under section 69, and
- (c) the holders of mortgages and any other preferential rights registered under this Part.

#### **76. Issue of certificate that a ship is free of mortgages, liens**

(1) Where a vessel registered in a state party to the International Convention on Liens and Mortgages, 1993 is the subject of a forced sale in any state party, the Authority shall, at the request of the purchaser, issue a certificate to the effect that the vessel is free of all registered mortgages, except those assumed by the purchaser, and of all liens, and encumbrances, provided that,

- (a) at the time of the sale the vessel is within the jurisdiction of Ghana, and
  - (b) the sale was effected in accordance with this Act.
- (2) On the production of the certificate the Registrar shall,
- (a) delete all registered mortgages except those assumed by the purchaser,
  - (b) register the vessel in the name of the purchaser, and
  - (c) issue a certificate of deregistration for the purpose of a new registration.

#### *Miscellaneous Provisions on Registration of Ships*

### **77. Provisions relating to infancy or other incapacity**

(1) A Court may on application made in connection with registration appoint a guardian or a committee if by reason of infancy, unsoundness of mind or any other cause a person interested in a ship or a share in it is incapable of making a declaration or doing anything required or permitted to be done in connection with registration under this Act.

(2) The person appointed shall make a declaration as nearly as possible corresponding with the circumstances and perform any act or thing in the name and on behalf of the incapacitated person.

(3) The acts done by the person in the name and on behalf of the incapacitated person shall be as effectual as if done by the infant, person of unsound mind or incapacitated person.

### **78. Notice of trusts not to be received**

(1) A notice of a trust, express, implied or constructive, shall not be entered in the register or be receivable by the Registrar.

(2) The registered owner of a ship or of a share in it shall dispose of the ship or the share in it in the manner provided for in this Act and give a valid receipt for the money paid or advanced by way of consideration.

### **79. Definition of “beneficial interest” and equities not excluded by Act**

The expression “**beneficial interest**”, wherever used in this Part includes interests arising under contract and other equitable interests, and accordingly despite,

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

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

### **80. Liability of beneficial owner**

(1) Where a person has a beneficial interest, other than a mortgage, in a ship or a share in a ship registered in the name of another person as owner, the person interested as well as the registered owner shall be subject to the pecuniary penalties imposed by this or any other enactment on the owner of a ship or shares in it.

(2) Proceedings may be taken for the enforcement of the penalties against both or either of the parties mentioned in subsection (1).

### **81. Registration of ship's managing owner or manager**

(1) The name and address of the managing owner for the time being of a ship registered at a port in Ghana shall be registered with the Registrar at the port.

(2) Where there is no managing owner there shall be registered the name of the person to whom the management of the ship is entrusted to.

(3) A person whose name is registered under subsection (2) shall, for the purpose of this Act, be under the same obligations, and be subject to the same liabilities, as if the person were the managing owner.

(4) Where default is made in complying with this section the owner is liable.

(5) Where there are more than one managing owner each managing owner is liable in proportion to that owner's interest in the ship, to a fine not exceeding in the aggregate five hundred penalty units for each time the ship leaves a port in Ghana without the name and address of the managing owner being registered.

### **82. Power of Registrar to dispense with declaration**

Where, under this Part a person is required to make a declaration on behalf of that person or of a body corporate, or evidence is required to be produced to the Registrar, and it is shown to the satisfaction of the Registrar that for any reason that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Director-General and on the production of any other evidence, and subject to the terms that the Registrar may think fit, dispense with the declaration or evidence.

### **83. Mode of declarations**

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

(2) Declarations required to be made under this Part may be made on behalf of a body corporate by the secretary, or any other officer of the body corporate authorised by the directors for the purpose.

### **84. Application of fees**

The fees authorised to be charged under this Part shall, except where otherwise provided in this Act, be applied in the payment of the general expenses of carrying into effect the functions of the Authority under this Act and any other enactment.

### **85. Returns to be made by the Registrar**

The Registrar of Ships shall submit to the Director-General returns of the registrations, transfers, transmissions, mortgages and any other dealings with ships which have been registered by or

communicated to the Registrar in the capacity as Registrar and the names of persons concerned and any other particulars directed by the Director-General.

#### **86. Inspection of books and documents admissible in evidence**

(1) Any person may, on application to the Registrar during office hours and on payment of fees determined from time to time by the Board inspect a register book.

(2) The following documents are admissible as evidence in the manner provided by this Act:

- (a) a register book under this Part, on its production from the custody of the Registrar or any other person who has lawful custody of it;
- (b) a certificate of registry under this Act signed by the Registrar or any other proper officer;
- (c) an endorsement on a certificate of registry signed by the Registrar or any other proper officer; and
- (d) a declaration made in pursuance of this Part in respect of a Ghanaian ship.

(3) A copy or transcript of the register of Ghanaian ships kept by the Authority is admissible in evidence and has the same effect as the original register of which it is a copy or a transcript.

#### **87. Documents and instructions as to registration in prescribed form**

(1) The following instruments and documents shall be in a form prescribed by legislative instrument by the Minister,

- (a) certificate of survey;
- (b) declaration of ownership by an individual owner;
- (c) declaration of ownership on behalf of body corporate as owner;
- (d) certificate of registry;
- (e) provisional certificate;
- (f) declaration of ownership by an individual transferee;
- (g) declaration of ownership on behalf of body corporate as transferee;
- (h) declaration of owner taking by transmission; and
- (i) declaration of mortgagee taking by transmission.

(2) The Director-General may direct an officer of the Authority with regard to,

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

#### **88. Forgery of documents**

A person who forges, or fraudulently alters or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any register book, builder's certificate, certificate of survey, certificate of registry, declaration, bill of sale or instrument of mortgage, under this Part, or an entry or endorsement required by this Part to be made in or on any of those documents, commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment.

### **89. False declaration**

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

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

commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment.

(2) Subject to subsection (1) a person who wilfully makes a false declaration concerning the person's qualification or the qualification of any other person or body corporate to own a Ghanaian ship or a share in it, commits an offence and is liable on summary conviction to a fine not exceeding two thousands five hundred penalty units or to a term of imprisonment not exceeding ten years or to both the fine and the imprisonment, and the ship or share shall be subject to forfeiture under this Act, to the extent of the interest of the declarant, unless it is proved that the declaration was made without authority of that person or that body corporate.

### **90. Liabilities of persons on unregistered ship**

Where a Ghanaian ship is required to be registered under this Act, and is not registered, a person found on that ship shall be dealt with in the same manner as if the ship were a registered Ghanaian ship.

### **91. Fees**

The Board shall determine the fees payable in respect of the registration, and the transfer including transmission, new registration, mortgage and transfer of mortgage of ships.

## **PART TWO**

### *National Character and Flag*

### **92. National character of ship to be declared before clearance**

(1) A customs officer shall not grant a clearance to a ship unless the master has declared the name of the nation to which the master claims the ship belongs, and the officer shall on the declaration write the ships name on the clearance.

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

### **93. National colours**

The national flag of Ghana is declared to be the national colours for all Ghanaian ships.

### **94. Right to fly the flag of Ghana**

(1) A ship registered or licensed in accordance with this Act as a Ghanaian ship shall fly the national flag of Ghana.

(2) Subsection (1) shall not be construed as prohibiting ships which are exempt from registration or licensing under this Act from flying in Ghanaian waters the national colours of Ghana.

### **95. Showing of national colours**

(1) A Ghanaian ship shall hoist the proper national colours

- (a) on a signal being made to her from a ship or an aircraft of the Armed Forces;
- (b) on entering or leaving a Ghanaian or foreign port;
- (c) when passing a warship; and
- (d) while in a Ghanaian port, from sunrise to sunset.

(2) Where default is made in complying with this section the master of the ship commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months.

(3) Where there are hoisted on board a Ghanaian ship, the colours or pendants usually worn by ships of the Ghana Navy, or the national colours of any other country, the master of the ship or the owner, if the owner is on board the ship, and every other person hoisting the pendants or colours, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units and or to a term of imprisonment not exceeding twelve months in addition to the seizure of the colours or pendants by the Court.

(4) This section does not apply to fishing vessels exclusively employed in fishing, which are lettered and numbered and entered in the fishing vessel register.

### **96. Unauthorised use of national colours**

(1) A person who uses or permits any other person to use the national colours on board a ship which is not a Ghanaian ship or in any other way makes a foreign ship or permits a foreign ship to be made to appear to be a Ghanaian ship,

- (a) commits an offence and is liable on summary conviction to a fine not exceeding the cedi equivalent of US \$1 million or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment; and
- (b) the ship is liable to forfeiture under this Act,

unless the use or assumption of appearance was made for the purpose of escaping capture by an enemy or a foreign warship exercising some belligerent right.

(2) In any proceedings under this section the burden of proving the right to use the national colours and to assume the appearance of a Ghanaian ship is on the person using the national colours or assuming the appearance.

### **97. Penalty for concealing Ghanaian character or assuming foreign character**

- (1) Subject to subsection (2), where the master or owner of a Ghanaian ship,
- (a) does anything or permits anything to be done,
  - (b) carries or permits to be carried any papers or documents, with intent to deceive,
  - (c) conceals the Ghanaian character of the ship from any person entitled by the law of Ghana to investigate a Ghanaian ship,
  - (d) assumes a foreign character, or
  - (e) deceives any person so entitled,

the owner or master commits an offence and that ship shall on conviction of the master or owner be forfeited to the Republic.

(2) Where the master or owner of the ship commits or is privy to the commission of the offence referred to in subsection (1), the master or owner is liable, on summary conviction, to a fine not exceeding the cedi equivalent of US \$1 million or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

### **98. Penalty for acquiring ownership if unqualified**

Where a person not qualified to own a Ghanaian ship acquires by transfer, an interest, legal or beneficial, in that ship and uses the national colours of Ghana or assumes a Ghanaian national character, that person commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment, and the interest of that person is liable to forfeiture under this Act.

## PART THREE

### *Manning and Certification*

### **99. Regulations regarding manning and qualifications of a person serving on a Ghanaian ship**

(1) The Minister may make Regulations for the manning requirements for a Ghanaian ship including inland water crafts and the qualifications of officers and seafarers of the ship and for other related matters.

- (2) Regulations made under subsection (1) may include,
- (a) provisions on the categories of Ghanaian ships by reference to their tonnage capacity, the nature of their cargo and the trading areas including inland waters or voyages in which they are engaged;
  - (b) the manning requirements in relation to classes or descriptions of ships including inland water crafts, trading in prescribed areas including inland waters, and in particular requiring ships to carry that description, qualified doctors and qualified cooks and the number of any other seafarers or qualified seafarers prescribed in the Regulations;
  - (c) conditions as to the nationality of a person for service on board a Ghanaian ship, or a ship engaged in local trade in Ghanaian waters;
  - (d) provisions requiring that a ship shall be under the charge of a properly certificated master

and that watches at sea and in port are always kept by suitably qualified officers;

- (e) provisions requiring officers, seafarers and any other persons performing prescribed functions in relation to the operation and maintenance of Ghanaian ships to be holders of certificates of competency, or otherwise and to satisfy any other prescribed conditions, including conditions as to nationality and prescribing for the grant, dispensation, revocation, extension, validation, suspension, endorsement or variation and recording of those certificates;
- (f) provisions relating to the
  - (i) conduct of examinations in respect of certificates of competency,
  - (ii) issue of certificates of competency to masters, mates and engineers,
  - (iii) the qualification of candidates for the examinations and the qualification and appointment of the examiners,
  - (iv) the remuneration of examiners,
  - (v) the fees for the examinations, and
  - (vi) any other matters that the Minister thinks necessary for the purpose of the examinations,
- (g) provisions for the exemption of persons with prescribed qualifications or experience from the whole or parts of the examinations for those certificates;
- (h) provisions for the programmes of training and the curricula of study to be followed in the training of seafarers;
- (i) provisions 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;
- (j) provisions prescribing the manner in which enquiries may be instituted before a board of enquiry appointed under section 102; and
- (k) provisions prescribing any other matter which is required by this Act to be prescribed.

(3) In making Regulations under subsection (1) the Minister shall consider the relevant Conventions of the International Labour Organisation, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended and any other related international conventions to which Ghana is a party.

#### **100. Power to exempt**

The Minister may exempt a ship or class of ships from the requirements of the Regulations made under section 99 and an exemption given under this section may be for a particular period or for one or more voyages.

#### **101. Board of inquiry**

Where there is an allegation that a seafarer

- (a) is suffering from a habit or a mental or physical condition that renders the seafarer unfit to be a seafarer,

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

the Authority may appoint a board of inquiry of two or three persons, one of whom is a senior officer of a ship, to enquire into the allegation and report its findings with its recommendations in writing to the Authority.

#### **102. Powers of the board**

A board appointed under section 101 shall have all the powers of a person holding an inquiry under the section.

#### **103. Cancellation of certificate**

The Board on the recommendation of

- (a) a board of inquiry set up under section 101, or
- (b) the Director-General, consequent on the conviction of a seafarer for an offence under this Act,

may in writing, cancel or suspend a certificate issued under Regulations made under section 99 (2) (f) and order the certificate to be surrendered at a place and time it directs.

#### **104. Revocation of certificate**

The Board may, on the recommendation of

- (a) a board of inquiry, or
- (b) the Director-General as a result of the conviction of a seafarer,

in writing withdraw indefinitely or temporarily an approval for a certificate issued under Regulations made under section 99 (2) (f).

#### **105. Appeals against cancellation of certificate**

A person who is aggrieved by a decision under section 103 or 104, cancelling or suspending a certificate, or withdrawing an approval under this Act, may appeal to the High Court against the decision.

#### **106. Offences**

(1) A person who

- (a) serves as a seafarer on board a Ghanaian ship without being the holder of a valid certificate appropriate to the category in which the person is engaged to serve, or
- (b) on that person's own accord or acting in the capacity of an agent, engages any other person as a seafarer without taking the necessary steps to ascertain whether that other person is the holder of an appropriate valid certificate,

commits an offence under this Act and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the

fine and the imprisonment.

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

(3) A person who

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

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(4) Any person who

- (a) not being the holder of a valid certificate, or
- (b) during a period when the certificate of the person is suspended or approval for the certificate is withdrawn,

takes or uses a title, implying or calculated to lead another person to believe that that person is entitled to serve as a seafarer on a Ghanaian ship, commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(5) A seafarer who fails to comply with a direction of the Authority to surrender the certificate of the seafarer without reasonable cause commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

## PART FOUR

### *Engagement and Welfare of Seafarers*

#### **107. Functions of Registrar of seafarers**

(1) The functions of the Registrar of seafarers are,

- (a) to conduct business connected with the engagement and discharge of
  - (i) a person who serves on board a Ghanaian ship, and

- (ii) a Ghanaian seafarer who serves on a foreign ship;
- (b) to afford facilities for engaging and discharging a seafarer by maintaining a register of the names and conduct of
  - (i) seafarers who apply to the Registrar for engagement,
  - (ii) seafarers shipped or discharged by the Registrar,
  - (iii) seafarers who produce continuous discharge certificates in proof of service in foreign or Ghanaian ships, and
  - (iv) seafarers who serve in Ghanaian ships;
- (c) to cause copies of the certificates referred to in paragraph (b) (iii) to be kept at the Registrar's office; and
- (d) to perform any other duties entrusted to the Registrar relating to seafarers, apprentices and ships in pursuance of this or any other enactment relating to shipping.

(2) A person shall not engage or recruit a Ghanaian seafarer for employment on board a Ghanaian or foreign ship, without first obtaining a licence in the prescribed form from the Authority authorising that person to engage or recruit Ghanaian seafarers for sea service.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not less than three hundred penalty units and not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years.

#### **108. Crew agreement**

(1) Subject to subsection (2), the owner or master of every ship shall enter into an agreement in accordance with this Part with every Ghanaian seafarer whom the owner or master engages and every seafarer whom the owner or master engages in Ghana and carries to sea as one of the crew.

(2) Subsection (1) does not apply to

- (a) ships under twenty-four metres in length not engaged on international voyages, and
- (b) vessels of any length trading or operating solely within the inland waters of Ghana.

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

(4) The Minister may make Regulations for the engagement and matters pertaining to the engagement of seafarers in respect of vessels under twenty-four metres in length or fifteen tons in weight which are not engaged on international voyages and vessels of any length or weight trading or operating solely within the inland waters of Ghana.

#### **109. Contents of crew agreements**

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

(2) A crew agreement shall show the place at which it is made, the surname and other names of the seafarer, the seafarer's birthplace and age or date of birth, and shall state clearly the respective rights and obligations of each of the parties, and shall contain as its terms the following particulars:

- (a) the name of the ship in which the seafarer undertakes to serve;

- (b) the nature and, as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, which shall not exceed twelve months;
- (c) the port at which it is intended to discharge the crew and the places or ports of the world to which the voyage or engagement is not to extend;
- (d) the number and description of the crew;
- (e) if possible, the place and date at which each seafarer is to be on board or to begin work;
- (f) the capacity in which each seafarer is to serve;
- (g) the amount of wages which each seafarer is to receive;
- (h) the prescribed scale of the provisions which are to be supplied to a seafarer;
- (i) the time that is to expire after arrival at the port of discharge before a seafarer is discharged;
- (j) Regulations as to conduct on board and as to fines, and any other lawful punishment for misconduct which have been made by the Minister and which the parties agree to adopt; and
- (k) a list of persons under the age of eighteen years and the dates of their births.

(3) The crew agreement shall contain the accepted provisions between the master of the ship and the seafarer with regard to advances and wages to be paid.

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

- (a) consent of the parties;
- (b) the death of the seafarer;
- (c) the loss or total unseaworthiness of the ship; or
- (d) where the agreement relates to employment for a particular period
  - (i) on the expiration of that period, or
  - (ii) if the period expires during the voyage on arrival of the ship, at the next port of call.

#### **110. Regulations for disciplinary offences**

For the purpose of maintaining discipline on board Ghanaian ships, the Minister may make Regulations,

- (a) making misconduct by seafarers on board a ship a disciplinary offence for which the master or an officer designated by the master may impose penalties;
- (b) to provide for the setting up of a disciplinary committee consisting of persons employed in the ships and for the exercise by all or any of those members of the powers of the master in dealing with disciplinary offences;
- (c) to provide for the payment of penalties for disciplinary offences; and
- (d) prescribing the procedure for the hearing of appeals against penalties for disciplinary offences.

#### **111. Disciplinary offence and criminal offence**

Where a conduct is both a disciplinary offence and an offence against any other provision of this Act,

and that offence has been dealt with as a disciplinary offence, the offence shall not be dealt with as an offence against that provision and vice versa.

## **112. Procedures relating to certain crew agreements**

The following provisions shall have effect with respect to a crew agreement made in the case of a ship trading from and beyond the waters of Ghana:

- (a) the agreement shall, subject to the provisions of this Act, apply to substitutes;
- (b) the Registrar of seafarers shall cause the agreement to be read over and explained to each seafarer in a language which the seafarer understands before the seafarer signs it and the Registrar shall attest to each signature;
- (c) the agreement shall be signed in duplicate when the crew is first engaged, and one copy forwarded to the owner of the ship and the other retained by the master;
- (d) the crew agreement shall also contain a special place or form for the description and signature of a substitute, or a person engaged subsequent to the first departure of the ship;
- (e) the master shall, where a substitute is engaged in the place of a seafarer who duly signed the agreement and whose services are within twenty-four hours of the ship proceeding to sea lost by death, desertion or any other unforeseen cause, cause the agreement to be read over and explained to the substitute in a language which the substitute understands;
- (f) the substitute shall sign the crew agreement in the presence of a witness who shall attest the signature;
- (g) an agreement may be made for a voyage or, if the voyage of the ship averages less than six months in duration, may be made to extend over two or more voyages;
- (h) an agreement made to extend over two or more voyages is referred to as a “running agreement” in this Act;
- (i) a running agreement shall not extend beyond the twelve months next following the date of the making of the agreement or the first arrival of the ship at her port of destination after the expiration of the twelve months;
- (j) the master shall endorse an agreement for the engagement or discharge of a seafarer on every return to the port where the crew was engaged before the final expiration of a running agreement;
- (k) the master shall ensure that engagements or discharges have been made or are intended to be made before the ship leaves port and that all those agreements comply with this Act;
- (l) a master who wilfully makes a false statement in an endorsement commits an offence;
- (m) the duplicate crew agreement retained by the owner of the ship on the first engagement of the crew shall be kept by the owner for a period of seven years after the expiration of the agreement and shall be produced on demand to the Registrar of seafarers or other proper officer; and
- (n) except as provided in section 128 a crew agreement shall not deprive any court of its jurisdiction to hear and determine disputes in respect of the agreement.

## **113. Further provisions as to 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 signatories) to be displayed in some part of the ship which is accessible to the crew.

(2) An erasure, amendment or alteration in a crew agreement, except an addition made for the purpose of shipping a substitute or a person engaged after the first departure of the ship, shall be without effect unless proved to have been made with the consent of the persons interested in the erasure, amendment or alteration.

(3) In proceedings, a seafarer may introduce evidence to prove the contents of a crew agreement or otherwise to support the seafarer's case without giving notice of intention to produce the agreement or a copy of the agreement.

(4) A person who fraudulently alters, makes a false entry in, or delivers a false copy of a crew agreement commits an offence and is liable on summary conviction to a fine not exceeding one hundred penalty units or a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

#### **114. Stipulations not to be contrary to law of flag state**

Stipulations adopted by the parties shall not be contrary to the laws of the flag state of the ship in matters relating to wages and conditions of employment of a seafarer and master on board a ship.

#### **115. Seafarer's certificate of discharge**

(1) Subject to section 171 a master shall sign and give to a seafarer discharged from the master's ship, on the seafarer's discharge or on payment of the seafarer's wages, a certificate of the seafarer's discharge in an approved form specifying the period of the seafarer's service and the time and place of discharge.

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

(3) A master shall on the discharge of every certificated officer whose certificate of competency had been delivered to and retained by the master, return the certificate to the officer.

#### **116. Character report**

(1) When a seafarer is discharged from a Ghanaian ship, the master of the ship shall make a character report in the prescribed form, in which the master

- (a) shall report on the conduct, character and qualifications of the seafarer being discharged, or
- (b) may state that the master declines to give a report on the conduct, character and qualifications of the seafarer being discharged.

(2) The master who discharges a seafarer shall, subject to section 172 and if the seafarer so desires, give the seafarer a copy of the character report on that seafarer.

(3) A person who

- (a) knowingly makes a false report on a seafarer's character,
- (b) forges or fraudulently alters a certificate of discharge or a character report or copy of a character report, or
- (c) uses a certificate of discharge or character report that is forged or fraudulently altered or that

does not belong to the person,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **117. Discharge on change of ship's registry**

(1) Where a Ghanaian ship ceases to be registered as a Ghanaian ship, a seafarer employed to work in the ship shall be discharged from the ship, unless the seafarer consents in writing to continue employment in the ship.

(2) In a situation under subsection (1) the provisions of this Part relating to the payment of a seafarer's wages and the power of the Registrar of seafarers or any other proper officer to decide disputes about wages shall apply in relation to the seafarer's wages as if the ship had remained registered in Ghana.

#### **118. Employment of children or persons under eighteen years**

(1) A person under the age of eighteen years shall not be employed in a Ghanaian ship except

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

(2) A person under the age of eighteen years shall not be employed in any capacity on a ship unless there has been delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that that person is fit to be employed in that capacity.

(3) A medical certificate issued 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 the medical practitioner is satisfied that that person is no longer fit for work.

(4) A person under the age of eighteen years shall not be employed to work in the engine room of a ship, unless that person is an apprentice working under supervision.

#### **119. Changes in crew of certain ships**

(1) The master of a Ghanaian ship trading outside Ghanaian waters shall before leaving Ghana, sign and send in the prescribed form to the Board a full and accurate statement of every change that takes place in that master's crew before finally leaving.

(2) A master who, without reasonable cause, fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **120. Change of master**

(1) Where, during the voyage of a Ghanaian ship, the master is removed, superseded by some other person or for any other reason ceases to have command of the ship, the master shall deliver to the master's successor the certificate of registry and the various documents relating to the crew and the navigation of the ship which are in the master's custody.

(2) A master who fails to deliver the relevant documents to the master's successor without reasonable cause commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(3) The successor to every master shall immediately on assumption of the command of a ship enter in the official log book a list of the documents delivered to that successor.

#### **121. Regulations for conditions of service**

(1) The Minister may make Regulations as the Minister considers necessary to provide for,

- (a) the conditions of service of persons serving on Ghanaian ships and Ghanaian nationals serving in foreign ships; and
- (b) matters connected with the service referred to in paragraph (a) and, in particular, relating to
  - (i) apprenticeship to sea service;
  - (ii) the implementation of an international convention relating to the employment, welfare, security, certification or status of seafarers;
  - (iii) the avoidance of agreements made contrary to the Regulations;
  - (iv) wages in general, and the rights related to persons employed in Ghanaian ships, securing safe working conditions, the health and welfare of seafarers and apprentices employed in ships;
  - (v) the accommodation to be provided for seafarers and apprentices on board ships, the location and standard of accommodation and the questions relating to the accommodation of seafarers and apprentices on board; and
  - (vi) engagement by foreign ships of Ghanaian nationals.

(2) In making Regulations under subsection (1), the Minister shall consider the following International Maritime Conventions:

- (a) Convention Concerning Minimum Standards in Merchant Ships, (1976);
- (b) Convention Concerning Wages, Hours of Work on Board Ship and Manning (Revised), 1958;
- (c) Convention Concerning the Medical Examination of Seafarers, (1946);
- (d) Convention Concerning Crew Accommodation on Board Ship (Revised), 1949;
- (e) Convention Concerning Crew Accommodation on Board Ship (Supplementary Provisions), 1970; and
- (f) International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978 as amended (S.T.C.W.).

#### **122. Use of English language**

(1) Except as otherwise provided in this Act, the correspondence, documents, forms or any other writings for the purposes of this Act shall be in the English language, and in the case of crew agreement, official log book and muster lists, in a prescribed form except that another language version of a document may be appended to the English language version.

(2) The written signs displayed on board a Ghanaian ship shall be in the English language, with another language version appended if the master considers it necessary.

### **123. Crew's knowledge of English**

(1) Where in the opinion of the Board the crew of a Ghanaian ship consists of, or includes persons who may not understand orders given to them in the course of their duty because of,

- (a) their insufficient knowledge of English, and
- (b) absence of adequate arrangements for transmitting orders in a language of which they have sufficient knowledge,

the Board shall serve notice on the master and the ship shall not proceed to sea until the Board is satisfied that the situation has been rectified.

(2) If a ship goes to sea or attempts to proceed to sea in contravention of this section both the owner and the master commits an offence and are liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### *Wages and Emoluments*

### **124. Time and manner of payment of wages**

The master or owner of a Ghanaian ship trading outside Ghanaian waters shall pay to each seafarer belonging to that ship the seafarer's wages, if demanded, within two days after the arrival of the ship at the port where the crew is to be discharged or on the seafarer's discharge, whichever happens first.

### **125. Delivery of account of wages**

(1) The master of a Ghanaian ship shall, before being paid off or discharging a seafarer, deliver at the time and in the manner provided for by this Act a full and true account of the seafarer's wages and deductions to be made from them.

(2) The account shall be delivered to the seafarer not less than twenty-four hours before the seafarer is discharged or paid off.

### **126. Deductions from wages**

(1) Except in respect of a matter that happens after the delivery, a deduction from the wages of a seafarer shall not be allowed unless it is included in the account delivered under section 125.

(2) The master shall, during the voyage, record in a book kept for that purpose, the various issues in respect of which the deductions are made and shall if required produce the book at the time of the payment of wages and also on the hearing before a competent authority of a complaint or question relating to that payment.

### **127. Settlement of wages**

(1) When a seafarer is discharged and the settlement of the seafarer's wages is completed, the seafarer shall sign a release, in an approved form, of the 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 signed and attested release, shall operate as a discharge and settlement of the demands between the parties to it in respect of the past voyage or engagement.

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

#### **128. Registrar's decision on wages**

(1) Where the nature and the amount involved in a dispute between a master or owner and any of the master's crew is raised before the Registrar of seafarers and both parties agree in writing to submit the same to the Registrar, the Registrar shall hear and decide the question submitted.

(2) An award made by the Registrar on the submission is conclusive as to the rights of the parties and the submission of the award is admissible in evidence.

#### **129. Registrar shall require ship's documents**

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

- (a) require the owner or the owner's agent or the master or a mate or any other member of the crew, to produce the log books or any other documents in that person's possession,
- (b) deal with a matter in question in the proceedings, and
- (c) require the attendance and examination of a person who has information on the matter.

(2) A person who fails without reasonable cause to comply with the requirements of the Registrar under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

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

#### **130. Rate of exchange**

Where a seafarer has agreed with the master of a Ghanaian ship for payment of the seafarer's wages or a part of it in a specific currency, a payment of or on account of the seafarer's wages if made in a currency other than that stated in the agreement, shall, despite anything in the agreement, be made at the current official rate of exchange for the amount stated in the agreement and the rate of exchange shall be endorsed on the agreement by a proper officer at that place.

#### **131. Limited power of Registrar to settle wage disputes**

Where, before the Registrar of seafarers or a proper officer, a question as to wages is raised between the master or owner of a ship and a seafarer, and the amount does not exceed the cedi equivalent of US \$1 000 the Registrar or the officer may on the application of either party decide the question, except that if the Registrar or the officer is of the opinion that the question is one which ought to be decided by a Court, the Registrar may refuse to decide it.

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

A court may in an action for the recovery of wages order the master of a ship or a person employed in a ship otherwise than under a crew agreement to pay in addition to the sum due, interest on it at the rate of twenty percent per annum or at a lower rate as the Court may specify starting from seven days after the sum became due and ending when the sum is paid; but where it appears to the Court that the delay in paying the sum due was by mistake and not attributable to a default of the master or any other agent of the owner, it may refuse to allow payment of interest on the wages.

### **133. Allotment notes**

(1) A seafarer may, by means of an allotment note issued in accordance with Regulations made under this section, allot a part of the wages to which the seafarer will become entitled in the course of the seafarer's employment in a Ghanaian ship.

(2) The Minister may make Regulations

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

### **134. Wages where service is terminated**

(1) Where the service of a seafarer terminates before the date contemplated in the agreement, by reason of the seafarer being left on shore outside Ghana because of the seafarer's unfitness or inability to proceed with the voyage, the seafarer is entitled to wages for the time served but not for any further period.

(2) Where the service of a seafarer terminates before the date contemplated in the seafarer's agreement, by reason of the loss or foundering of the seafarer's ship, the seafarer is entitled to receive wages in respect of each day on which the seafarer is in fact unemployed during a period of two months from the date of termination of the service, at the rate to which the seafarer was entitled at that date, unless the seafarer obtains other suitable employment.

### **135. Protection of seafarer's rights and remedies**

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

(2) A stipulation in an agreement inconsistent with subsection (1) or any other provision of this Act is void.

(3) Subsection (1) does not affect a term of an agreement that relates to the remuneration to be paid to a seafarer belonging to a ship which is to be employed on salvage service.

### **136. Claims against seafarer's wages for maintenance**

(1) Where, during a seafarer's employment in a ship, expenses are incurred by a public officer for the benefit of a dependant of the seafarer and the expenses are of a kind specified in the Regulations and further conditions, as may be so specified, are satisfied, the public officer may by notice in writing require

the person employing the seafarer

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

and the person employing the seafarer shall comply with the notice and give notice in writing of its contents to the seafarer.

(2) For the purposes of this section,

- (a) a seafarer's dependants are the seafarer's spouse and any other person under the age of eighteen years whom the seafarer is liable to maintain or to whom the seafarer is liable to make contributions under an enactment; and
- (b) the Minister may by Regulations prescribe for payment
  - (i) of expenses incurred in providing a dependant with accommodation, care and exercising supervision over the dependant,
  - (ii) of any other expenses incurred for the benefit of the dependant, and
  - (iii) to be made to the dependant,

except that the Regulations may not prescribe for the payment of expenses unless they are expenses that a Court may order.

(3) Not more than the following proportion of a seafarer's net wages shall be retained under subsection (1):

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

(4) Where a public officer has served a notice under this section on a person employing a seafarer, a competent Court may, on the application of the officer, make an order for the payment to the officer of a sum, not exceeding the proportion of the seafarer's wages which that person is required by virtue of this section to retain, as the Court having regard to the expenses incurred by the officer and the seafarer's means, considers fit.

(5) A sum paid out of a seafarer's wages in pursuance of an order under this section shall be considered to be paid to the seafarer in respect of the seafarer's wages; and the service on the person who employed the seafarer of the order or of an order dismissing the application, shall terminate the period for which that person is required to retain the wages.

(6) An application for an order under this section for the payment of a sum by the person who employs a seafarer shall be considered, for the purposes of any proceedings, to be an application for an order against the seafarer, but the order, when served on that person, shall have effect as an order against that person and may be enforced accordingly.

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

(8) The Minister may make Regulations specifying,

- (a) the expenses in respect of which a notice may be served by a public officer under subsection (1);
- (b) the conditions that must be satisfied if a notice is to be served;

- (c) that the duration of a notice begins with the service of that notice and ends after a specified number of days after the seafarer's discharge from the seafarer's ship;
- (d) the form of the notice and the information to be contained in it; and
- (e) the amounts to be deducted from a seafarer's wages in computing the seafarer's net wages for the purposes of this section, includes amounts stipulated in allotment notes issued under section 133.

### **137. Master's remedies, remuneration and disbursements**

(1) The master of a Ghanaian ship, has the same rights, liens and remedies for the recovery of the master's wages as a seafarer has for the seafarer's wages under this Act or any other law.

(2) The master of a Ghanaian ship, and every person lawfully acting as master of that ship by reason of the death or incapacity from illness of the master of the ship, has the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by that person on account of the ship as a master has for the recovery of the master's wages.

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

### **138. Wages not to depend on freight**

(1) The right to wages shall not depend on the earning from freight, and every seafarer and apprentice who would be entitled to demand and recover any wages if the ship in which the seafarer serves has earned freight, shall, subject to any other rules of law and conditions applicable to the case, be entitled to demand and recover wages although freight has not been earned, but in the event of wreck, or loss of the ship, proof that the seafarer has not made the utmost effort to save the ship, cargo and stores, shall bar the seafarer's claim for wages.

(2) Where a seafarer or an apprentice who is entitled by virtue of this section to demand and recover wages, dies before the wages are paid, the wages shall be paid and applied in the same way as the wages of a seafarer who dies during a voyage.

### **139. Refusal to work**

A seafarer is not entitled to wages at any time during which the seafarer unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for the seafarer to begin work, or for a period during which the seafarer is lawfully imprisoned for an offence committed by the seafarer, unless the Court hearing the case otherwise directs.

### **140. Illness caused by own default**

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

(2) Subsection (1) does not affect the rights of a seafarer to a payment or other benefits to which the

seafarer is entitled under a law providing for compensation to an injured or sick worker.

#### **141. Costs of procuring conviction**

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

#### **142. Improper discharge**

Where a seafarer 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 the seafarer's fault or consent, the seafarer is entitled to receive from the master or owner, in addition to the wages the seafarer might have earned, due compensation for the damage caused to the seafarer by the discharge, not exceeding one month's wages; and the seafarer may recover that compensation as if it were wages duly earned.

#### **143. Protection of wages**

- (1) The following provisions apply to wages due or accruing to a seafarer:
  - (a) subject to section 136, 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) a power of attorney or authority for the receipt of wages may be revoked; and
  - (d) a payment of wages to a seafarer is valid in law notwithstanding that 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 a disposition relating to the application of wages,
  - (a) in the payment of contributions to a fund declared by the Regulations to be a fund to which this section applies, or
  - (b) in the payment of contributions in respect of the membership of a body declared by the Regulations to be a body to which this section applies.

#### **144. Leave and holidays**

(1) A seafarer is entitled after twelve months of continuous service on a Ghanaian ship, or for the same employer, to annual leave with pay, the duration of which shall be not less than thirty working days for each year of service.

- (2) For the purpose of calculating the time for 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 default of the employee and not exceeding

a total of six weeks in any twelve months do not break the continuity of the periods of service that precede and follow them; and

- (c) continuity of service is not interrupted by a change in the management or ownership of the ships in which the person concerned has served.
- (3) The following are not included in computing the period of leave:
- (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 Ghanaian ship is entitled to twelve days annual leave with pay and to payment in lieu of public holidays as the Government may decide, and if the length of continuous service is less than twelve months, then the annual leave with pay shall be pro-rata.

#### **145. Seafarer may sue for wages**

(1) Subject to section 136, a seafarer or a person duly authorised on the seafarer's behalf, may, as soon as the wages due to the seafarer become payable, sue for them in a court having jurisdiction in the place at which the seafarer's service is terminated or at which the seafarer is discharged, or at which a master or an owner or any other person on whom the claim is made, resides.

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

(3) On the appearance of the master or owner or other person, the Court may examine the parties and their respective witnesses on oath regarding the complaint and the amount of wages due, and may make an order for the payment of any wages found due that appears reasonable and just.

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

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

(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, but if the ship is not within the jurisdiction of the Court, a levy shall not be made on the ship but the Court may cause the person on whom the order for payment is made to be arrested and committed to prison for a term not exceeding twelve months unless the payment is made earlier.

#### **146. Jurisdiction of Court in the recovery of wages**

A court of competent jurisdiction may hear and determine an action by or on behalf of a seafarer or an apprentice for the recovery of wages, where

- (a) the owner of the ship is bankrupt, or
- (b) the ship is under arrest or is sold by the authority of the Court.

#### **147. Power to rescind contracts**

(1) Where proceedings are instituted in a Court in relation to a dispute between an owner or a master of a ship and a seafarer, arising out of or incidental to their relationship the Court may, considering all the circumstances, rescind a contract between the owner or master and the seafarer, or a contract or the articles of apprenticeship, on terms that the Court considers just.

(2) The jurisdiction of a Court under subsection (1) is in addition to any other jurisdiction that the Court can exercise.

#### *Property of Deceased Seafarer*

#### **148. Property of deceased seafarer**

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

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

(a) a statement of the amount of the money and a description of the effects, and

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

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

(4) The master may cause any of the effects of a deceased seafarer to be sold.

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

(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 seafarer”.

#### **149. Delivery of deceased seafarer’s property**

(1) Subject to subsection (2), the property of the seafarer 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 seafarer to the Registrar of seafarers or to the proper officer for disposal,

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

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

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

(3) The master shall then deliver a statement of account to the Registrar of seafarers in respect of the property of the deceased seafarer.

#### **150. Forgery of documents**

(1) A person commits an offence, if that person for the purpose of obtaining for that person or for any other person, a property of a deceased seafarer,

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

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years.

### *Occupational Safety*

#### **151. 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 seafarers employed in Ghanaian ships, and requiring the reporting of injuries sustained by them.

(2) In addition to subsection (1), Regulations under this section may

- (a) require the maintenance, inspection and testing of an equipment and impose conditions on its use;
- (b) require, prohibit, or regulate the use of protective clothing or equipment;
- (c) limit the hours of employment of seafarers in a specified operation or in any specified circumstances; and
- (d) make provision for the performance, by persons appointed from among the persons employed in a ship, of functions to be prescribed under the Regulations.

(3) In making Regulations under this section, the Minister shall consider the Convention concerning the Prevention of Occupational Accidents to Seafarers, (1970) of the International Labour Organisation.

### *Required Provisions and Water for Ships*

#### **152. Provisions and water**

(1) The Minister may make Regulations requiring provisions and water to be provided for seafarers employed in Ghanaian ships or a class of ships specified in the Regulations.

(2) The Minister may exempt a ship from any of the requirement by the Regulations, generally or in respect of a particular voyage.

(3) Where a person authorised to inspect provisions and water to be supplied to seafarers employed in a Ghanaian ship, is not satisfied that they are in accordance with the Regulations, the ship, if in Ghana, may be detained.

### **153. Complaints as to provisions and water**

(1) Where three or more members of the crew of a Ghanaian ship consider that the provisions and water provided for the use of the crew are at any time of poor quality or insufficient, they may complain to the Registrar of seafarers or the proper officer, who may examine the provisions and water complained of, or cause them to be examined.

(2) Where the person making an examination under this section finds that the items are of poor quality or insufficient, that person shall communicate that fact in writing to the master of the ship, and if the master fails to provide provisions or water fit for human consumption, the master commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

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

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

### **154. Allowance for short or bad provisions**

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

(2) Where the deficiency occurred because the provisions are supplied in improper quantities and proper equivalent substitutes were supplied in lieu of those circumstances it shall be taken into consideration for the purposes of subsection (1) and the compensation shall be reduced or denied accordingly.

### **155. Weights and measures**

(1) The master of a Ghanaian 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 the master shall allow the weights and measures to be used in the presence of a witness at the time of the distribution of the provisions whenever a dispute arises regarding the quantities.

(2) A master who fails to comply with subsection (1) without reasonable cause commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

## *Health and Welfare*

### **156. Medical fitness Regulations**

(1) The Minister may make the Regulations which are necessary for conducting medical examinations of all persons seeking employment in any capacity on board Ghanaian ships and for the issue of medical certificates in respect of those persons.

(2) In making Regulations under subsection (1), the Minister shall have regard to the Convention

concerning the Medical Examination of Seafarers, 1946, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended.

### **157. Crew accommodation Regulations**

(1) The Minister may make Regulations with respect to the crew accommodation to be provided in Ghanaian ships.

(2) Regulations made under subsection (1) may in particular

- (a) prescribe the minimum space per person which shall be provided as sleeping accommodation for seafarers and the maximum number of persons who may use a specified part of such sleeping accommodation;
- (b) prescribe the equipment to be provided for the sleeping accommodation, mess rooms, sanitary accommodation and galleys in a ship;
- (c) regulate the spaces in the ship in which the crew accommodation or a part of it may be located and the standards to be observed in the construction, equipment and furnishing of that 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 works proposed to be carried out for the purpose of the provision or alteration of the accommodation and authorise the surveyor to inspect the works;
- (g) provide for the maintenance and repair of the accommodation and prohibit or restrict the use of the accommodation for purposes other than those for which it is designed; and
- (h) provide for the inspection, measuring and marking of crew accommodation on a ship and its certification for the purpose of ascertaining tonnage.

(3) Regulations made under this section may

- (a) exempt a particular ship or a class of ships from any of the requirements of the Regulations; and
- (b) require the master of a ship or an officer authorised by the master for the purpose to carry out the inspections of the crew accommodation as may be prescribed.

(4) In this section “**crew accommodation**” includes sleeping accommodation, mess rooms, sanitary accommodation, store rooms and catering accommodation provided for the use of seafarers, but does not include accommodation which is also used by or provided for the use of passengers.

(5) In making Regulations under this section, the Minister shall have due regard to the requirements of the Convention Concerning Crew Accommodation on Board Ships (Revised), 1949 and Supplementary Provisions, (1970) of the International Labour Organisation.

### **158. Certificated cook to be carried**

(1) A Ghanaian ship of one thousand gross tons or more trading from and beyond the waters of Ghana shall carry a duly certificated ship’s cook.

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

### **159. Medical stores Regulations**

(1) The Minister may make Regulations requiring Ghanaian ships to carry the medicines, medical stores, appliances and books containing instructions and advice specified in the Regulations.

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

(3) Where a surveyor or any other officer of the Authority is of the opinion that the medicines, medical stores, appliances and books on a Ghanaian ship are deficient in quantity or quality or are placed in improper receptacles, the surveyor shall give notice of this in writing to the master, owner or agent of the ship, and the ship may be detained.

### **160. Right to medical treatment**

(1) Where the master of a Ghanaian ship or a seafarer belonging to a Ghanaian ship in the course of duty gets injured or becomes ill and the illness is not as a result of the master's or seafarer's own wilful act or default, the owner of the ship shall defray, without a deduction on that account from wages the expense of

- (a) providing the necessary surgical and medical advice,
- (b) attendance to a health facility and medicines, and
- (c) the maintenance of the master or seafarer,

until the master or seafarer recovers from the injury or illness or dies or is returned to a proper port in accordance with section 202.

(2) The owner of the ship shall defray

- (a) the cost of conveyance, and
- (b) in the case of death, the burial expenses,

of a master or seafarer under subsection (1).

(3) The owner of a ship shall defray the expenses of

- (a) the removal and of providing the necessary medical advice,
- (b) medicine and attendance at a health facility and medicine, and
- (c) maintenance,

of a master or seafarer who on account of an illness or injury is temporary removed from the ship for the purpose of preventing infection or otherwise for the convenience of the ship or the injured or ill master or seafarer.

(4) In all other cases a reasonable expense duly incurred by the owner for a master or seafarer in respect of illness, and also the reasonable expenses duly incurred by the owner in respect of the burial of a master or seafarer who dies while on duty, shall, if duly proved, be deducted from the wages of the master or seafarer.

### **161. Recovery of expenses from owner**

(1) Where any of the expenses in respect of the illness or injury of a master or seafarer, which are to be paid by the owner, are paid by an officer on behalf of the Government, or if any other expenses in respect of the illness or injury of a master or seafarer whose wages are not accounted for under this Act to that officer, are so paid, the expenses shall be repaid to that officer by the owner of the ship.

(2) Where the expenses are not repaid, the amount of the expenses shall be a charge on the ship, and shall be recoverable from

- (a) the owner of the ship for the time being, or
- (b) the person who was the owner of the ship at the time of the loss or transfer in any case where the ship has been lost or has been transferred,

and the amount shall be regarded as a debt due to the Government recoverable by ordinary process of the law.

(3) In proceedings for recovery, a certificate of the facts signed by the officer, together with the vouchers, as the case requires, shall be sufficient proof that the expenses were duly paid by that officer.

#### **162. Effect of workman's compensation**

The eligibility of a seafarer to receive medical aid or periodical payments at the expense of the seafarer's employer under the terms of an enactment providing for compensation to injured or sick workers cancels the right of the seafarer to receive medical treatment under section 160

- (a) if that seafarer receives that medical aid, and
- (b) for so long as the seafarer receives the periodic payments.

#### **163. Medical practitioners to be carried**

(1) A Ghanaian ship trading outside Ghanaian waters that proceeds from a port with more than one hundred persons on board shall carry on board as part of its complement a duly qualified medical practitioner.

(2) The owner of a Ghanaian ship commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment in respect of every voyage in which the ship is in contravention of subsection (1).

#### **164. Facilities for making complaints**

(1) Where a seafarer, while on board a Ghanaian ship, informs the master that the seafarer wishes to make a complaint to the Registrar of seafarers or a judicial officer or to the proper officer against the master or any of the crew, the master shall as far as the services of the ship will permit, allow the seafarer to go ashore, so that the seafarer can make the complaint,

- (a) if the ship is then at a place where there is a proper officer or the Registrar of seafarers, or
- (b) if the ship is not at a place where there is a proper officer or the Registrar of seafarers then on her arrival at that place.

(2) A master of a ship who fails to comply with this section without reasonable cause, commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

## *Protection of Seafarers from Imposition*

### **165. Assignment and sale of salvage**

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

### **166. Seafarer's debts**

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

### **167. Misconduct endangering life of ship**

A master or seafarer, belonging to a Ghanaian ship, who by wilful breach of duty or by neglect of duty or while in a state of intoxication

- (a) does an act which could cause the immediate loss, destruction of, or serious damage to the ship, or to endanger immediately the life of a person belonging to or on board the ship, or
- (b) refuses or omits to do a lawful act for preserving the ship from immediate loss, destruction, or serious damage or for preserving a person belonging to or on board the ship from immediate danger to life,

commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

### **168. General offences against discipline**

(1) A seafarer or an apprentice lawfully engaged on a Ghanaian ship who commits any of the following offences is liable to be punished summarily in the following manner:

- (a) if the seafarer or apprentice leaves the ship without leave after the ship's arrival at a port, and before the ship is placed in security, the seafarer or apprentice is liable to forfeit out of the seafarer's or apprentice's wages a sum not exceeding one week's pay;
- (b) if the seafarer or apprentice is summarily convicted of wilful disobedience to a lawful command, the seafarer or apprentice is liable to imprisonment for a term not exceeding one month and in addition to forfeit, at the discretion of the Court, out of the seafarer's or apprentice's wages a sum not exceeding two days' pay;
- (c) if the seafarer or apprentice is summarily convicted of continued wilful disobedience to a lawful command or continued wilful neglect of duty, the seafarer or apprentice is liable to imprisonment for a term not exceeding three months, and at the discretion of the Court, to forfeit a sum not exceeding two days' pay for each day during which the offence continues or the expenses properly incurred in hiring a substitute;
- (d) if the seafarer or apprentice assaults the master or a mate or an officer of the ship, the seafarer or apprentice is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both

the fine and the imprisonment;

- (e) if the seafarer or apprentice conspires with a member of the crew to disobey a lawful command, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, the seafarer or apprentice is liable on summary conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment;
- (f) if the seafarer or apprentice wilfully damages the ship, or dishonestly misappropriates or converts to the seafarer's or apprentice's own use, or commits criminal breach of trust or wilfully damages any of the ship's stores or cargo, the seafarer or apprentice commits an offence and is liable on summary conviction to forfeit out of the seafarer's or apprentice's wages a sum equal to the loss sustained, and in addition, at the discretion of the Court, to a term of imprisonment not exceeding twelve months; or
- (g) if the seafarer or apprentice is summarily convicted of an act of smuggling, by which loss or damage is occasioned to the master or owner of the ship, the seafarer or apprentice is liable to pay to the master or owner a sum sufficient to reimburse the loss or damage and the whole or a proportionate part of the seafarer's or apprentice's wages may be retained in satisfaction or on account of that liability, despite a further penalty.

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

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

(4) The master of a ship may in addition to a punishment imposed on a seafarer who contravenes any of the provisions of subsection (1), discharge the seafarer.

### **169. Desertion and absence without leave**

(1) Where a seafarer lawfully engaged on a Ghanaian ship or an apprentice belonging to a Ghanaian ship deserts ship, the seafarer or apprentice commits the offence of desertion and is liable on summary conviction to imprisonment for a term not exceeding two months and in addition

- (a) the seafarer or apprentice is liable to forfeit all or part of any effect the seafarer or apprentice leaves on board, and
- (b) the wages which the seafarer or apprentice has then earned, and if the master or owner of the ship has engaged a substitute in the seafarer's or apprentice's place at a higher rate of wages than the rate at which wages had been stated to be paid to the seafarer or apprentice, the seafarer or apprentice shall be called on to pay the excess.

(2) Where a seafarer lawfully engaged on a Ghanaian ship or an apprentice belonging to a Ghanaian ship neglects or refuses without reasonable cause to

- (a) join the ship,
- (b) proceed to sea on the ship,
- (c) is absent without leave at,
  - (i) any time within the period of twenty-four hours immediately before the ship sails for a

port either at the commencement of or during the voyage, or

(ii) at any other time from the ship or duty without sufficient reason,

and the act or omission does not constitute the offence of desertion, the seafarer or apprentice commits the offence of absence without leave and is liable on summary conviction to

- (d) a term of imprisonment not exceeding two months;
- (e) forfeit a sum not exceeding two days' wages; or
- (f) a fine not exceeding six days' wages for each day during which the offence continues, or the expenses incurred in hiring a substitute.

#### **170. Improper negotiation of advance**

(1) Where a seafarer lawfully engaged on a Ghanaian ship has received under the seafarer's agreement an advance note, and after negotiating the advance note wilfully or through misconduct fails to join the ship or deserts before the note becomes payable, the seafarer commits an offence and is liable on summary conviction to a fine not exceeding twenty-five penalty units or to a term of imprisonment not exceeding two months or to both the fine and the imprisonment.

(2) Subsection (1) does not limit or otherwise prejudice a remedy, by action or otherwise

- (a) of a person in respect of the negotiation of the advance note, or
- (b) which an owner or master would otherwise have for breach of contract.

#### **171. Certificate of discharge may be withheld**

(1) Where it is shown to the satisfaction of the Registrar of seafarers that a seafarer lawfully engaged in and belonging to a Ghanaian ship has wilfully or through misconduct failed to join the ship, the Registrar may in writing direct that the seafarer's certificate of discharge should be withheld for the period specified in the direction.

(2) While a seafarer's certificate of discharge is withheld, a person who has custody of the document may, despite anything in any other enactment, refuse to furnish copies of the certificate of discharge or certified extract of the particulars of service or character.

#### **172. Summary remedies not to affect other remedies**

A provision of sections 169 and 170 shall not take away or limit a remedy by action before a Court which an owner or a master would have had recourse to for breach of contract in respect of the matters constituting an offence under those sections but for those provisions, but an owner or a master shall not be compensated more than once in respect of the same damage.

#### **173. False statement as to last ship**

Where a seafarer on or before being engaged, wilfully and fraudulently makes a false statement of the name of the seafarer's last ship or alleged last ship, or wilfully makes a false or fraudulent statement of the seafarer's own name, the seafarer commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **174. Deserters from foreign ships**

(1) Where it appears to the Authority that reciprocal facilities will be given by the government of a foreign country for apprehending and repatriating a seafarer who deserts in that country from a Ghanaian ship, the Authority may declare by publication in the *Gazette* that this section shall apply in the case of that country subject to the limitations that the Authority may impose.

(2) Where a seafarer or an apprentice deserts in Ghana 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.

(3) The Court shall give the assistance within its power, and for that purpose the Court may on information given on oath, issue a warrant for the deserter to be conveyed on board the ship or delivered to the master or mate of the ship or to the owner of the ship or the owner's agent in order to be conveyed on the ship.

#### **175. Proof of desertion when wages are to be forfeited**

(1) Where a question arises as to whether the wages of a seafarer or an apprentice are forfeited under this Part for desertion from a Ghanaian ship, it is sufficient for the person attempting to enforce the forfeiture to show that

- (a) the seafarer or apprentice was duly engaged in or belonged to the ship,
- (b) the seafarer or apprentice left the ship before the completion of the voyage or engagement, or
- (c) an entry of the seafarer's or apprentice's desertion was duly made in the official log book.

(2) The desertion shall be considered to be proved so far as it relates to a forfeiture of wages under this Part, unless the seafarer or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that the seafarer or apprentice had satisfactory reasons for leaving the ship.

#### **176. Application of proceeds from forfeiture**

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

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

#### **177. Question of forfeiture decided in suit for wages**

A question concerning the forfeiture of or deductions from the wages of a seafarer or apprentice under this Part may be determined in proceedings instituted with respect to those wages although the seafarer or apprentice has not been prosecuted for the offence that gives rise to the question.

#### **178. Deduction of penalty from wages**

(1) A penalty imposed on a seafarer for an act of misconduct for which the seafarer's agreement imposes the penalty, is subject to the following:

- (a) on the offender being discharged, where the offence and the entry in the official log book is

proved to the satisfaction of the Registrar of seafarers or a proper officer, the master or owner shall deduct the penalty from the wages of the offender; and

- (b) the penalty deducted shall be paid to the Registrar of seafarers, and if the master or owner of the ship fails without reasonable cause to pay the penalty, the master or owner commits an offence and is liable on summary conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(2) An act of misconduct for which a penalty is imposed and paid by or deducted from the wages of a seafarer shall not be otherwise punished under this Act.

### **179. Penalty on stowaways**

(1) A person who goes to sea in a ship without the consent of the owner, master or a mate or of the person in charge of the ship or any other person entitled to give that consent, commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(2) A person who goes to sea in a ship without consent as specified under subsection (1) shall so long as that person remains on the ship, be considered to belong to the ship and shall be subject to the same penalties 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.

### **180. Trade disputes involving seafarers**

(1) An enactment concerning trade unions or labour shall so far as it relates to the immunity of persons from legal proceedings for acts committed in contemplation or furtherance of a trade dispute, apply to seafarers as it applies to other persons.

(2) Despite anything in an agreement, a seafarer employed on a Ghanaian ship may terminate the employment on that ship by leaving the ship in contemplation or furtherance of a trade dispute, after giving to the master not less than forty-eight hours notice of the seafarer's intention to do so.

(3) A seafarer shall not, unless the notice is withdrawn, be compelled to go to sea within forty-eight hours after giving notice under subsection (2) but the notice is of no effect unless at the time it is given the ship is in Ghana and securely moored in a safe berth.

(4) In this section “**trade dispute**” means a dispute between employers and seafarers, or between seafarers and seafarers or involving a person and which is connected with the employment or with the conditions of labour.

### **181. Offences to be entered in official log book**

Where in respect of a Ghanaian ship, an offence is committed under section 168 or 169, or an act of misconduct is committed for which the agreement of the person committing the offence provides for a fine, and it is intended to enforce the fine,

- (a) an entry of the offence or act shall be made in the official log book and signed by the master and an officer or the master and one crew member;
- (b) before the arrival of the ship at the next port, or if the ship is at the time in port, the offender shall, if still in the ship, be given a copy of the entry or the entry shall be read over distinctly and audibly to the offender, and the offender may reply as the offender thinks fit;

- (c) a statement that a copy of the entry was furnished or that the entry was read over to the offender and in either case the reply made by the offender, shall similarly be entered and signed in the log book;
- (d) in subsequent legal proceedings the entries made under this section shall if practicable be produced or proved; and
- (e) if the entry is not recorded, a Court may refuse to receive evidence of the offence or act of misconduct.

### *Relief and Repatriation of Seafarers*

#### **182. Repatriation of seafarers**

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

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

(3) Subsection (1) applies whether an agreement terminates by

- (a) expiry of time,
- (b) consent of the parties,
- (c) shipwreck,
- (d) sale of the ship,
- (e) the inability of the seafarer to proceed in the ship by reason of sickness or injury, or
- (f) by any other cause.

#### **183. Seafarer to bear expense of repatriation in certain cases**

(1) A seafarer who has been left behind or discharged from a ship as a result of the seafarer's

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

is not entitled to be returned at the expense of the master or owner under section 182.

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

(3) An owner, a master or an agent shall be reimbursed for the expenses incurred under subsection (2) out of the wages owed to the seafarer at the time the seafarer left the ship or out of the proceeds from the sale of any of the seafarer's effects left on board the ship.

(4) Where this is not sufficient, the owner, master or agent may take the legal action that the owner,

master or agent considers appropriate.

(5) Despite subsection (1), (3) or (4) the owner, the master or the agent shall ensure that the seafarer does not become a charge on the Republic.

#### **184. Duty of Registrar of seafarers**

(1) Where a seafarer is to be left behind or discharged from the seafarer's ship at a port other than the seafarer's port of engagement, the Registrar of seafarers or proper officer may demand from the owner, master or agent, a guarantee for the proper discharge of the obligations imposed by section 182 or 183.

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

#### **185. Application to foreign vessels**

Sections 162 and 182 to 184 apply in respect of a vessel that engages a seafarer or apprentice in Ghana, and "owner" in that context includes a person appointed or nominated by the owner, or the charterer, if the vessel is on demise charter, to act as the owner's or charterer's agent and who was acting as such at the time the seafarer or apprentice was engaged.

#### **186. Wages and effects of seafarer left behind**

(1) Where a seafarer belonging to a Ghanaian 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 seafarer and an account of wages due to the seafarer at the time when the seafarer was left behind.

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

(3) The master shall if required by the Registrar of seafarers, furnish the vouchers that are reasonably required to verify the delivery and retention accounts.

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

(5) The master of a ship is entitled to retain out of the wages the sums shown in a retention account that appear to the Registrar of seafarers to be owing or payable to the master of the ship and for that purpose the Registrar of seafarers 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 where that amount is not sufficient, for the remainder to be raised and paid to the master out of the effects.

(6) Before allowing a sum to be retained or to be raised and paid, the Registrar of seafarers 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 seafarers shall deliver the remainder of the wages and effects to the person at the time and in the manner as may be prescribed, and shall render the accounts in respect of them as the Director-General may direct.

(8) The sums remitted under this section or arising from the sale of effects under this section, and not

disposed of in accordance with this section, shall be retained by the Republic.

(9) The master of a ship who, without reasonable cause, contravenes subsection (1) commits an offence and without prejudice to any other liability to which the ship might be subject is, on summary conviction, liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(10) In this section

- (a) **“delivery account”** means an account of the effects and wages of a seafarer left behind or owing at the time a seafarer leaves or is discharged from the seafarer’s ship;
- (b) **“retention account”** means an account of the expenses caused to the master or owner of a ship by the absence of a seafarer from the ship due to the seafarer’s desertion, neglect to join the ship, or conduct constituting an offence under section 168 or 169, including, in the case of a seafarer who is not entitled to be repatriated at the expense of the master or owner of the ship the provision made for the return of the seafarer to a proper return port;
- (c) **“effects”** includes the proceeds of the sale of the personal property of a seafarer.

### **187. Liability of master**

The master of a Ghanaian ship is not liable for the loss of effects or for the damage to the effects of a seafarer left behind or discharged at a port other than the seafarer’s proper return port, if the master proves to the Registrar of seafarers that the loss or damage occurred without the master’s neglect or consent after the seafarer left the ship.

### **188. Liability of Government**

(1) The Government is not liable for anything done under section 186, except that if after the wages or effects of a seafarer have been dealt with under section 186 and legal proceedings are taken by the seafarer against the owner, the master or the agent of the ship in respect of the wages or the effects, the Director-General shall, if notice is given to the Director-General of the proceedings and a reasonable opportunity afforded the Director-General of appearing, comply with the order of the Court made as regards the wages or effects so far as the Director-General can do so out of the wages and effects remitted to the Authority in respect of the voyage of the ship.

(2) The Board may appear and be heard in the proceedings referred to in subsection (1).

(3) The Board may as it thinks fit meet a claim by a seafarer against the owner, master or agent of the ship in respect of the wages or effects dealt with under section 186 although legal proceedings have not been taken in respect of them.

(4) Where the Authority 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 the master’s or owner’s objection within ten days of the notice being given, the expense incurred by the Authority under this subsection is recoverable by the Government as a civil debt.

(5) For the purpose of this section, legal proceedings taken or a 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 seafarer.

### **189. Non-application of section 186**

Section 186 does not apply in the case of an absent seafarer where,

- (a) the master of a ship satisfies the Registrar of seafarers that none of the effects of the seafarer has to the knowledge of the master been left on board the ship and that the master has paid the wages due to the seafarer;
- (b) the master of the ship satisfies the Registrar or proper officer that the net amount due to the seafarer on account of wages, after taking into account the deductions lawfully made in respect of allotments, and advances for which provision is made by the crew agreement is less than the cedi equivalent of US \$50; or
- (c) the question of forfeiture of the wages and effects of the seafarer has been dealt with in proceedings lawfully instituted before the termination of the voyage or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

**190. Sale of seafarer's effects**

(1) The effects of a seafarer may after a reasonable time, be sold by the Registrar of seafarers in the manner that the Registrar thinks fit when they are delivered to the Registrar unless the Authority directs otherwise.

(2) Where the effects are not sold under subsection (1), unless they are delivered to the seafarer, they may be sold by the Authority as and when it considers fit.

**191. Maintenance and return of seafarer who involuntarily terminates service**

(1) Where during the existence of the crew agreement, the service of a seafarer belonging to a Ghanaian ship is terminated otherwise than by the consent of the seafarer, the master of the ship shall in addition to

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

make adequate provision in accordance with this Act for maintenance and return of the seafarer to a proper return port, and the master shall record the details of the steps taken as required by this Act 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 of the seafarer to the proper return port,

- (a) if paid by the seafarer, are recoverable as wages due to the seafarer; and
- (b) if paid by the Registrar of seafarers or proper officer or any other person, are a charge on the ship to which the seafarer belonged.

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

- (a) from the person who is the owner of the ship for the time being,
- (b) if the ship has been lost, from the person who was the owner of the ship at the time of the loss, or
- (c) if the ship has been transferred to another person
  - (i) from the new owner, or
  - (ii) from the person who was the owner of the ship at the time of the transfer,

at the suit of the Registrar of seafarers or any other person who paid the expenses, or, if the expenses have

been paid out of public money, as a debt to the Republic.

### **192. Discharge on change of ownership**

(1) Where a Ghanaian ship is transferred or disposed of, a seafarer belonging to that ship shall be discharged unless the seafarer agrees in writing to complete the voyage of the ship if it is continued.

(2) Where a seafarer is discharged under subsection (1), the provisions of this Part relating to the certificate of discharge and the return of the seafarer to a proper return port apply as if the seafarer's service had terminated otherwise than by the seafarer's consent to be discharged during the existence of the agreement.

### **193. Certificate when seafarer is left behind**

(1) Except where a seafarer is discharged under this Act, the master of a Ghanaian ship shall not leave a seafarer behind at a foreign port or place unless,

- (a) the master had the certificate of the Registrar of seafarers or proper officer endorsed on the crew agreement certifying the cause of the seafarer being left behind, and
- (b) the cause is unfitness or inability to proceed to sea, desertion or otherwise.

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

### **194. Non-compliance with provisions of this Part**

Unless otherwise provided in this Part, a master of a ship who fails to comply with a provision of this Part commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **195. Account of wages of seafarer left behind**

(1) Where the master of a Ghanaian ship leaves a seafarer behind at a foreign port or place on the grounds of the seafarer's unfitness or inability to proceed to sea, the master shall deliver to the person signing the certificate required by section 193 a full and true account of the wages due to the seafarer and, if that person is the proper officer, the master shall deliver the account in duplicate.

(2) A master who fails without reasonable cause to deliver the account required under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five penalty units or to a term of imprisonment not exceeding two months.

### **196. Payment of seafarer's wages to proper officers**

(1) The master shall pay to the proper officer the wages due to a seafarer left behind on the grounds of the seafarer's unfitness and inability to proceed to sea, if the officer will receive the wages.

(2) Where a payment is made under this section, the proper officer, if satisfied with the account, shall give a receipt for the payment.

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

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 two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **197. Application of wages of seafarer left behind**

Where the wages due to a seafarer left behind on the grounds of the seafarer's unfitness or inability to proceed to sea, are paid to and accepted by the Registrar of seafarers or proper officer, that officer shall deal with them in the following manner:

- (a) where the seafarer subsequently obtains employment at or leaves the port at which the payment was made, the officer shall retain out of the money the expenses that the owner or master is by this Act required to defray, and pay the remainder to the seafarer and deliver to the seafarer an account of the money received and expended on the seafarer's behalf;
- (b) where the seafarer dies before the seafarer's ship leaves the port, the officer shall deal with the money as part of the property of a deceased seafarer; or
- (c) where the seafarer is sent to a proper return port at the public expense under this Act, the officer shall account for the money to the Director-General, and after retaining the expenses duly incurred in respect of the seafarer except the expenses that the owner, master or agent of the ship is required by this Act to defray, the money shall be dealt with as wages of the seafarer.

### **198. Relief of distressed seafarer**

(1) Where a seafarer

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

the Registrar of seafarers may provide relief to that seafarer in accordance with this Act.

(2) Relief is provided to the seafarer when provision is made

- (a) for the return of the seafarer at the expense of the Government to a proper return port and also for the seafarer's necessary clothing and maintenance until the seafarer's departure from a return port,
- (b) in the case of death, for burial expenses, and
- (c) in the case of a ship wrecked seafarer, for the repayment of the expenses incurred in the seafarer's conveyance to port after the seafarer's shipwreck and the seafarer's maintenance while being conveyed.

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

### **199. Repayment of relief and return expenses**

(1) Where expenses are incurred by a consular officer on behalf of the Government under section 198 or are incurred by the government of a foreign country and are to be repaid to the foreign country by the

Government, the Authority may pay to the consular officer or foreign government the amount of the expenses out of the moneys available for that purpose or out of the money appropriated for that purpose by Parliament.

(2) Money paid by the Authority under subsection (1) together with the wages due to a distressed seafarer, is a charge on the ship to which the seafarer 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 from the owner for the time being or from the person who was the owner of the ship at the time of the transfer; or
- (c) where the ship is a foreign ship, from the person who engaged the seafarer for service in the ship.

(3) A debt under this section, in addition to the penalties and consular fees incurred, shall be recovered by the Authority on behalf of the Government as a civil debt.

(4) In 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 evidence that the expenses were incurred or repaid under this Act by or on behalf of the Government.

## **200. Forcing Seafarer ashore**

The master or crew of a Ghanaian ship who wrongfully forces a seafarer ashore and leaves the seafarer behind, or otherwise causes a seafarer to be wrongfully left behind at any place commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

## **201. Proper return port**

For the purpose of this Part, a “**proper return port**” is

- (a) the port at which a seafarer was shipped or engaged,
- (b) a port in the country to which the seafarer is ordinarily resident, or
- (c) in the case of a discharged seafarer, some other port agreed to by the seafarer at the time of the seafarer’s discharge as the place the seafarer desires to be discharged.

## **202. Manner of return**

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

(2) Provision may be made for the return of a seafarer by

- (a) providing the seafarer 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 seafarer with a passage in a ship or an aircraft or in any other public transport and providing for the seafarer’s maintenance during the journey.

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

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

### **203. Return of seafarers to port**

(1) When a question arises as to what return port a seafarer is to be sent or the route by which the seafarer should be sent, the question shall be decided by the Registrar of seafarers.

(2) In deciding the question of a seafarer's return port, the Registrar of seafarers or proper officer shall consider

- (a) the convenience of the seafarer and to the expense involved, and
- (b) 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 of the return port.

(3) A provision in this section does not relieve the owner or master from the obligation and expense of returning the seafarer to the seafarer's proper return port.

### **204. Authority may provide temporary relief**

(1) The Authority may, whenever it considers it necessary, spend money to provide relief in the manner that it thinks appropriate for a shipwrecked, destitute or otherwise distressed seafarer

- (a) not entitled to relief under this Act or under the laws of the country to which the seafarer's ship belongs, or
- (b) who is a citizen employed on a foreign vessel and discharged or left behind in a foreign country.

(2) The expenses incurred for a shipwrecked, destitute or otherwise distressed seafarer under this section, shall be repaid to the Authority by the owner, master or agent of the vessel to which the distressed seafarer belonged.

(3) The expenses stated in subsection (1) may be recovered by the Authority on behalf of the Government in the same manner as expenses incurred outside Ghana for distressed seafarers of a Ghanaian ship are recoverable.

### **205. Unauthorised presence on board ship**

Where a ship registered in Ghana or any other country is in a port in Ghana and a person who is not a public officer or authorised by law to act

- (a) goes on board the ship without the consent of the master of the ship or of any other person authorised to give consent, or
- (b) remains on board the ship after being requested by the master, an officer of the Authority, a police officer or an officer of Customs, Excise and Preventive Service to leave the ship,

that person commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

## **PART FIVE**

## **206. Official log book**

(1) An official log book in the prescribed form shall be kept in a Ghanaian ship of one hundred gross tons or above, and also on a Ghanaian ship trading from and beyond the waters of Ghana.

(2) The Minister may make Regulations prescribing

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

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

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

- (a) shall be made as soon as possible after the occurrence to which it relates;
- (b) if it is not made on the same day as the occurrence, it shall be made and dated to show the dates of the occurrence and the entry in respect of it; and
- (c) if it is made in respect of an occurrence which happened before the arrival of the ship at its final port of discharge, the entry shall be made within twenty-four hours after that arrival.

(5) An entry in the official log book shall be signed by the master and by an officer or any 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.

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

## **207. Entries in official log book**

The master of a ship for which an official log book is kept shall, subject to the Regulations made under section 206, 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 made to the charge, as required by this Act;
- (c) every offence for which punishment is imposed on board, and the nature of the punishment imposed;
- (d) every case of illness or injury that happens to a member of the crew, with the nature and the medical treatment given;
- (e) every refusal of a member of the crew to take antiscorbutic or medicines;
- (f) every birth and every death which occurs and when it occurs;
- (g) every marriage that takes place on board, with the names and ages of the parties;

- (h) the name of every seafarer who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause of it;
- (i) the wages due to a seafarer who dies during the voyage, and the gross amount of the deductions to be made from those wages;
- (j) the sale of effects of a seafarer who dies during the voyage, with a statement of each article sold and the sum received from the sale;
- (k) every collision with any other ship and the circumstances in which it occurred;
- (l) the date and the time of the display in the ship of a notice containing particulars of the ship's draught and freeboard; and
- (m) any matter directed by this Act or the Regulations made under it to be entered.

#### **208. Delivery of official log book to Director-General**

(1) The master or owner of a Ghanaian ship which is required to carry an official log book under section 206 shall subject to subsection (2), deliver or transmit the log book for the period covering the previous crew agreement to the Director-General within seven days of the discharge of the crew and the cessation of the crew agreement.

(2) Where the crew of a Ghanaian ship referred to in subsection (1) is engaged under a running agreement referred to in section 112, the master or owner shall deliver or transmit the official log book to the Director-General within twenty-one days of the log book being completed.

(3) A master or owner of a ship who fails without reasonable cause to comply with a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment, and in a continuing offence to a fine of fifty penalty units for each day during which the offence continues.

#### **209. Delivery of official log book**

(1) Where, by reason of a transfer of ownership or a 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 Ghana, within one month or if it is elsewhere, within six months, after the cessation, deliver or transmit to the Director-General the official log book and the agreement with the crew duly made out up to the time of the cessation.

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

(3) The owner or master of a ship who fails without reasonable cause to comply with this section, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **210. Offences in respect of official log book**

(1) Where an official log book is not kept in the manner required by or under this Act or where an entry directed by this Act to be made 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 this Act in that respect, is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to imprisonment for a term not exceeding twelve months or to both the fine and the imprisonment.

(2) A person who makes, procures to be made, or assists in making an entry in an official log book in respect of an occurrence previous to the arrival of the ship at its final port of discharge of the crew more than twenty-four hours after that arrival, commits an offence and is liable on summary conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(3) A 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 false or fraudulent entry in, or omission from, an official log book commits an offence and is liable on conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **211. Ordinary log book of a ship**

(1) A Ghanaian ship shall carry on board an ordinary log book in which shall be recorded the daily activities of the ship and any other particulars as may be prescribed.

(2) The ordinary log book of a ship shall comprise a deck log book and an engine room log book 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 is admissible in evidence.

### **212. Returns of crew lists**

(1) A master of a Ghanaian ship of not less than two hundred gross tons shall make and sign a list of the crew of the ship in the prescribed form containing

- (a) the number and date of the ship's register and its net tonnage;
- (b) the length and general nature of the voyage or employment;
- (c) the names, ages and places of birth of the crew members, their ratings on board, their last ships or any 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 the circumstances;
- (e) the names of any members of the crew members who have been maimed or hurt, with the times, places, causes and circumstances of the injury;
- (f) the wages due at the time of death to any of the crew members who is dead;
- (g) particulars of the property belonging to any of the crew members who is dead, 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 where applicable; and
- (h) details of a marriage that has taken place on board, with the date and the names and ages of the parties.

(2) The list of the crew in the case of ships

- (a) trading exclusively within the home trade or inland waters shall be delivered or transmitted by the master or owner to the Director-General not later than twenty-one days after the 30th day of June and after the 31st day of December in each year;
- (b) other than those referred to in paragraph (a) shall be delivered or transmitted by the master to the owner of the ship who shall produce the list on demand by the Director-General or other proper officer
  - (i) within forty-eight hours after the arrival of the ship at its final port of destination in Ghana, or
  - (ii) on the discharge of the crew, whichever first happens,

and the Director-General or any other proper officer shall retain the list for a period of seven years after its receipt.

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

(4) In this section, "crew" includes the master and apprentices on the ship.

### **213. Returns of births and deaths on Ghanaian ships**

(1) The master of a Ghanaian ship shall on arrival at a port or at any other time and place as the Director-General may with respect to a ship or class of ships direct, deliver to the Director-General or proper officer, in the prescribed form, a return of the facts relating to births and deaths which the master is required by sections 207 and 212 to record.

(2) In respect of a death recorded the master shall notify the death to any person the deceased may have named as next-of-kin.

(3) When the return is made elsewhere other than in Ghana the proper officer shall send a certified copy of the return to the Director-General.

### **214. Returns of births and deaths of Ghanaian citizens on foreign ships**

The master of a ship not registered in Ghana which in the course of or at the end of a voyage calls at a port in Ghana or any other place in Ghana as the Director-General may with respect to a ship or class of ships direct, shall on arrival at the port or any other place make a return of births and deaths of citizens that occurred on the ship, to the Director-General.

### **215. Returns to be sent to Registrar of births and deaths**

The Director-General shall cause the information contained in a return referred to in sections 212, 213 and 214 to be sent to the Registrar of births and deaths.

### **216. Penalties imposed on master**

The master of a ship who fails to comply with a requirement of section 213, 214 or 215 commits an offence and on summary conviction is liable to a fine of not less than one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

*Prevention of Collisions and Safety of Navigation*

**217. Collision Regulations**

The Minister may make Collision Regulations

- (a) for the prevention of collisions at sea and in all navigable waters;
- (b) in respect of the lights to be carried and exhibited; and
- (c) in respect of the steering and sailing rules to be observed by ships.

(2) In making the Regulations the Minister shall consider an international convention for the time being in force for the prevention of collisions at sea.

**218. Ghanaian ships to observe Collision Regulations**

(1) Owners and masters of Ghanaian ships shall comply with the Collision Regulations and shall not carry or exhibit any other lights or use any other fog signals than are prescribed by those Regulations.

(2) Where an infringement of a term of the Collision Regulations is caused by the wilful default of the master or owner of a ship, the master or owner commits an offence and on summary conviction is liable to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment exceeding three years or to both the fine and the imprisonment.

(3) Subsections (1) and (2) apply to an owner and pilot of a seaplane on the surface of the water as they apply to an owner and master of a ship.

**219. Foreign ships in Ghanaian waters**

Regulations made under section 217 together with the provisions of this Part relating to collisions shall be observed by a ship and a seaplane of foreign registry within Ghanaian waters, and in an action before a Court in Ghana concerning a breach of the Collision Regulations arising within Ghanaian waters, a foreign ship or a seaplane shall be treated as if it were a ship and seaplane registered in Ghana.

**220. Damage caused by non-observance of Collision Regulations**

Where damage to a person or property arises from the non-observance by a ship, seaplane or craft of a provision 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, sea plane or craft at the time of the collision, unless it is shown to the satisfaction of the Court that the circumstances of the case do not fall within the Regulations.

**221. Inspection to enforce compliance with Collision Regulations**

(1) A surveyor of ships may inspect a ship of any nationality in a port of Ghana 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.

(2) Where the surveyor finds that the ship is not so provided, the surveyor shall specify in writing the action required to rectify the deficiency and shall detain the ship until the deficiency is rectified.

(3) For the purpose of an inspection under this section, a surveyor shall have the powers provided under sections 466 and 468.

## **222. Duty to render assistance following collision**

(1) After a collision between ships, the master of each ship shall if and so far as the master can do so without damage to the master's own ship, crew and passengers,

- (a) exert the best efforts to give to the other ship, the master, crew and passengers, practicable and necessary assistance to save them from a danger caused by the collision,
- (b) stand by the other ship, until the master has ascertained that the ship has no need for further assistance, and
- (c) give the master of the other ship the name and port of registry of the first ship, and the name of the port from which the first ship sailed and to which the first ship is bound.

(2) Where a master of a ship fails, without reasonable cause, to comply with subsection (1), the master commits an offence and on summary conviction is liable to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

## **223. Obligation to notify hazards of navigation**

(1) The master of a Ghanaian ship, on 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 the master's disposal and in accordance with the prescribed Regulations to all ships in the vicinity or to the relevant authorities ashore.

(2) A person in charge of a radio station in Ghana or on board a Ghanaian ship shall on receiving the signal prescribed in the Regulations for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and if so required by Regulations made under subsection (1) shall transmit the message in the prescribed manner.

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

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

## **224. Master to proceed moderately in dangerous areas**

When ice is reported on or near the course of a Ghanaian ship the master of the ship shall proceed at a safe speed adapted to the prevailing circumstances, or alter the course of the ship so as to keep clear of the ice reported and of the area of danger.

## **225. Offence and penalty**

The master of a ship who fails to comply with section 224 commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

## **226. Obligation to assist ships in distress**

(1) The master of a Ghanaian ship shall on receiving a signal at sea from any source that a ship or an aircraft or survival craft is in distress, hasten to assist the persons in distress and inform those persons

immediately if possible that the master is doing so, and where

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

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

(2) A master of a ship shall be released from the obligation imposed by sub-section (1) when the master learns that one or more ships, other than the master's ship, have been requisitioned under section 227 and are complying with the requisition.

(3) Where a master fails to comply with the provisions of this section the master commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **227. Right to requisition ships when in distress**

(1) A master of a ship in distress, after consultation, so far as is possible with the masters of other ships which answer the call for assistance, has the right to requisition one or more of those ships as that master considers best able to render assistance.

(2) A master of a ship requisitioned shall comply with the requisition by hastening to assist the persons in distress.

(3) A master of a ship shall be released from the obligation imposed by sub-section (1), if that master is informed by the persons in distress or by the master of another ship which has reached those persons that assistance is no longer necessary.

### **228. Obligation to assist persons in danger at sea**

(1) A master of a ship shall so far as the master can without serious danger to that master's own ship, render assistance to every person, including an enemy, who is found at sea in danger of being lost.

(2) Where the master of a ship fails to comply with subsection (1), the master commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **229. Salvage rights not affected**

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

### **230. 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 considered to be signals of distress and urgency.

(2) Where a master of a ship uses or displays or causes or permits a person under the master's authority to use or display

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

the master commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units and in addition, the master is liable to pay compensation for the labour undertaken, risk incurred or loss sustained because the signal was taken to be a signal of distress or urgency, and the compensation may be recovered in the same manner in which salvage is recoverable.

(3) Where a master who contravenes subsection (2) is an officer certificated or licensed under this Act, the master is subject to an enquiry into the master's conduct as provided in section 101.

### **231. Report of accidents to ships**

(1) When a ship

- (a) has sustained or caused an accident which occasions loss of life or a serious injury to a person, or
- (b) has sustained a material damage affecting its seaworthiness or its efficiency in its hull or in any part of its machinery,

the owner or master of the ship shall within twenty-four hours after the occurrence of the accident or the damage or as soon as possible after that, transmit to the Director-General or an officer of the Authority or to any other appropriate agency, a report of the accident or damage.

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

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

(3) Where the managing owner, or where a managing owner is not resident in Ghana, the agent of a ship to which this section applies has reason to believe that the ship has sustained damage or caused an accident, the managing owner or agent shall require proof that the accident or damage has been reported to the Authority by the master.

(4) Where the managing owner or agent has reason to believe that the accident or damage has not been reported, the managing owner or agent shall as soon as possible, send to the Director-General 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 the managing owner's or agent's knowledge and belief, the nature, the probable cause and extent of the accident or damage, and the location of the ship.

(5) 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 two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(6) This section applies to Ghanaian ships, irrespective of where they are, as well as foreign ships navigating in Ghanaian waters.

### **232. Loss of Ghanaian ship**

(1) Where the managing owner or agent of a Ghanaian ship has reason to believe that the ship has been lost because of the non-appearance of the ship or due to any other circumstance the managing owner

or agent shall cause a reasonable search to be made for the ship and shall as soon as it is convenient send to the Director-General a notice in writing signed by the managing owner or agent stating

- (a) the name of the ship, the port to which the ship belongs and the official number of the ship, and
- (b) a report of the loss of the ship and the circumstances and probable cause of the loss.

(2) A 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 the managing owner or agent has reason to believe the ship has been lost, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

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

(1) The master of a Ghanaian ship shall cause a statement to be entered in the official log book or ordinary ship's log, of every occasion

- (a) on which boat drill is practised, or
- (b) on which the appliances and equipment required by the rules for life-saving appliances to be carried on board are examined to see whether they are fit and ready for use and the result of the examination stated.

(2) Where in the case of

- (a) a passenger ship, boat drill or fire drill is not practised on board the ship in any week,
- (b) any other ship, boat drill or fire drill is not practised on board the ship in any two weeks, or
- (c) any ship, the appliances and equipments are not examined in the period as is prescribed,

the master shall cause a statement to be entered or any other record to be kept of the reasons why the drill was not practised or the appliances and equipments were not examined in the week.

(3) A master of a ship who fails to comply with the requirements of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment, and in a continuing offence to a fine of fifty penalty units for each day during which the offence continues.

### **234. Crew sufficient and efficient**

A Ghanaian ship shall be manned in accordance with the Regulations with a crew sufficient and efficient enough from the point of view of safety of life for the purpose of the intended voyage and shall during the voyage be kept so manned.

### **235. Notices to mariners and navigational warnings**

(1) The Director-General shall take appropriate steps to advise the seafaring community and the public of the developing or existing situations which may adversely affect maritime safety.

(2) The information shall take the form of notices to mariners and navigational warnings which may be issued and communicated by the means that the circumstances may warrant.

(3) The Director-General may require the assistance of a person in the communication of this information.

(4) A person who without reasonable cause refuses to render assistance when so requested commits an offence and is liable on summary conviction to a fine not exceeding fifty penalty units or to a term of imprisonment not exceeding three months.

(5) In this Part “**aids to navigation**” and “**navigational aids**” includes lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation and buildings, moorings, and any other works associated with maritime activities.

### **236. Establishment and management of aids to navigation**

(1) There shall be established in Ghana the aids to navigation that are necessary to facilitate the safe navigation of ships within the waters of Ghana.

(2) Privately owned aids to navigation shall be established and maintained in accordance with this Act.

### **237. Authority’s permission to establish aids to navigation**

Aids to navigation shall not be established

- (a) without the prior written consent of the Director-General, or any other person authorised by the Director-General for that purpose, and
- (b) unless they conform to the specifications as may be stipulated by the Authority.

### **238. Changes to aids to navigation**

Established aids to navigation shall not be discontinued or have its lighting characteristics or any other distinguishing feature altered, without the prior written consent of the Director-General or any other person authorised by the Director-General for the purpose.

### **239. Functions of the Authority in respect of aids to navigation**

(1) The Authority shall exercise general supervision over aids to navigation and in particular

- (a) oversee the establishment and maintenance of aids to navigation by the Authority or any other body, institution or person,
- (b) ensure that any other aids to navigation are established in compliance with the stipulated conditions and specifications and are maintained in proper working order, and
- (c) bring to the attention of the public, information on changes to or deficiencies in any aid to navigation.

(2) The Authority may delegate to the Ghana Ports and Harbours Authority or the Volta River Authority, as it considers appropriate any or all of the functions conferred on it under subsection (1).

### **240. Publication and updating of aids to navigation**

(1) The Director-General shall publish and update the aids to navigation and declare any other publication to be an approved nautical publication.

(2) In legal proceedings, the production of an approved nautical publication authenticated by the Director-General shall be prima facie evidence of the matters appearing in the publication.

#### **241. Prosecution of offences**

A person who

- (a) contravenes section 237,
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid,
- (c) wilfully or negligently does anything which causes an aid to be obstructed from view in a manner that lessens its efficiency,
- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid,
- (e) trespasses on or without lawful excuse is found in or on
  - (i) a navigational aids;
  - (ii) a land on which navigational aids are situated, or
- (f) fails to notify the Director-General as soon as practicable after a navigational aid is damaged, destroyed or fouled,

commits an offence and, in addition to the expenses of making good the damage caused, is liable on conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

#### **242. Detention**

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

#### **243. Fire and lights detrimental to navigation**

(1) When a fire or light is burned or exhibited in a place or in a manner that in the opinion of the Director-General, it is calculated or likely to mislead persons navigating in Ghanaian waters or in the waters of a harbour or port or the approaches to the harbour or port, the Director-General may by written notice require the person placing or using the fire or light to screen, alter, extinguish or remove it within a reasonable time specified in the notice.

(2) Where a person to whom notice is given under subsection (1) fails to comply with the notice within the time stated or after complying replaces the fire or light by another fire or light in respect of which the Director-General would be entitled to give notice under this subsection (1), that person commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment, and in the case of a continuing offence, to a further fine not exceeding one hundred penalty units for each day or part of a day during which the offence continues.

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

#### **244. Power of the Director-General on failure to extinguish false or unauthorised lights**

For the purpose of extinguishing false or unauthorised lights, the Director-General or the

Director-General's representative may enter the place where the fire or light is and without causing unnecessary damage, extinguish the fire or light and recover the expense incurred.

#### **245. Marking of wrecks and prohibited areas**

(1) Where the Director-General is of the opinion that a vessel lying wrecked in Ghanaian waters is, because of its position or anything contained in it, a potential danger to navigation, life or property, the Director-General may cause the wreck to be marked and protected from interference and may by notice published in the area of the wreck, designate an area around it as a prohibited area.

(2) A notice under subsection (1) shall identify the wreck and the place where it is lying and

- (a) the prohibited area shall be within the distance of the wreck specified in the notice, and
- (b) the distance specified for the purposes of paragraph (a) shall be whatever the Director-General considers appropriate to ensure that unauthorised persons are kept away from the wreck.

(3) Subject to subsection (4), a person who without authority in writing granted by the Director-General, enters a prohibited area, whether on the surface of or under water, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

(4) A provision of this section shall not be regarded as constituting an offence under this section where it is done by a person

- (a) in the course of an action taken by that person for the sole purpose of dealing with an emergency of any description;
- (b) in exercising functions conferred by or under an enactment on that person or a body for which that person acts; or
- (c) out of necessity due to the weather conditions or navigational hazards.

#### **246. Removal of obstructions other than wrecks**

(1) The Director-General may cause to be removed anything other than a vessel which is causing or is likely to become an obstruction or impediment to navigation in or the use of the approaches to a harbour or port.

(2) Where an object removed under subsection (1) is marked in a manner that is readily identifiable as the property of a person, the Director-General shall, subject to subsection (3), within one month of the property coming into the Director-General's custody, give notice to that person to take possession of the object at a place named in the notice.

(3) Where possession is not re-taken within fourteen days of the service of the notice, the property shall at the end of that period vest in the Director-General.

(4) Where property removed under subsection (1) is

- (a) not so marked as to be readily identifiable as the property of a person; or
- (b) so marked but the place of business of the owner is not known to the Director-General or is outside Ghana,

and within three months of it coming into the custody of the Director-General has not been claimed by a person who proves to the reasonable satisfaction of the Director-General that it belongs to that person, the

property shall vest in the Authority.

(5) The Director-General may dispose of property referred to in subsection (3) which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience, at a time and in a manner that the Director-General thinks fit, although it has not been vested in the Authority, and if it is sold, the proceeds shall be applied in payment of expenses incurred by the Director-General under this section in relation to the property.

(6) Where the balance is not claimed within three months from the time when the property came into the custody of the Director-General by a person who proves to the reasonable satisfaction of the Director-General that that person was the owner at the time, that balance shall at the expiry of the period vest in the Authority.

(7) Where property removed under this section

(a) is sold by the Director-General and the proceeds of sale are insufficient to reimburse the Director-General of the expenses incurred by the Director-General in the exercise of the Director-General's powers of removal, or

(b) is unsaleable,

the Director-General may recover the difference or the whole of the expenses as a debt, from the person who was the owner

(c) at the time the property removed came into the custody of the Director-General, or

(d) at the time of its abandonment or loss.

(8) The Director-General shall not under the powers conferred by this section cause to be removed an object placed or constructed by a person or an authority by virtue of the provisions of this Act or any other law.

#### **247. Failure to pay navigational aid dues**

Where without reasonable cause, the owner or master of a ship fails to pay navigational aid dues, the owner or the master commits an offence and is liable to a penalty as may be prescribed.

#### **248. Regulations on lighting, marks and other features of aid to navigation**

(1) The Minister may make Regulations

(a) stipulating the system of lighting marks and features and any other characteristics of aids to navigation;

(b) for the imposition, collection and disbursement of navigational aid dues and penalties for the non-payment of navigational aid dues; and

(c) for the exemption of particular ships or classes of ships from the requirements relating to the payment of dues for aid to navigation.

(2) In making Regulations with respect to subsection (1) (a) the Minister shall consider the International Association of Lighthouse Authorities Harmonised Buoyage "System A", or any other international system of buoyage applicable for the time being in force.

## *Safety of Life at Sea*

### **249. Words and expressions relating to safety of life at sea**

In this Part, unless the context otherwise requires,

“**certificate**” means a certificate issued in accordance with the Safety Convention as defined in this section;

“**fishing vessel**” means a vessel used for catching fish, whales, seals, walrus or any other living resources of the sea;

“**Safety Convention**” means the International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1978, Torremolinos International Convention on Safety of Fishing Vessels, 1977 and its Protocol of 1993, together with the amendments or replacement which have effect in respect of Ghana;

“**Safety Convention Certificate**” includes a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and a safety certificate, safety construction certificate, safety equipment certificate, safety radio certificate and any other certificate that is required to be issued to ships;

“**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 that country to which the Convention extends and remains extended;

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

“**short international voyage**” means an international voyage;

- (a) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety, or
- (b) which does not exceed six hundred nautical miles between the last port of call in the country where the voyage begins and the final destination, with no account being taken of a deviation by the ship from its intended voyage due solely to unstable weather or any other circumstances that neither the master nor the owner nor the charterer of the ship could reasonably have prevented or foreseen;

“**surveyor**” includes a person or an organisation, duly appointed under section 254 to act as surveyor for the purpose of surveying ships and issuing Safety Convention Certificates.

### **250. List of Safety Convention countries**

The Director-General may by notice published in the *Gazette* provide a list of countries, including territories that have ratified, acceded to or denounced the Safety Convention.

### **251. Application of Safety Convention**

The Safety Convention shall, unless exempted by this Act, apply to Safety Convention ships while they are in Ghanaian waters.

### **252. Regulations relating to safety at sea**

(1) The Minister may make the Regulations which the Minister considers necessary for the attainment of the objectives and purposes of this Part and also to provide generally for safety at sea and to give effect to the Safety Convention.

(2) In making the Regulations, the Minister shall

- (a) include Regulations made under the Safety Convention including amendments made to it concerning radio communications for the Global Maritime Distress and Safety System, and
- (b) have due regard to
  - (i) the Convention on the International Mobile Satellite Organisation, and
  - (ii) the International Convention on Maritime Search and Rescue, 1979.

(3) An omission or a neglect to comply with a provision of this Part or a provision of the Regulations without reasonable cause is an offence and the offender is liable on summary conviction to a fine not exceeding one thousand penalty units or a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

### **253. Ships in port through unstable weather**

This Part does not apply to non-Ghanaian ships that would not have been in Ghanaian waters but for unstable weather or any other circumstances that neither the master nor the owner, nor the charterer of the ship could have prevented or foreseen.

### **254. Surveying of ships**

(1) The Minister may make Regulations regarding

- (a) the manner in which surveys of ships are to be made, and
- (b) the notice to be given to surveyors of ships when surveys are required.

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

(3) A person appointed to be a surveyor of ships under this section may be appointed as a radio surveyor if that person is so qualified.

(4) The survey and inspection of ships, with regards to the enforcement of the Regulations made under this Part, shall be carried out by a surveyor or subject to the conditions that the Director-General may impose, by a recognised organisation or society for the survey and classification of ships authorised by the Director-General.

### **255. Surveyor's powers of inspection**

(1) A general surveyor of ships may at a reasonable time inspect a ship for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, the Collision Regulations and the relevant Regulations.

(2) Where the surveyor finds that the conventions or the Regulations have not been complied with, the surveyor shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what action in the surveyor's opinion, is required to remedy the deficiency.

(3) A notice given shall be communicated in a manner directed by the Director-General to the customs officer the port at which the ship may seek a clearance and the clearance shall not be granted and

the ship shall be detained until the action required by the surveyor in the notice has been complied with.

(4) Where the surveyor considers the ship unsafe, or where a passenger ship is unfit to carry passengers, or the machinery or equipment is defective in a way that exposes the persons on board to serious danger, the surveyor shall detain that ship.

(5) A surveyor may also detain a ship in respect of which any of the provisions of this Act or the Regulations have not been complied with, if in the surveyor's opinion the detention is warranted in the circumstances.

(6) Where, under this section, a surveyor visits a ship, the surveyor may ask the owner or the owner's agent, the master or chief engineer, or any other person on board and in charge or who appears to be in charge of the ship, questions concerning the ship as the surveyor considers appropriate and that person shall fully and truthfully answer those questions.

(7) A surveyor may reasonably require the owner or the owner's agent, the master or chief engineer or any other person on board and in charge, or who appears to be in charge of the ship that the machinery of the ship be activated or dismantled so that the surveyor may be satisfied as to its condition and a person on whom the request is made and who is capable of satisfying the requirement shall comply with the requirement.

(8) A person who contravenes subsection (6) or (7) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

#### **256. Surveyor's report to Director-General**

A surveyor shall, on inspection, forward a report to the Director-General which shall contain a statement showing

- (a) that the hull and machinery are sufficient for the service;
- (b) that the hull and machinery are constructed, arranged and fitted in accordance with the Regulations;
- (c) that the equipment required under the Regulations is on board and in good condition;
- (d) that the ship's officers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage for which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery provided will be sufficient;
- (f) if the ship is a passenger ship, the number of passengers which it may carry; and
- (g) the steam pressure that may be carried in the boilers.

#### **257. Surveyor's record of inspections and certificates**

(1) A surveyor shall keep a record of the inspections the surveyor makes and certificates the surveyor issues in the form and with the particulars that the Director-General may direct.

(2) The surveyor shall furnish the Director-General with copies of the records as well as any other information pertaining to the duties of the surveyor's office which the Director-General may require.

### **258. Surveys of passenger ships**

A Ghanaian passenger ship is subjected to

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

### **259. Initial survey of passenger ships**

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

(2) The survey shall ensure that the general arrangement, material and scantlings of the hull, boilers and any other pressure valves, the main and auxiliary machinery, electrical installations, radio installations, radio installations in motor lifeboats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, pilot ladders, and any other equipment fully comply with the requirements of the Safety Convention and with the Regulations.

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

### **260. Periodic surveys of passenger ships**

(1) The periodic survey shall ensure that the hull, boiler and any other pressure valves, the main and auxiliary machinery, electrical installations, radio installations, radio installations in motor lifeboats, portable radio apparatus for survival craft, life-saving appliances, fire detecting and extinguishing appliances, pilot ladders, and any other equipment are in a satisfactory condition and fit for the service for which they are intended and that they comply with the requirements of the Safety Convention and the Regulations.

(2) The lights, sound signals and the distress signals carried by the ship are also subject to periodic survey.

### **261. Additional surveys of passenger ships**

(1) A general or partial survey as the circumstances require shall be made each time an accident occurs or a defect which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or any other equipment is discovered or whenever important repairs, renewals or replacements are made.

(2) The survey shall ensure that the necessary repairs, renewals or replacements have been effectively made, that the material and workmanship for the 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 the Regulations.

### **262. Passenger ship certificate**

(1) Where the Director-General on receipt of the surveyor's report referred to in section 256 is satisfied that a Ghanaian passenger ship is in compliance with

- (a) the requirements of the Safety Convention as regards construction, life-saving appliances, radio and direction finders, and
- (b) the rules relating to safety of life at sea which are applicable to the ship and to the international voyages which 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 Director-General shall on the application of the owner, issue the appropriate Passenger Ship Safety Certificate.

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

### **263. Short Voyage Certificates for passenger ships**

Where the voyages on which a passenger ship is to be engaged are short international voyages and it complies only with the Regulations which are applicable to those voyages, the Director-General shall issue a Short Voyage Certificate showing that the ship complies with the requirements of the Safety Convention applicable to short international voyages.

### **264. Exemption and Qualified Certificate for passenger ships**

Where the Director-General or any other person who the Director-General may authorise for the purpose, on receipt of the surveyor's report in respect of a 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 the international voyages on which it is to be engaged, and
- (b) the ship complies with the remainder of those requirements and that she is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations,

the Director-General shall on the application of the owner, issue in respect of the ship

- (c) an Exemption Certificate stating the requirements of the Safety Convention from which the ship is exempt, and that the exemption is conditional on the ship plying on the voyages and being engaged only in the trades and complying with the other conditions specified in the certificates; and
- (d) a Qualified Safety Certificate or a Qualified Short Voyage Certificate, showing that the ship complies with those requirements from which it is not exempted.

### **265. Validity of Passenger Ship Short Voyage Certificates**

The Director-General or any other person who the Director-General may authorise for the purpose, may permit a 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 which is situated not further than twelve hundred nautical miles from the final port of destination.

### **266. Passenger Ship Safety Certificate to be carried on board**

(1) A passenger ship shall, before plying or proceeding to sea from a port in Ghana, have on board a valid Passenger Ship Safety Certificate which shall show

- (a) the limits beyond which the ship is not fit to ply, and
- (b) the number of passengers which the ship may carry, and if necessary, distinguish the number to be carried in each part of the ship, and the conditions and variations to which the number is subject.

(2) Where in the case of a foreign passenger ship, the Director-General or any other person who the Director-General may authorise for the purpose, is satisfied on the production of a Passenger Ship Safety Certificate that the provisions of this Act have been substantially complied with, the ship shall be considered to have satisfied the requirements of subsection (1).

(3) The master or owner of a ship which contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **267. Penalty for carrying excess passengers**

Where a passenger ship has on board a number of passengers which having regard to the time, occasion and circumstance of the case, is greater than the number allowed by the Passenger Ship Safety Certificate, the owner or master of the ship is, in addition to any other penalty under section 266 (3), liable to a fine equivalent to four times the fare charged per passenger for every excess passenger.

### **268. Safety equipment survey on cargo ships**

(1) The life-saving appliances and fire-fighting appliances of a Ghanaian cargo ship are subject to survey before the ship is put into service and after that at intervals of not more than two years as specified by the Authority.

(2) The fire control plans in a Ghanaian ship and the pilot ladders, lights and sound signals and distress signals in a new and an existing Ghanaian cargo ship shall be included in the surveys for the purpose of ensuring that they comply fully with the requirements of the Safety Convention and the Collision Regulations.

### **269. Cargo Ship Safety Equipment Certificate**

Where the Director-General or a person authorised by the Director-General for the purpose, is satisfied on receipt of the surveyor's report in respect of a Ghanaian cargo ship that the ship

- (a) complies with the requirements of the Safety Convention as regards life-saving appliances,
- (b) complies with the Regulations relating to safety of life at sea which are applicable to the ship in regard to life-saving appliances and to the voyages that she is to be engaged on; and
- (c) is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations,

the Director-General or the authorised person shall on the application of the owner issue in respect of the ship a Safety Equipment Certificate

- (d) where the ship is not less than five hundred gross tons and is to be engaged on international voyages, which shall be in the form prescribed by the Safety Convention; and
- (e) in any other case, which shall show that it complies with those requirements.

### **270. Cargo ship exemption and Qualified Safety Equipment Certificates**

(1) Where the Director-General or a person authorised by the Director-General for the purpose, on receipt of the surveyor's report in respect of a cargo ship, is satisfied that the ship

- (a) is exempt by this Act or by the Regulations from any of the requirements of the Regulations or of the Safety Convention, applicable to the ship and to the voyages that she is to be engaged on, and
- (b) complies with the lights, shapes and means of making sound signals required by the Collision Regulations,

the Director-General or the authorised person shall on the application of the owner issue in respect of the ship

- (c) where it is not less than five hundred gross tons and is to be engaged on international voyages
  - (i) an exemption certificate stating from which of the requirements of the Safety Convention the ship is exempted and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trade and complying with any other conditions, and
  - (ii) a certificate showing that the ship complies with the requirements of the Safety Convention from which it is not exempted on the voyages on which she is to be engaged, and
- (d) in any other case, a certificate showing that the ship complies with the requirements of the Safety Convention from which she is not exempt and the voyages on which it is to be engaged.

(2) A certificate issued under subsection (1) is in this Act referred to as a "Qualified Safety Equipment Certificate".

### **271. Cargo ship radar and radio installation surveys**

The radio and radar installations of a Ghanaian cargo ship and the radio installations in a motor lifeboat or portable radio apparatus for survival craft which is carried in compliance with the Regulations, are subject to survey before the ship is put into service and after that at intervals as specified by the Authority.

### **272. Issue of Cargo Ship Radio Certificate**

(1) Where the Director-General or a person authorised by the Director-General for that purpose is satisfied on receipt of a surveyor's report in respect of a cargo ship that the ship complies with the requirements

- (a) of the Safety Convention, and
- (b) of the Regulations relating to safety of life at sea applicable to the ship as regards radio installations and direction finders and to the international voyages to be engaged on,

the Director-General or the authorised person shall on the application of the owner issue in respect of the ship

- (c) a certificate in the form prescribed by the Convention where the ship weighs less than three hundred gross tons and is to be engaged on inter-national voyages, and

(d) a certificate showing that the ship complies with the requirements in this subsection.

(2) A Certificate issued under this section is in this Act referred to as a “Cargo Ship Radio Certificate”.

### **273. Cargo Ship Exemption and Qualified Radio Certificates**

(1) Where the Director-General or a person authorised by the Director-General for the purpose is satisfied on receipt of the surveyor’s report in respect of a cargo ship that the ship

(a) is eligible for exemption under this Act from any of the requirements of

(i) the Regulations relating to safety of life at sea, or

(ii) the Safety Convention,

applicable to the ship as regards radio installations and direction finders and to the voyages to be engaged on,

(b) complies with the remainder of the requirements, and

(c) is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations,

the Director-General or the authorised person shall on the application of the owner issue in respect of the ship

(d) where it is not less than three hundred 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 the requirements from which it is not exempt; and

(e) in any other case, a certificate showing

(i) that the ship complies with the requirements of the Safety Convention from which it is not exempt, and

(ii) the voyages on which it is to be engaged.

(2) A certificate issued under subsection (1) is in this Act referred to as a “Qualified Radio Certificate”.

### **274. Radio Exemption Certificates**

Where a Ghanaian ship is granted partial or conditional exemption by the Director-General or any other person authorised by the Director-General for the purpose from the requirements of the Regulations relating to the Safety Convention as regards radio installations and direction finders there shall be issued on application by the owner, a Radio Exemption Certificate specifying the voyages and trades for and the conditions on which, the ship is exempt.

### **275. 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 Radio Certificates are issued on a Ghanaian cargo ship, shall be surveyed before being put into service and after that they shall be surveyed in the manner and at the intervals provided under this Part.

(2) A general or partial survey, as the circumstances require shall be made each time an accident occurs or a defect is discovered which affects the safety of the ship or the efficiency or completeness of her life-saving appliances or equipment or whenever important repairs, renewals or replacements are made.

(3) The survey shall ensure that the necessary repairs, renewals or replacements have been effectively made, that the material and workmanship of the 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 of the Collision Regulations and the Regulations.

#### **276. Regulations for cargo ship safety construction requirements and surveys**

(1) This section applies to

- (a) a Ghanaian ship of not less than five hundred gross tons,
- (b) a Ghanaian ship of a lower tonnage and description that the Minister may specify, and
- (c) a foreign ship within Ghanaian waters and while it is not exempted under this Act,

but does not apply to a passenger ship, a troop ship, pleasure craft, a fishing vessel and a ship which is not mechanically propelled.

(2) The Minister may make Cargo Ship Safety Construction and Survey Regulations, prescribing the requirements for Ghanaian ships referred to in subsection (1) to be surveyed to an extent and in a manner and at intervals as may be prescribed.

(3) The Regulations shall include the requirements as appear to the Authority to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of the ship.

#### **277. Issue of Cargo Ship Safety Construction Certificates**

(1) Where the Director-General or a person authorised by the Director-General is satisfied on receipt of the surveyor's report in respect of a Ghanaian cargo ship to which section 279 applies, that the ship complies with the Cargo Ship Safety Construction and Survey Regulations applicable to the ship and the voyage it is to be engaged in, the Director-General or the authorised person shall on the application of the owner issue in respect of the ship

- (a) a certificate in the form prescribed by the Convention where it is not less than five hundred gross tons and is to be engaged on an international voyage; and
- (b) in any other case a certificate showing that the ship complies with the Regulations.

(2) A certificate issued under subsection (1) is referred to as a "Cargo Ship Safety Construction Certificate".

#### **278. Cargo Ship Exemption and Qualified Safety Construction Certificates**

(1) Where the Director-General or a person authorised by the Director-General for the purpose is satisfied on receipt of the surveyor's report in respect of cargo ship, that the ship is eligible for exemption

under this Act from any of the requirements of the Regulations applicable to the ship and to the voyages it is to be engaged in, and that the ship complies with the remainder of these requirements, the Director-General shall on the application of the owner issue in respect of the ship

- (a) where it is of not less than five hundred gross tons and is to be engaged on international voyages,
  - (i) an exemption certificate stating from which of the requirements of the Safety Convention the ship is exempt and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the other conditions specified in the certificate, and
  - (ii) a certificate showing that the ship complies with those requirements of the Safety Convention from which it is not exempt, and
- (c) in any other case, a certificate showing
  - (i) that the ship complies with the requirements of Cargo Ship Construction and Survey Regulations from which the ship is not exempt; and
  - (ii) the voyages on which it is to be engaged.

(2) Certificate issued under subsection (1) paragraph (a) or (b), is in this Act referred to as a “Qualified Cargo Ship Safety Construction Certificate”.

#### **279. Validity period of Cargo Ship Safety Construction Certificate**

(1) A Cargo Ship Safety Construction Certificate issued under section 277 shall remain in force for five years or a shorter period that may be specified in it, subject to the power of the Director-General to cancel the certificate and an exemption certificate issued under this Part shall remain in force for the same period as the corresponding qualifying certificate.

(2) The Director-General may extend the period for which a certificate under subsection (1) is issued for a period not exceeding three months.

(3) Despite the power of extension conferred under subsection (1), 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 Director-General or a person authorised by the Director-General 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 in any event not exceeding in total the period of five years specified in subsection (1).

#### **280. Appeals against withholding of ship’s certificates or detention**

Where, following the survey of a ship, the owner is aggrieved by the withholding of a certificate required to be carried on board the ship under this Act, or by the ship being detained in accordance with section 255, the owner may appeal to the Court of Survey provided for under section 429.

#### **281. Periods of validity of certificates**

(1) A Passenger Ship Safety Certificate and a Cargo Ship Safety Radio Certificate shall be in force for one year and a Safety Equipment Certificate, shall be in force for two years from the date of its issue or for a shorter period as may be specified in the certificate, except that the certificate shall not remain in force after notice is given by the Director-General to the owner, master or agent of the ship in respect of which it has been issued that the Director-General has cancelled the certificate.

(2) An exemption certificate, relating to the Global Maritime Distress and Safety System, satellites and direction finders shall be in force for the same period as the corresponding qualified certificate.

#### **282. Extension of period of validity of certificates**

(1) Where a Ghanaian ship is not in a port of Ghana on the date of expiry of a certificate issued to that ship under this Act, the Director-General or a person authorised by the Director-General, may extend the validity of that certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

(2) The extension referred to in subsection (1) shall be granted only for the purpose of enabling the ship to proceed to a Ghanaian port or a port where it appears proper and reasonable to grant the extension.

#### **283. Validity of qualified certificates**

A qualified certificate shall not be considered to be in force in respect of a ship unless there is in force in respect of the ship a corresponding exemption certificate, and an exemption certificate does not have an effect unless it is, by its terms, applicable to the voyage on which the ship is about to proceed.

#### **284. Penalty for non-compliance with conditions of exemption certificate**

Where an exemption certificate, issued in respect of a Ghanaian ship specifies conditions on which the certificate is issued and any of those conditions is not complied with, the owner or the master of the ship commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **285. Posting up of certificates on board ships**

(1) The certificates or certified copies of certificates except exemption certificates or certified copies of exemption certificates issued under this Act, shall be posted in a prominent and accessible place in the ship for the information of persons on board, and the certificates or copies of the certificates shall be kept thus 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 subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **286. Survey to verify safety certificates and compliance with conditions of issue**

A surveyor of ships may board a ship for the purpose of verifying whether

- (a) there is in force, in respect of a foreign Safety Convention ship, a valid Safety Convention Certificate,
- (b) the condition of the hull, equipment and machinery of a Safety Convention ship corresponds substantially with the particulars shown in the certificate,
- (c) the number, grades and qualifications of radio officers or operators on board correspond with those shown in that certificate, except where the certificate states that the ship is partially exempt from the provisions of the Safety Convention relating to Convention on the International Mobile Satellite Organisation, and

- (d) any conditions subject to which an exemption certificate is issued, are being complied with. a person authorised by the Director-General, may extend the validity of that certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

### **287. Production of Safety Convention Certificate**

(1) The master of a foreign Safety Convention Ship, shall produce to the authorities from whom a clearance for the ship is sought in respect of an international voyage from a Ghanaian port, valid Safety Convention Certificates that are the equivalent of the Safety Convention Certificates issued by the Director-General and required to be in force in respect of a Ghanaian ship.

(2) Clearance shall not be granted, and the ship may be detained until those certificates are produced.

(3) The production of a valid Safety Convention Certificate which is 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,

is not acceptable for the purpose of section 315 unless there is also produced the corresponding qualified certificate or exemption certificate.

### **288. Miscellaneous privileges for holding Safety Convention Certificate**

(1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship, it shall be accepted and the ship shall be exempted from surveys or inspection under section 296, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate or that the ship or its equipment are not in compliance with the Regulations regarding the maintenance of conditions of ships and their equipment after survey.

(2) Where a certificate is not accepted due to the circumstances referred to in subsection (1), or where a certificate has expired or ceased to be valid, the ship shall not be granted clearance and the ship shall be detained until she can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances:

- (a) the local consul of the ship's flag state or, in the consul's absence, the nearest diplomatic representative of the ship's flag State, and
- (b) nominated surveyors or recognised organisations responsible for the issue of the certificates referred to in subsection (1).

### **289. Ship not to proceed to sea without appropriate certificates and documents**

(1) A Ghanaian Safety Convention Ship shall not proceed to sea on an international voyage from a port in Ghana unless there is in force in respect of the ship a ship security plan and an International Ship Security Certificate<sup>2</sup>(2)

- (a) where it is a passenger ship
  - (i) a Passenger Ship Safety Certificate,
  - (ii) a Short Voyage Safety Certificate, or

- (iii) a Qualified Short Voyage Safety Certificate which, subject to the provisions of this section relating to Short Voyage Certificate, is applicable to the voyage on which the ship is about to proceed and to the trade in which the ship is for the time being engaged;
- (b) where it is not a passenger ship
  - (i) a Cargo Ship Safety Construction Certificate or a Qualified Cargo Ship Safety Construction Certificate,
  - (ii) a Safety Equipment Certificate or a Qualified Safety Equipment Certificate, and
  - (iii) a Radio Certificate, or a Qualified Radio Certificate, or an Exemption Radio Certificate.

(2) Despite subsection (1) a Ghanaian ship that is not a passenger ship may proceed to sea if there is in force in respect of the ship, the certificates referred to in paragraph (a) as if it were a passenger ship.

#### **290. Detention of ship for non-production of certificates**

(1) The master of a Ghanaian ship shall produce to the appropriate authorities from whom clearance for the ship is demanded for an international voyage, the certificates required by this Part to be in force when the ship proceeds to sea.

(2) A clearance shall not be granted, and the ship may be detained, until the certificates are produced.

#### **291. Ships to carry stability information**

(1) A Ghanaian passenger ship, regardless of its size and a cargo ship of a length of twenty four metres or more, or of a weight of fifteen tons or more shall carry on board the prescribed information about the ship's stability.

(2) A copy of the information shall be sent to the Director-General, and the determination of the ship's stability shall be based on an inclining test of the ship but the Director-General may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where a ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner or master commits an offence and is liable on summary conviction to a fine of two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **292. Penalty for forgery of survey report or certificates**

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 a survey report or certificate, or anything contained in or a signature to the report or certificate,

commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **293. Maintaining condition of ship and notice on change in condition**

(1) The condition of a ship in respect of which a Safety Convention Certificate issued under this Act is in force, including the equipment of the ship, shall be maintained at all times to comply in all respects with the provisions of the Safety Convention and of the Collision Regulations and any other Regulations made under this Act.

(2) Where an accident occurs to a ship or a defect is discovered, or an alteration is made to the ship's hull, equipment, appliances or machinery which affects the safety of the ship or its efficiency, completeness or seaworthiness, the owner or master shall as soon as practicable following the accident, discovery of a defect, or an alteration, give written notice to the Director-General describing full particulars of the accident, the defect or the alteration.

(3) Where notice is not given as required by this section, the owner or master of the ship commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **294. Re-survey of a ship following alterations or damages**

(1) Where the Director-General has reason to believe that since the making of the last survey report in respect of a ship

- (a) an alteration has been made as referred to in section 293 (2), or
- (b) the hull, equipment, appliances or machinery of the ship have sustained any damage or are otherwise defective or insufficient,

the Director-General may require the ship to be surveyed again to the extent that the Director-General considers fit, and if the requirement is not complied with, the Director-General may cancel the 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 a part.

### **295. Application of this Part to foreign ships within Ghanaian waters**

(1) The Director-General may direct that any of the provisions of this Part shall apply to a foreign ship while within Ghanaian waters.

(2) Despite anything in this Part, the Director-General may relieve a foreign ship or the owner of a foreign ship from compliance with any of the provisions of this Part or the Regulations relating to inspection, in a specific case of emergency, where the Director-General considers it necessary or advisable in the public interest.

(3) The Director-General shall not relieve any ship or its owner from compliance with a provision which would permit a ship to proceed to sea or to make a voyage in an unseaworthy condition.

### **296. Survey of foreign ship and issue of safety convention certificate**

(1) The Director-General may at the request of the government of a country to which the Safety Convention applies, cause a ship to be surveyed and if the Director-General is satisfied that the requirements of the Safety Convention have been complied with, the Director-General shall issue certificates to the ship in accordance with the Safety Convention.

(2) A certificate issued under subsection (1) shall contain a statement to the effect that it has been issued at the request of the government of the country in which the ship is or will be registered, and the certificate shall have the same force and receive the same recognition as any other certificate issued under this Part.

### **297. Survey of Ghanaian ships by other Safety Convention countries**

(1) The Director-General may request the government of a country to which the Safety Convention applies or an organisation authorised to act in that behalf to issue a certificate in respect of a Ghanaian ship as is required under this Act.

(2) A certificate issued in pursuance of the request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it has been issued by the Director-General.

### **298. Exceptions**

Nothing in this Part or in the Regulations unless it is expressly provided otherwise shall apply to

- (a) ships of war and troop ships,
- (b) cargo ships of less than five hundred gross tonnage,
- (c) ships not mechanically propelled,
- (d) canoes, and
- (e) pleasure yachts not engaged in trade.

### **299. Regulations for safety requirements and issue of Ghanaian safety certificate**

The Minister may make Regulations prescribing safety requirements and providing for the inspection, survey and issue of Ghanaian safety certificates in respect of a ship or class of ship to which the Safety Convention does not apply.

## **PART EIGHT**

### *Load Lines*

### **300. Interpretation of Part Eight**

For the purpose of this Part,

“**Convention country**” means a country, the Government of which is a party to the Load Line Convention or a territory of the country to which the Convention extends;

“**existing ship**” means a ship which at the commencement of this Act is not a new ship;

“**fishing vessel**” means a ship used for catching fish, or any other living resources of the sea including whales, walrus and seals;

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

- (a) a port or place in Ghana and a port or place outside Ghana, or
- (b) a port in a Convention Country, other than Ghana and a port in any other country or territory,

whether or not a Convention Country, which is outside Ghana, except that, in determining the ports between which a voyage is made, account shall not be taken of a deviation by a ship from her intended voyage which is due solely to unstable weather or any other circumstances that neither the master nor the charters of the ship could have prevented or foreseen;

**“Load Line Convention”** means the International Convention on Load Lines of 1966 and any amendments to it which the Minister may by legislative instrument prescribe to be in force in Ghana;

**“Load Line Convention Ship”** means an international Load Line Ship that belongs to a country to which the Load Line Convention applies;

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

**“Load Line Ship”** means

- (a) an international Load Line Ship, which is an existing ship of not less than one hundred and fifty tons, or a new ship of twenty-four metres or more in length or of fifteen tons or more in weight which carries cargo or passengers on international voyages, or
- (b) a Ghanaian Load Line Ship, other than an international Load Line Ship, which carries cargo or passengers, and

**“new ship”** means a ship whose keel is laid or which is at a similar stage of construction

- (a) in the case of a ship registered in or flying the flag of a country other than Ghana which is a Convention Country or a country to which the Convention applies, on the date from which it is declared that the government of the country has ratified or acceded to the Load Line Convention,
- (b) in the case of any other ship, on the date of the coming into force of this Act.

### **301. Exemptions**

This Part does not apply to

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

### **302. Countries to which Load Line Convention applies**

The Minister may from time to time publish in the *Gazette* the list of countries that have ratified, acceded to or denounced the Load Line Convention.

### **303. Load Line Regulations**

The Minister may make Load Line Regulations for the purpose of giving effect to the Load Line Convention, and the Regulations may also prescribe Load Line requirements and provide for the issue of Ghanaian Load Line Certificates in respect of ships to which the Load Line Convention does not apply.

### **304. Certificates issued under the Load Line Convention**

- (1) An International Load Line Certificate may be issued to every ship which has been surveyed and

marked in accordance with the Load Line Convention.

(2) An International Load Line Exemption Certificate may be issued to a ship to which an exemption has been granted in accordance with the Load Line Convention.

### **305. International and Local Load Line Certificate**

(1) Where a Ghanaian 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 by the Director-General on the owner's application.

(2) For the purpose of this section the appropriate certificate in the case of

- (a) an existing ship of not less than one-hundred and fifty gross tonnage and a new ship of twenty-four metres or more in length and of fifteen tons or more in weight is to be called an International Load Line Certificate (1966), and
- (b) any other ship, is to be called a Ghanaian Load Line Certificate.

### **306. Certificates issued by other governments**

(1) The Director-General may request the government of a country which is a party to the Load Line Convention to issue an International Load Line Certificate in respect of a Ghanaian ship and a Certificate so issued shall have effect for the purposes of this Part as if it has been issued by the Director-General under this Part.

(2) Where a valid Load Line Certificate issued in pursuance of subsection (1) is produced in respect of a ship, that ship shall for the purposes of this Part be considered to have been surveyed under the Load Line Regulations.

(3) Where the deck line and Load Line correspond with the marks specified in the certificate, the ship shall be considered to be marked as required by this Part.

### **307. Certificates issued at the request of other governments**

The Director-General may at the request of the government of a country to which the Load Line Convention applies, issue an International Load Line Certificate in respect of a ship of that country, if the Director-General is satisfied that, as in the case of a Ghanaian ship, the Director-General can properly issue the certificate, and where a certificate is issued on that request, it shall contain a statement to the effect that it has been so issued.

### **308. Regulations as to the validity of foreign certificates**

(1) With a view to determining the validity in Ghana of a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a foreign ship, the Minister may make the necessary Regulations.

(2) For the purposes of the provisions of this Part relating to foreign ships the expression “**a valid Load Line Certificate**” means a certificate complying with any of the Regulations made under subsection (1) as are applicable in the circumstance.

### **309. Exemption from application of this Part**

The Director-General may by a certificate grant an exemption from the application of this Part to ships

under twenty-four metres in length or under fifteen tons in weight engaged solely in the local trade or any class of those ships.

### **310. Extent of exemption**

In this Part, a reference to an exemption is a reference to an exemption from

- (a) all of the provisions of this Part and the Load Line Regulations, or
- (b) any of the provisions of this Part and the Load Line Regulations that are specified in the certificate granting the exemption.

### **311. Issue of exemption certificates**

(1) Where the Director-General exempts a ship under section 309, the Director-General shall issue the appropriate certificate to the owner of the ship.

(2) Where the exemption is granted

- (a) under paragraph (a) of section 310 the certificate shall be called an International Load Line Exemption Certificate, and
- (b) where the exemption is granted under paragraph (b) of section 310 the certificate shall be called a Ghanaian Load Line Exemption Certificate.

(3) A certificate issued under this section shall be referred to as prescribed by the Load Line Regulations.

### **312. Duration and extension of exemption**

(1) The Load Line Regulations shall specify the period within which an exemption granted under section 309 or a certificate issued under section 305 is to remain in force including provisions

- (a) enabling the period for which the exemption or certificate is originally granted or issued to be extended within the limits and in circumstances prescribed by the Regulations, and
- (b) for terminating an exemption and for cancelling a certificate in circumstances that may be prescribed.

(2) While a certificate is in force in respect of a ship, there shall be endorsed on the certificate information relating to

- (a) periodic inspection of the ship in accordance with the Load Line Regulations, and
- (b) an extension of the period for the certificate.

### **313. Effect of Load Line Certificate**

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 considered to have been surveyed in accordance with the Load Line Regulations, and
- (b) where lines are marked on the ship according to number and description to the deck line and the load lines respectively as required by the Load Line Regulations, and the positions of those lines so marked correspond to the positions of the deck line and load lines as specified

in the certificate, the ship shall be considered to be marked as required by those Regulations.

#### **314. Duration, renewal, extension and cancellation of Load Line Certificate**

(1) A Load Line Certificate issued by the Authority shall, unless it is renewed in accordance with subsection (2), expire at the end of the period specified in the certificate and in any event shall not be renewed for a period exceeding five years from the date of issue.

(2) A Load Line Certificate issued for a lesser period than the required period under the Load Line Regulations may be renewed by the Authority for a period not exceeding five years on any occasion.

(3) The owner of a ship in respect of which a certificate has been issued shall, for the period that the certificate remains in force, cause the ship to be surveyed in the prescribed manner at least once in every twelve months after the issue of the certificate.

(4) Where the ship is not surveyed, the Authority shall extend the period of survey by a maximum of three months or cancel the certificate.

#### **315. Ships not to proceed to sea without Load Line Certificate**

(1) Subject to an exemption granted by or under this Part, a Ghanaian ship which is an international load line ship shall not proceed to sea on an international voyage unless there is in force in respect of that ship an International Load Line Certificate.

(2) A Ghanaian Load Line Ship shall not proceed to sea unless there is in force in respect of the ship a Ghanaian Load Line Certificate.

(3) The master of a Ghanaian Load Line Ship shall produce to the customs officer from whom clearance for the ship is sought the certificate required by this section which shall be valid when the ship proceeds to sea, and where the certificate is not produced, clearance shall not be granted and the ship shall be detained until the certificate is produced.

#### **316. Deck Cargo Regulations**

(1) The Minister may make the Deck Cargo Regulations, prescribing requirements to be complied with where cargo is carried in an uncovered space on the deck of a load line ship.

(2) Where the Load Line Regulations provide for assigning special freeboards to a ship when carrying only timber deck cargo, the Deck Cargo Regulations shall prescribe special requirements to be complied with in the circumstances.

(3) In prescribing the special requirements for the purposes of subsection (2), the Minister shall consider in particular the provisions of Chapter IV of Annex 1 to the Load Line Convention.

(4) Where a provision of the Deck Cargo Regulations is contravened in the case of

(a) a Ghanaian ship, or

(b) any other ship while the ship is within Ghanaian waters,

the master of the ship commits an offence and is liable on summary conviction to a fine not exceeding the cedi equivalent of US \$100, 000 or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(5) Where a person is charged with an offence under subsection (4) it shall be a valid defence to prove to the satisfaction of the Court that the contravention was due solely to deviation or delay caused by

unstable weather conditions or *force majeure* which neither the master nor the owner nor the charterer could have prevented or foreseen.

(6) For the purpose of securing compliance with the Deck Cargo Regulations, a person authorised in that behalf by the Director-General may inspect a ship to which this Part applies which is carrying cargo in an uncovered space on its decks; and for the purpose of the inspection that person shall have all the powers of a surveyor under this Act.

### **317. Inspection of Ghanaian Load Line ship**

A surveyor of ships may inspect a Ghanaian Load Line ship for the purpose of ensuring that the provisions of this Part and the Regulations made for the purpose are complied with.

### **318. Notice to be given of alterations affecting structural position of Load Line ship**

(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 a 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-General containing full particulars of the alterations.

(2) Where notice of the 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 five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(3) In any such case, the Director-General may

- (a) cancel the Load Line Certificate, or
- (b) require the owner to have the ship surveyed again to the extent that the Director-General considers appropriate, and if that requirement is not complied with the Director-General may cancel the Load Line Certificate.

(4) The Director-General may exercise the powers specified in subsection (3) with regard to a ship where the Director-General has reason to believe that

- (a) material alterations have taken place in the hull or super-structure of the ship which will affect the load line marks, or
- (b) fittings and appliances for the protection of openings, guard rails, the freeing port or the means of access to the crews' quarters have not been maintained on the ship in as effective a condition as they were prior to the issue of the certificate.

(5) Where a Load Line Certificate has expired or has been cancelled, the Director-General may require the owner or master of the ship to which the certificate relates to surrender the certificate.

(6) The ship in respect of which the owner or master is required to surrender a Load Line Certificate under subsection (5) may be detained and if the owner or master fails without reasonable cause to comply with the requirement, the owner or master commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **319. Submersion of load lines**

(1) A ship which does not have a list shall not be overloaded so as to submerge the ship below the

appropriate load line on each side of the ship.

(2) Where a ship which has a list is overloaded so as to submerge the ship below the appropriate load line, the extent of the overloading and submergence shall not exceed the extent required by the list.

(3) Where a 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 five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment, and in addition a fine not exceeding one hundred and fifty penalty units for every centimetre, or part of it by which the appropriate load line on each side of the ship is submerged.

(4) In addition to the proceedings under this section, a ship which is loaded in contravention of this section may be detained until it ceases to be so loaded.

### **320. Alteration or defacement of load line marks**

(1) The owner or master of an international load line ship or a Ghanaian load line ship who fails without reasonable cause to keep the ship marked in accordance with this Part commits an offence and is liable on summary conviction to a fine not exceeding the cedi equivalent of US \$1 million or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(2) A person who conceals, removes, alters, defaces or obliterates or permits a person under the control of that person to conceal, remove, alter, deface or obliterate any mark placed on a 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 one thousand penalty units or to imprisonment for a term not exceeding three years or to both the fine and the imprisonment.

### **321. Ships not to proceed to sea unless complying with Load Line Regulations**

(1) A Load Line Ship shall not proceed to sea unless

- (a) the ship has been surveyed in accordance with the Load Line Regulations by a surveyor of ships or by an organisation authorised to act in that behalf by the Director-General or at the Director-General's request by the government of any Load Line 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 deckline mark indicating the position of the uppermost deck and with load line marks, indicating the several maximum depths to which the ship is permitted to load in various circumstances prescribed by the Load Line Regulations, and
- (d) the deckline and load lines are of the descriptions and in the positions required by the Load Line Regulations.

(2) Where a ship proceeds or attempts to proceed to sea in contravention of this section the master or owner of the ship commits an offence is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment, and in addition the ship may be detained until it has been so surveyed and marked.

### **322. Production of Load Line Certificate of Ghanaian ship**

The master of every Load Line Convention ship shall, on request produce a valid Load Line Certificate to the Customs Officer who will give a clearance certificate for the ship from the port in Ghana

and where a valid Load Line Certificate is not produced on request a clearance shall not be granted and the ship may be detained until the Load Line Certificate is produced.

### **323. 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 318 shall apply to that ship proceeding or attempting to proceed to sea from a port in Ghana as they apply to a Ghanaian ship.

### **324. Submersion of load lines of foreign ships**

Section 319 applies to foreign ships while in Ghanaian waters subject to the following:

- (a) a Load Line Convention ship shall not be detained, and proceedings shall not be taken against the ship by virtue of that section, except after an inspection by a surveyor as provided for in this Part;
- (b) the expression “**the appropriate load line**” means
  - (i) in the case where a valid Load Line Certificate in respect of the ship is produced on an inspection as mentioned above, the load line appearing on the Certificate indicating the maximum depth to which the ship is for the time being permitted under the Load Line Convention to be loaded; and
  - (ii) in the case where a valid Load Line Certificate is not produced, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being permitted in accordance with the Load Line Regulations to be loaded.

### **325. Posting 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 load line ship
  - (a) the owner of the ship shall, on receipt of the certificate, cause it to be framed and displayed in a 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 shall, before making any other entry in an official log book, enter in the log book the particulars of the marking of the deckline and load line specified in the certificate.
- (2) Before a load line ship proceeds to sea, the master shall
  - (a) enter in the official log book the draught and freeboard relating to the depth to which the ship is for the time being loaded, the density of the water in which the ship is floating and all other particulars in the form set out in the official log book, and
  - (b) cause a notice in the prescribed form to be displayed in a conspicuous place on board the ship and the notice shall remain displayed and shall be legible while the ship is at sea.
- (3) The master or owner of a Ghanaian load line ship who fails to comply with a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **326. Inspection of ships regarding load lines**

(1) A surveyor of ships may board a ship when the ship is within Ghanaian waters and demand the production of the Load Line Certificate for the time being in force in respect of the ship.

(2) Where a valid Load Line Certificate is produced to the surveyor, the surveyor's powers of inspecting the ship with respect to load lines shall be limited to ensuring that

- (a) the ship is not loaded beyond the limits allowed by the Certificate;
- (b) the markings of the load line on the ship correspond with those specified in the Certificate;
- (c) material alterations have not taken place in the hull or superstructure of the ship that affects the markings of the load lines; and
- (d) the fittings and appliances for the protection of openings, guard rails, freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were when the Certificate was issued.

(3) Where a valid Load Line Certificate is not produced to the surveyor, the surveyor shall have the same power of inspection as provided for in section 317 as if the ship were a Ghanaian load line ship.

(4) Where the ship is detained under this Part, the Director-General shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

### **327. Contravention of Load Line Regulations and detention of ships**

(1) Where it is found on an inspection referred to in section 326 that a ship is loaded in contravention of section 319, the ship may be detained and proceedings may be taken against the master or owner of the ship under section 319.

(2) Where the load lines on the ship are not marked as specified in the certificate, the ship may be detained until the omission has been rectified to the satisfaction of the surveyor.

(3) Where on an inspection a ship is found to have been so materially altered in respect of the matters referred to in section 326 (2) (c) or (d) or is so undermanned that it is manifestly unfit to proceed to sea without danger to human life, the ship shall be detained.

(4) Where a ship is detained under subsection (3), the Director-General shall order the ship to be released as soon as the Director-General is satisfied that the ship is fit to proceed to sea without danger to human life.

## **PART NINE**

### *Carriage of Bulk Cargo*

### **328. 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 Safe Practice for Solid Bulk Cargoes and the International Grain Code adopted by the International Maritime Organisation, and
- (b) the safe carriage and stowage of grain in accordance with the International Convention for

the Safety of Life at Sea, 1974 as amended.

### **329. Precautions regarding grain cargo**

(1) Where grain is loaded on board a ship, or is loaded at a port in Ghana on a ship, the necessary and reasonable precautions shall be taken to prevent the grain from shifting and if the precautions are not taken, the owner or the master or an agent of the owner who is responsible for the loading or with sending the ship to sea laden with the grain, commits an offence and the ship shall be considered for the purposes of this Act to be unsafe by reason of improper loading.

(2) Where a ship, loaded with grain outside Ghana without necessary and reasonable precautions having been taken to prevent the grain from shifting, enters a port in Ghana so laden, the owner or master commits an offence and the ship shall be considered 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 the port but for unstable weather or *force majeure*, which neither the master, the owner nor the charterer could have prevented or foreseen.

(4) A person authorised by the Director-General to ensure the observance of the provisions of this section may inspect the grain and the manner in which it is stowed and shall have all the powers of a surveyor of ships under this Act.

### **330. Offence and penalty**

A person who contravenes section 329 commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

## *Dangerous Goods*

### **331. Regulations as to dangerous goods**

(1) The Minister may by Regulations specify which goods, articles or materials carried on a ship are dangerous goods in accordance with the International Convention for the Safety of Life at Sea, 1974 as amended or with any other Convention which may be ratified by Ghana, and the Regulations shall have regard to the International Maritime Dangerous Goods Code of the International Maritime Organisation.

(2) In addition to subsection (1), the Minister may by Regulations prescribe

- (a) the method of packing and stowing goods;
- (b) the quantity of goods which may be carried in a ship;
- (c) the place or places within a ship in which goods may be carried;
- (d) the marking that is to be placed on a package or container in which goods may be placed for shipment; and
- (e) the precautions that shall be taken with respect to the carriage of the goods and the powers of inspection to determine compliance with the provisions of the Regulations.

### **332. Carriage and marking of dangerous goods**

(1) A person shall not send by or carry in a Ghanaian ship, except in accordance with the Regulations,

any dangerous goods, except that this section shall not apply to ships in distress or to the carriage of military stores under conditions authorised by the Minister in writing.

- (2) A person shall not send by or carry in a Ghanaian ship dangerous goods without first
- (a) distinctly marking their nature on the outside of the outermost package containing the goods in a prescribed manner, and
  - (b) giving a written notice of the nature of the goods and of the name and address of the sender to the master or owner of the ship.

(3) This section applies to all foreign ships while loading at a place in Ghana as they apply to Ghanaian ships.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **333. Rejection and disposal of dangerous goods by ship**

(1) The master or owner of a ship may refuse to take on board a package or parcel that the master or owner suspects might contain dangerous goods and may require the package to be opened to ascertain its nature.

(2) When dangerous goods, or goods that in the opinion of the master or owner of the ship are dangerous goods, have been sent on board a ship without the marking or the written notice described in section 332, the master or owner of the ship may dispose of the goods, together with the package or container in a manner that will not cause damage to the environment.

(3) Neither the master nor the owner of the ship is subject to civil or criminal liability in a Court in respect of an action taken under subsection (2).

### **334. Forfeiture of dangerous goods**

(1) Where dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this Part, a Court may order the goods and the packaging or container to be forfeited to the Republic.

- (2) The Court may exercise the powers conferred by subsection (1) although
- (a) the owner of the goods concerned has not committed an offence in respect of the goods, or is not before the Court, or has had no notice of the proceedings; and
  - (b) there is no evidence to show to whom the goods belong;

but the Court may direct notice to be given to the owner or shipper of the goods before they are forfeited.

## PART TEN

### *Seaworthiness of Ships*

### **335. Unseaworthy ship**

In this Part “**unseaworthy ship**” means a ship which by reason of the defective condition of its hull, equipment or machinery, or by reason of under manning, overloading or improper loading, is unfit to

proceed to sea without serious danger to human life and the marine environment, having regard to the nature of the service for which the ship is intended.

### **336. Sending unseaworthy ship to sea**

(1) A person who sends or attempts to send a Ghanaian or foreign ship to sea from a port in Ghana in such an unseaworthy state that the life of a person is likely to be endangered commits an offence, unless that person proves

- (a) that reasonable means have been used to ensure that the ship was sent to sea in a seaworthy state; or
- (b) that sending the ship to sea in the unseaworthy state was in the circumstances reasonable and justifiable.

(2) A prosecution under this section shall not be instituted except with the consent of the Director-General, subject to article 88 of the Constitution.

(3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a term not exceeding three years or to both the fine and the imprisonment.

### **337. Owner's obligation for seaworthiness**

(1) The owner and the master of a ship or an agent charged with the loading of a ship or preparing the ship for or sending the ship to sea shall ensure that the ship is seaworthy before it commences the voyage and that the ship maintains its seaworthiness during the voyage.

(2) In a contract of service between the owner of a ship and the master, and a seafarer or apprentice, there is an express or implied obligation on the owner of the ship and the master that despite any agreement to the contrary, the ship is seaworthy for all purposes.

### **338. Detention of unseaworthy ship**

(1) Where the Director-General or a surveyor has reason to believe that a ship at a port in Ghana is an unseaworthy ship, whether on a complaint, representation or otherwise made to the Director-General in sufficient time before the sailing of the ship, the Director-General shall ascertain whether the ship ought to be detained or not.

(2) Where the Director-General or surveyor is satisfied that the ship is an unseaworthy ship, the Director-General may in the case of

- (a) a foreign ship, cause the ship to be detained, and
- (b) a Ghanaian ship, cause its Safety Certificates to be suspended,

until the Director-General is satisfied that the ship is fit to proceed to sea.

(3) Where the ship is detained under subsection (2), the Director-General may take the measures the Director-General considers necessary to prevent the ship from sailing while it is an unseaworthy ship.

### **339. Temporary detention of unseaworthy ships**

(1) The Director-General may order a ship in a port in Ghana to be temporarily detained for the purpose of being surveyed if the Director-General has reason to believe whether on a complaint or otherwise, that the ship is unseaworthy.

- (2) Where a ship is detained under subsection (1)
- (a) a written statement of the grounds of the detention shall immediately be served on the master or owner of the ship;
  - (b) in the case of a foreign ship, a copy of the order shall immediately be served on the consular officer of the country to which the ship belongs and where there is no such consular officer in this country on the consular officer in the country nearest to the port in which the ship is detained;
  - (c) the Director-General may appoint a competent person to survey the ship and submit a report on the survey to the Director-General;
  - (d) the owner or master of the ship may before a person is appointed under paragraph (c) to survey the ship undertake the survey, require that person to be accompanied by a person selected by the owner or master from among the assessors of the Court of Survey for the port referred to in section 429;
  - (e) where the persons appointed to survey a ship agree that the ship is unseaworthy, the Director-General shall cause the ship to be detained or released as the circumstances may require but without prejudice to an appeal under subsection (4), or where they do not agree, the Director-General shall act on the report submitted by the surveyor appointed under subsection (2) (c); and
  - (f) in the case of a foreign ship, the consular officer referred to in paragraph (b) may, on the request of the owner or master of the ship, require that a person appointed under paragraph (c) to survey the ship undertake the survey.
- (3) The Director-General may on receipt of the report on a ship referred to in subsection (2)
- (a) order the ship to be released; or
  - (b) where in the opinion of the Director-General the ship is unseaworthy, subject to subsection (4), order her to be detained absolutely or until compliance with the conditions with respect to the execution of repairs and alterations, or the unloading or reloading of cargo, or the manning of the ship which the Director-General thinks necessary for the protection of human life, and may vary or add to the order.
- (4) Before an order for the final detention of a ship under subsection (3) is made, a copy of the survey report on the ship shall be served on the master or owner of the ship who may appeal in the prescribed manner to the court of Survey constituted under Part Fifteen of this Act.
- (5) Where a ship has been temporarily detained under subsection (1), the Director-General may at any time, if the Director-General considers it necessary, refer the matter to the Court of Survey.
- (6) The Director-General may at any time, if satisfied that a ship detained under this section is seaworthy, order it to be released on conditions or without any conditions.

#### **340. Supplementary provisions relating to detention of unseaworthy ship**

- (1) An order varying a temporary or final order for the detention of an unseaworthy ship shall be served as soon as possible on the master or the owner of the ship.
- (2) A ship detained under this Act shall not be released because of the Ghanaian registry of the ship being closed.

### **341. Powers of surveyors regarding detention**

(1) A surveyor shall have the same power as the Director-General under section 339 to order the temporary detention of a ship for the purpose of survey or for ascertaining the sufficiency of the ships crew and of appointing a person to survey the ship.

(2) Where a surveyor is satisfied that a ship detained by the surveyor is seaworthy the surveyor may order the release of that ship.

(3) A surveyor detaining a ship under subsection (1) shall immediately report to the Director-General an order made by the surveyor for the detention or release of the ship.

(4) A person who surveys a ship under subsection (2) (c) of section 339 and a surveyor who detains a ship under subsection (1), shall for the purpose of the survey and detention, have the same power as a person appointed by a Court of Survey to survey a ship, which shall include the power to muster the crew of the ship.

### **342. Liability for costs and damages**

(1) Where it appears that there was no reasonable or probable cause, by reason of the condition of a ship or the act or default of the owner, for the temporary detention of the ship under this Part as an unseaworthy ship, the Director-General is liable to pay to the owner of the ship

- (a) the costs incidental to the detention and survey of the ship, and
- (b) compensation for the loss or damage sustained by the owner because of the detention or survey.

(2) Where a ship detained temporarily or otherwise under this Act, was at the time of the detention unseaworthy, the owner of the ship is liable to pay to the Director-General the costs incidental to the detention and survey of the ship.

(3) These costs are, without prejudice to any other remedy, recoverable in the same manner as salvage is recoverable.

(4) For the purposes of this Act, the costs and incidental expenses to the proceedings before the Court of Survey, and a reasonable amount in respect of the remuneration of the person appointed as surveyor under subsection (2) (c) of section 339 or a person appointed to represent the Director-General, are part of the costs of the detention and survey of the ship.

(5) A dispute as to the amount of the costs of the detention and survey of a ship may under this Part be referred to a Court which shall on the request of the Director-General, ascertain and certify the proper amount of the costs.

### **343. Power to require complainant to give security for costs**

(1) Where a complaint is made to the Director-General or a surveyor that a ship is unseaworthy, the complainant may be required to give security to the satisfaction of the Director-General or surveyor for the costs and compensation which the complainant may become liable to pay under subsection (3).

(2) The security referred to in subsection (1) shall not be required where the complaint relating to a ship

- (a) is made by at least three of the seafarers belonging to the ship, and

(b) is not in the opinion of the Director-General or surveyor frivolous or vexatious, but the Director-General or surveyor shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of a complaint under subsection (1), and under circumstances where the Director-General is liable under section 342 to pay to the owner of the ship the costs or compensation, the complainant is liable to pay to the Authority the costs and compensation the Authority incurs or is liable to pay in respect of the detention and survey of the ship.

#### **344. Survey of ship alleged by seafarers to be unseaworthy**

(1) Where in proceedings against a seafarer of a ship for the offence of desertion or absence without leave it is alleged by one-fourth, or if their number exceeds twenty by at least five of the seafarers belonging to the ship

- (a) that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, undermanning 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 the Regulations,

the seafarer may apply to a Court for a survey of the ship and the Court having cognisance of the case shall take measures to satisfy itself about the truth of the allegation, and for that purpose

- (c) shall receive the evidence of the person making the allegation,
- (d) may summon any other witness whose evidence it considers desirable to hear, and
- (e) shall before adjudication cause the ship to be surveyed.

(2) A seafarer charged with desertion or with absence from the seafarer's ship without leave does not have a right to apply for a survey under this section unless the seafarer has, before leaving the ship complained to the master about the circumstances alleged by the seafarer to justify a survey of the ship.

#### **345. Court's discretion to appoint surveyors**

(1) For the purposes of section 344 the Court may appoint

- (a) a surveyor qualified under this Act, or
- (b) if a surveyor qualified under this Act cannot be found without unreasonable expense or delay, or is in the opinion of the Court not competent to deal with the special circumstances of the case, any other impartial surveyor who does not have an interest in the ship, her freight or cargo,

to survey the ship and the subject of the allegation and to answer the questions concerning the ship which the Court considers fit to ask.

(2) A surveyor appointed under subsection (1) to survey a ship shall survey the ship and make a written report on it to the Court.

(3) On receipt of the report under subsection (2), the Court shall

- (a) communicate the report to the parties, and
- (b) unless the opinion expressed in the report is proved to the satisfaction of the Court to be erroneous, determine the question before it in accordance with the report.

(4) A person who carries out a survey of a ship under this section shall have for that purpose all the powers of a surveyor under this Act.

### **346. Cost of survey**

(1) The cost of a survey of a ship conducted under section 345 shall be determined by the Authority according to the prescribed scale of fees.

(2) Where it is proved that a ship surveyed under section 344 is in a fit condition to proceed to sea, or that the accommodation in the ship is sufficient or complies with the prescribed requirements of the ship, the cost of the survey shall be paid by the person on whose demand or in consequence of whose allegation the survey was made.

(3) The cost may be deducted by the master or owner of the ship from the wages payable or that may become due to that person, and shall be paid to the Authority.

(4) Where it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation in the ship is not sufficient or does not comply with the prescribed requirements, the master or owner of the ship shall pay the costs of the survey to the Authority, and in addition, is liable to pay to the seafarer who has been charged in the proceedings referred to in section 344 the compensation that the Court may award.

## PART ELEVEN

### *Wrecks and Salvage Wrecks*

### **347. Powers of principal receiver and receivers of wreck**

(1) The Principal Receiver of Wreck shall exercise general direction and supervision over the matters relating to a receiver of wreck, wreck and salvage.

(2) The Director-General may designate a person to be a receiver of wreck in a specified area and to perform the functions of a receiver of wreck under this Part.

(3) When a receiver is absent, the following officers or persons each in succession in the absence of the other, may do anything authorised to be done by the receiver under this Part:

- (a) an officer of Customs, Excise and Preventive Service, or
- (b) any police officer.

(4) An officer acting under subsection (3)

- (a) shall, with respect to goods or articles which belong to a ship, which are required under this Part to be delivered to a receiver, be considered the agent of the receiver;
- (b) shall place the goods and articles in the custody of the receiver;
- (c) is not entitled to the fees payable to a receiver; and
- (d) shall not be deprived of a right to salvage to which the officer would other-wise be entitled.

### **348. Fees of receiver**

(1) A receiver shall be paid the expenses properly incurred by the receiver in the performance of the

receiver's functions and the fees in respect of other matters as may be prescribed.

(2) A receiver shall in addition to any other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies as a salvor has in respect of salvage.

(3) Where a dispute arises as to the amount payable to a receiver in respect of expenses or fees, the dispute shall be determined by the Director-General.

(4) Fees received by a receiver in respect of the services performed by the receiver, shall be accounted for to the Director-General, and shall be applied in defraying the expenses duly incurred.

### **349. Duty of receiver where ship is in distress**

(1) Where a vessel is wrecked, stranded or in distress in Ghanaian waters or on the shores of Ghana, the receiver for the area shall on being made aware of the circumstances, immediately go to the place, and on arrival take command of the persons present, and assign duties and give directions to each person present which the receiver thinks fit for the preservation of the vessel and of the lives of persons, the vessel, the cargo and apparel on the ship.

(2) A person who, without reasonable excuse, wilfully disobeys the directions of the receiver commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(3) A provision of this section shall not be construed to authorise the receiver to interfere in a 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.

### **350. Power of receiver in case of ship in distress**

(1) The receiver may with a view to saving shipwrecked persons or preserving a vessel, and its cargo or apparel require

- (a) a person the receiver considers appropriate to assist the receiver;
- (b) the master or person in charge of a vessel near at hand to give the aid to the other master or men or vessel that is in that master's or person's power to do; and
- (c) the use of available machinery, vehicle or equipment.

(2) A person who refuses, without reasonable excuse, to comply with a request or demand made under subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **351. Power to pass over adjoining lands**

(1) Where a vessel is wrecked, stranded or in distress, a person may for the purpose of rendering assistance to the vessel and its cargo or apparel or of saving the life of a person

- (a) pass and repass, with or without vehicles, machinery or equipment over adjoining lands unless there is a public road equally convenient, and
- (b) deposit on those lands the cargo or any other articles recovered from the vessel,

without being hindered or being subject to liability for trespass by the owner or occupier, but that person may not cause more damage to the adjoining lands than is reasonably necessary for the purpose of

rendering the assistance.

(2) The damage sustained by the owner or occupier of a land as a result of the exercise of the rights conferred by subsection (1) shall be a charge on the vessel and its cargo or articles in respect of which the damage is caused, and the amount payable in respect of the damage shall in case of dispute be determined and be recoverable in the same manner as the amount of salvage is determined and recovered under this Part.

(3) An owner or occupier of land who

- (a) impedes or hinders a person in the exercise of the rights conferred under subsection (1), whether by locking gates or refusing on request to open gates,
- (b) impedes or hinders the deposit of cargo or any other articles recovered from a vessel as mentioned above on the land, or
- (c) prevents or endeavours to prevent they cargo or any other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **352. Power of receiver to prevent plunder of and disorder on wrecked ship**

(1) Where a vessel is wrecked, stranded or in distress in Ghanaian waters or on the shores of Ghana, and a person plunders, creates disorder or obstructs the preservation of the ship or of the shipwrecked persons or the cargo or apparel of the ship, the receiver of the wreck shall cause that person to be apprehended.

(2) The receiver may use reasonable force necessary for the suppression of the plundering, disorder or obstruction referred to in subsection (1), and may order a person to assist the receiver in doing so.

(3) Where a person dies or sustains an injury by reason of resisting the receiver or a person acting under the orders of the receiver in the execution of the duties entrusted to the receiver under this Part, neither the receiver nor the person acting under the receiver's orders is liable to punishment or to pay damages by reason of the person dying or sustaining the injury.

### **353. Examination on oath regarding ships in distress**

(1) Where a vessel is or has been in distress in Ghanaian waters, the receiver or, in the receiver's absence, a magistrate shall as soon as it is convenient examine on oath a person belonging to the ship, or any other person who is able to give an account of the cargo or stores on the following matters:

- (a) the name and description of the vessel;
- (b) the name of the master and of the owner;
- (c) the names of the owners of the cargo;
- (d) the ports, from and to which the vessel was bound;
- (e) the occasion of the distress of the vessel;
- (f) the services rendered; and
- (g) any other matters or circumstances relating to the vessel or to the cargo on board the vessel which the person holding the examination thinks necessary.

(2) The person holding the examination under subsection (1) in relation to a ship shall make a record in writing, and shall send a copy to the Director-General.

(3) The Director-General shall where necessary, cause a copy of the record to be placed in a conspicuous place in the office of the Authority in the area in which the ship was in distress.

(4) The person holding an examination under subsection (1) shall for the purpose have all the powers of a surveyor.

#### **354. Rules to be observed by person finding wreck**

(1) Where a person finds or takes possession of a wreck within Ghana, or where a wreck found or taken possession of outside Ghana is brought within Ghana, the person who finds the wreck or takes possession shall,

- (a) if the person is the owner, give notice to the receiver for the area in which the wreck is, stating that that person has found or taken possession of the wreck and describing the marks by which the wreck may be recognised; or
- (b) if that person is not the owner, as soon as possible deliver the wreck to the receiver of the area.

(2) The Director-General may dispense with a delivery required under subsection (1) (b) in respect of the wreck on the condition that the Director-General thinks fit.

(3) A person who fails, without reasonable cause, to comply with subsection (1) relating to the wreck commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units and in addition shall, if the person is not the owner,

- (a) forfeit a claim to salvage, or
- (b) pay to the owner of the wreck, if it is claimed, or if it is unclaimed, to the person entitled to it, twice the value of the wreck, which may be recovered in the same way as a judgment by the Court.

#### **355. Penalty for taking wreck at the time of casualty**

(1) Where a vessel is wrecked, stranded or in distress in Ghanaian waters or on the shores of Ghana, the cargo or any 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) A person whether the owner or not of the cargo or article referred to in subsection (1) who conceals or keeps possession of the cargo or article or refuses to deliver the cargo or article to the receiver or a person authorised by the receiver to demand the cargo or article, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(3) A receiver or a person authorised by the receiver to demand the delivery to the receiver or authorised person of the cargo or article referred to in subsection (1) may take the cargo or article by force from the person refusing to deliver it to the receiver or authorised person.

#### **356. Notice of wreck to be given by receiver**

Where the receiver takes possession of the wreck, the receiver shall within forty-eight hours

- (a) cause to be posted at the nearest police station to the wreck or otherwise publish in the manner that the receiver considers fit, a description of the wreck and of the marks by which it is distinguished, and
- (b) if in the receiver's opinion the value of the wreck exceeds the cedi equivalent of US \$5000, send a copy of the description to the Director-General.

### **357. Delivery of wreck to owner**

(1) The owner of a wreck in the possession of the receiver, on establishing the owner's claim to the satisfaction of the receiver within six months from the time when the wreck came into the possession of the receiver and on paying the salvage fees and any other expenses due, is entitled to have the wreck or the proceeds of it delivered to the owner.

(2) Where a wreck or any other article which belongs to or forms part of a foreign vessel which has been wrecked in Ghanaian waters or on the shores of Ghana, is found on or near the shores of Ghana, 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 owner of the cargo is a citizen, shall in the absence of the owner and of the master or any other agent of the owner, be considered to be the agent of the owner, so far as relates to the custody and disposal of the wreck or other article.

### **358. Immediate sale of wreck by receiver**

- (1) The receiver may at any time sell the wreck in the receiver's custody, if in the receiver's opinion it
- (a) is under the value of the cedi equivalent of US \$2 500,
  - (b) is so damaged or of a perishable nature that it cannot be kept without it losing its value,
  - (c) is not of sufficient value to pay for storage, or
  - (d) has not been removed within a time specified by the owner.

(2) The proceeds of the sale made under subsection (1) shall, after defraying the expenses, be held by the receiver for the same purposes, and be subject to the same claim, rights and liabilities as if the wreck had remained unsold.

### **359. Wrecked goods subject to duties**

(1) Wrecks that constitute foreign goods being brought into Ghana are subject to the same duties as those to which the goods would be subject if they were imported into Ghana.

(2) Where a question arises as to the origin of the goods referred to in subsection (1), they shall be considered to be the produce of the country which the Commissioner of Customs, Excise and Preventive Service may on investigation determine.

- (3) The Commissioner of Customs, Excise and Preventive Service shall permit
- (a) the goods, wares and merchandise saved from a ship stranded or wrecked on its southbound voyage to be forwarded to the port of its original destination; and
  - (b) the goods, wares and merchandise saved from a ship stranded or wrecked on its northbound voyage to be returned to the port from which they were shipped,

but the Commissioner of Customs, Excise and Preventive Service is responsible for the due protection of those goods.

### **360. Right to unclaimed wreck**

The Government is entitled to the unclaimed wreckage found within a part of Ghana or found or taken possession of outside Ghana and brought into Ghana, except where the Government has granted the right to the wreck to any other person.

### **361. Disposal of unclaimed wreck**

Where an owner does not establish a claim to a wreck which

- (a) has been found in Ghana or found or taken possession of outside Ghana and brought into Ghana, or
- (b) has been in the possession of a receiver of wrecks for six months,

the receiver shall sell the wreck and pay to the Republic the proceeds of sale after deducting the expenses of the sale, the fees payable to the receiver and the amount of salvage payable to salvors that the Director-General may in each case determine.

### **362. Delivery of unclaimed wreck by receiver not to prejudice title**

On delivery of a wreck or payment of the proceeds of sale of a wreck by the receiver of the wreck under this Part, the receiver shall be discharged from liability but the delivery shall not prejudice or affect a question which may be raised by third parties concerning the right or title to the wreck.

### **363. Removal of wreck by port, harbour or other authority**

(1) Where a vessel is sunk, stranded, wrecked or abandoned in a port, harbour, lake, river, waterway or water course in the country under the control of a public authority in a manner which in the opinion of the authority, is likely to be an obstruction or danger to navigation or to life boats engaged in life boat service in that port, harbour, lake, river, waterway or watercourse, the relevant authority shall serve notice on the owner of the vessel to remove the vessel within thirty days of receipt of the notice and if the owner fails to remove the vessel within the specified period, the relevant authority may

- (a) take possession of, and raise, remove or destroy the whole or a part of the vessel;
- (b) lift or buoy the vessel or part of the vessel until it is raised, removed or destroyed;
- (c) subject to subsections (2) and (3), sell in a manner that it thinks fit the vessel or the part raised or removed, and also any other property recovered in the exercise of its powers under this section, and out of the proceeds of the sale reimburse itself for the expenses incurred, and hold the remainder in trust for the persons entitled to it, except that the remainder shall be paid to the relevant authority unless it is claimed by a person entitled to it within one year of the sale.

(2) Except in the case of property which is of a perishable nature, or which would deteriorate in value by delay, a sale shall not be made under this section, until at least seven clear days notice of the intended sale has been given, by advertisement in a local newspaper circulating in or near the district in which the relevant authority is located, or in any other manner that the relevant authority thinks fit.

(3) If before a property is sold under this section, the owner pays to the relevant authority the expenses of the removal and the storage and the cost of the notice issued by the authority, the property shall be delivered to the owner.

(4) The value of the property if it is to be sold shall be ascertained by agreement between the authority and the owner or, failing the agreement, by a person named for the purpose by the Director-General.

(5) A sum received by the authority referred to in subsection (1) in respect of the property, under subsection (3) shall for the purposes of subsection (1), be considered to be the proceeds of sale of the property.

(6) Where the proceeds of sale of the property sold under this section are less than the cost incurred by the relevant authority, that authority may recover the difference from the owner of the vessel concerned by civil action.

(7) In the event that the wreck has no value, the authority may, acting under this section claim the expenses of removal from the owner of the wreck.

### **364. Breaking up and removal of wrecks**

(1) Where a person, who is the owner of a vessel or a wrecked, submerged, sunken or stranded vessel or who is the agent or servant of the owner, wishes to break up the vessel prior to its removal from Ghana, that person shall, before commencing salvage or breaking up operations, obtain the written permission of a receiver.

(2) On receipt of an application for permission to break up a vessel, the receiver may before granting the permission

- (a) stipulate conditions the receiver considers necessary to minimise the risks or effects of any pollution, and
- (b) require security of a reasonable amount that the receiver considers necessary to ensure the safe and effective removal of the vessel or a portion of it.

(3) A person who, without the prior written permission of a receiver, does or causes to be done a salvage or breaking up operation of a vessel or a wrecked, submerged, sunken or stranded vessel lying within Ghana commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

### **365. 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 that is or forms part of the tackle, cargo, stores, bunkers or ballast of a vessel.

### **366. Taking wreck to a foreign port**

A person who takes a vessel whether stranded, derelict or otherwise in distress, found in Ghana into a foreign port and sells the vessel or any part of the cargo or apparel or anything that belongs to that vessel or the wreck, commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

### **367. Boarding of wrecked vessels**

(1) A person shall not without the leave of the master, board or endeavour to board a vessel which is wrecked, stranded or in distress, unless that person acts under the authority of the receiver or a person lawfully acting as a receiver.

(2) A person who contravenes subsection (1)

- (a) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment; and
- (b) may be removed by the master of the vessel, if necessary, by force.

(3) A person who refuses to allow a person duly authorised by a receiver to board a wreck commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

### **368. Interfering with wreck**

(1) A person shall not

- (a) impede or hinder or attempt in any manner to impede or hinder, the saving of
  - (i) a vessel stranded or in danger of being stranded or otherwise in distress; or
  - (ii) a part of the cargo or apparel of any wreck;
- (b) conceal a wreck or deface or obliterate the marks on it; or
- (c) without good cause 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 or any wreck.

(2) A person who contravenes a provision in subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

### **369. Receiver to apply for search warrant**

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

## PART TWELVE

### *Salvage*

### **370. Definitions**

For the purposes of this Part,

**“damage to the environment”** means substantial physical damage to human health or resources in coastal or inland waters or areas adjacent to these places, caused by pollution, contamination, fire, explosion or similar major incidents;

**“maritime casualty”** means a collision of vessels, stranding or any other incident of navigation or any other occurrence on board a vessel or external to it, resulting in material damage or imminent threat of material damage to the vessel or cargo;

**“property”** includes the property not permanently and intentionally attached to the shoreline and the freight at risk;

“**salvage operation**” means an 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;

“**salver**” means a person rendering salvage services;

“**Salvage Convention**” means the International Convention on Salvage of 1989.

### **371. Non-application to platforms and drilling units**

This Part does not apply to fixed or floating platforms or to mobile offshore drilling units when the platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

### **372. Non-application to foreign state-owned vessels**

(1) This Part does not apply to warships or any other non-commercial vessels owned or operated by a foreign State and entitled at the time of salvage operations to sovereign immunity under generally recognised principles of public international law unless that State has decided to apply the Salvage Convention to the ships or vessels.

(2) For the purposes of proceedings under this Act, a certificate signed by the Secretary-General of the International Maritime Organisation, setting out a state’s decision to apply the Salvage Convention to ships and vessels referred to in subsection (1) and the terms and conditions of the application, is prima facie evidence.

### **373. Salvage of life**

(1) Where services are rendered

- (a) wholly or in part in Ghanaian waters in saving life from a vessel or aircraft, or
- (b) outside Ghanaian waters, in saving life on a Ghanaian vessel,

the owner of the vessel, aircraft, cargo or apparel in respect of which the life was saved shall pay to the salver a reasonable amount of salvage to be determined in the manner set out in this Part.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel shall have priority over all other claims for salvage.

(3) Salvage is not due from a person who has been saved.

### **374. Salvage of cargo**

(1) Where a vessel or aircraft is wrecked, stranded or in distress in Ghanaian waters or on the shores of Ghana, and services are rendered by a person

- (a) in assisting the vessel or aircraft or saving the cargo or apparel of the vessel or a part of it, or
- (b) other than the receiver of wrecks,

the owner of the vessel, aircraft, cargo, apparel or wreck shall pay to the salver, a reasonable amount of salvage, which shall be determined in the manner set out in this Part.

(2) A salver of human life, who has participated in services in the event of a maritime casualty salvage is entitled to an appropriate share of the remuneration awarded to the salver for salvaging the vessel or

any other property or preventing or minimising damage to the environment.

### **375. Services excluded from salvage remuneration**

A provision of this Part does not entitle a person to salvage remuneration,

- (a) in respect of salvage services rendered contrary to the express and reasonable prohibition of the services on the part of the vessel or aircraft or by the owner of property to which the services are rendered; or
- (b) in respect of services rendered by a tug
  - (i) to the vessel or aircraft which the tug is towing; or
  - (ii) in relation to the cargo of that vessel or aircraft,except where the services are of an exceptional character outside the scope of the contract of towage;
- (c) if that person caused the distress giving rise to the salvage, intentionally or through negligence; and
- (d) if and to the extent that it appears that that person has concealed or unlawfully disposed of any of the property salvaged.

### **376. Conditions for salvage remuneration**

(1) Except as otherwise provided in section 382, remuneration is not due under this Act if the salvage operations had no useful result.

(2) A salvor is entitled to remuneration under this Part although the vessel or aircraft performing the salvage operation and the vessel, aircraft, cargo or any other property salvaged belong to the same owner.

### **377. Salvage contracts**

(1) Sections 397 to 404 apply to a salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Ghanaian vessel shall, with the owner's consent, 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 Ghanaian vessel shall have the authority to conclude contracts on behalf of the owner of the property on board the vessel.

(3) A provision of this section shall not affect the application of section 376 or the duties to prevent or minimise damage to the environment provided in paragraph (b) of section 379 and paragraph (b) of section 380.

### **378. Annulment or modification of contracts**

A contract relating to salvage or any of its terms may be annulled or modified by a Court, where it appears to the Court that

- (a) the contract had been entered into under undue influence or the threat of danger and the terms of the contract are inequitable, or
- (b) the payment under the contract is excessively high or too small for the services actually rendered.

### **379. Duties of salvor**

A salvor owes a duty to the owner of the vessel or other property in danger to

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a) of this section;
- (c) seek assistance from other salvors whenever the circumstances reasonably so require; and
- (d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger, except that the amount of the salvor's reward shall not be prejudiced where the salvor proves that the request was unreasonable.

### **380. Duties of owner and master**

The owner or master of a vessel or the owner of other property in danger owes 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 any other property has been brought to a place of safety to accept delivery when reasonably requested to do so by the salvor.

### **381. Powers of the Authority as regards protection of maritime environment**

(1) The Director-General in consultation with the Minister and the Environmental Protection Agency shall

- (a) give directions in relation to any salvage operation,; and
- (b) take measures in accordance with generally recognised principles of public international law to protect the environment from pollution following a maritime casualty or acts relating to the casualty which may reasonably be expected to result in harmful consequences to the environment.

(2) The Director-General shall in pursuit of subsection (1) take into account the need for co-operation among salvors, other interested parties and the Authority in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life and property in danger, as well as preventing damage to the environment.

(3) A public officer or any other person acting under the directions of the Director-General is under a duty to exercise due care in preventing or minimising damage to the environment.

(4) A public authority or an officer who is reasonably within the vicinity of a vessel or person in distress or in 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 the salvors,
- (b) the admission to the port of vessels in distress,
- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of salvaging life and property, and

- (d) preventing or minimising damage to the environment.

### **382. Criteria for fixing salvage reward**

Salvage reward shall be fixed with a view to encouraging salvage operations, taking into account

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

### **383. Responsibility for payment of reward**

(1) Payment of a reward determined in accordance with section 382 shall be made by the owners of the vessel and any other property interests in proportion to their respective interest in the property salvaged.

(2) For expediency, the ship-owner shall pay the amount on behalf of interests referred to in subsection (1) subject to the right of the ship-owner to be reimbursed by the other interests.

(3) A ship-owner who makes the payment under subsection (2), may require the other parties with interest to provide security not exceeding the values of their respective salvaged interests until the ship-owner has been fully reimbursed.

### **384. Quantum of reward**

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

### **385. Special compensation**

(1) A salvor is entitled to special compensation equivalent to the expenses of the salvor from the owner of a vessel where the salvor has carried out salvage operations in respect of the vessel itself or its cargo which was a threat to the environment and has failed to earn a reward under this Part which is equivalent to the special compensation assessable under subsections (2) and (3) or as defined in subsection (4).

(2) Where in the circumstances stated in subsection (1), the salvor has during salvage operations 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 thirty percent of the expenses incurred by the salvor.

(3) A Court or a person determining the award may, where it is considered fair and just, increase the special compensation, bearing in mind the criteria set out in section 382; but the total increase shall not be more than one hundred percent of the expenses incurred by the salvor.

(4) For the purposes of this section “**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 in the salvage operation, taking into consideration the criteria set out in paragraphs (h), (i) and (j) of section 382.

(5) The total special compensation assessable under this section shall be paid only if and to the extent that the compensation is greater than a reward recoverable under section 382.

(6) Where the salvor, in carrying out the salvage operations, has acted negligently and failed to prevent or minimise damage to the environment, the salvor may be deprived of the whole or a part of a special compensation payable under this section.

(7) A provision of this section shall not affect the right of any other recourse available to the owner of the vessel.

### **386. Services rendered under existing contracts**

A payment shall not become due under this Part 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.

### **387. Apportionment between salvors**

(1) The apportionment of a reward, fixed under section 382, between salvors shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and any other persons in the service of each salvaging vessel shall be determined by the law of the State in which the vessel is registered.

(3) Where the salvage referred to in subsection (1) has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and the servant of the salvor and in the absence of formal contract the Court or person determining the apportionment and disbursement shall apply general principles of law to the cases in order to reach a just and equitable decision.

### **388. Salvor’s misconduct**

A salvor may be deprived of the whole or part of the payment due to that salvor under this Part to the extent that the salvage operation has become unnecessary or more difficult because of a fault or neglect on the salvor’s part or if the salvor has been guilty of fraud or any other dishonest conduct.

### **389. Maritime lien**

A salvor’s maritime lien shall not be affected under Part Three except that the salvor may not enforce the salvor’s lien when reasonable security for the salvor’s claim, including interest and costs, has been duly tendered or provided.

### **390. Duty to provide security**

(1) A person liable to make a payment under this Act shall on the request of the salvor give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

(2) Despite subsection (1), the owner of the salvaged vessel shall take reasonable steps to ensure that the owners of the cargo provide security to the satisfaction of the owner of the vessel or of the salvor for the claims against the owners of the cargo, including interest and costs, before the cargo is released.

(3) The salvaged vessel and its property shall not without the consent of the salvor be removed from the port or place at which they first arrive after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or its property.

(4) A Court may on application by the salvor in a dispute between the salvor and the person liable to pay for the claim under this Part, or between the owner of the vessel and the owner of the cargo, relating to security to be provided, decide the amount and the terms of the security.

### **391. Interim payment**

(1) The Court adjudicating the claim of the salvor may on the application of the salvor, make an interim order for payment to the salvor of an amount that the Court considers fair and just.

(2) In the event of an interim payment under subsection (1) the security provided under section 390 shall be reduced accordingly.

### **392. State-owned cargoes**

Non-commercial cargoes owned by a state and entitled at the time of salvage operations, to sovereign immunity under recognised principles of public international law, are not subject to seizure, arrest or detention by legal process, or to an action *in rem* without the express consent of the State owner of the cargo.

### **393. Humanitarian cargoes**

Humanitarian cargoes donated by a State are not subject to seizure, arrest or detention, where that State has agreed to pay for salvage services rendered in respect of the humanitarian cargoes.

### **394. Determination of salvage dispute**

(1) Disputes as to the amounts of salvage, whether of life or property and whether rendered within or outside Ghana arising between the salvor and the owners of any vessel, aircraft, cargo, apparel or wreck shall if not settled by agreement, arbitration or otherwise, be determined summarily by a District Court where

- (a) the parties to the dispute consent,
- (b) the value of the property salvaged does not exceed the cedi equivalent of US \$50 000, or
- (c) the amount claimed does not exceed the cedi equivalent of US \$50 000.

(2) A dispute relating to salvage may be determined on the application of the salvor or of the owner of the property salvaged or of their respective agents.

(3) The Court or the arbitrators to whom a dispute on salvage is referred for determination may for the purpose of determining the dispute invite as an assessor, a person knowledgeable in maritime affairs who shall be paid as part of the costs of the proceedings, the sum determined by the Court or the parties for the

services of that person.

### **395. Summary determination of salvage disputes**

- (1) Disputes relating to salvage which are to be determined summarily as set out in section 394 shall,
  - (a) where the dispute relates to the salvage of a wreck, be referred to the District Court that has 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 a ship, an aircraft, or to the cargo or apparel or in saving life be referred to a District Court at or near the port in Ghana into which the ship is first brought after the occurrence which gave rise to the salvage claim.

(2) The District Court may, for the purpose of determining the dispute, seek the assistance of a person conversant with maritime affairs as an assessor and the assessor shall be paid in respect of the services of the assessor and as part of the cost of the proceedings the sum provided by the Authority.

### **396. Valuation of property salvaged**

(1) Where a 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 a valuation is made the receiver shall give copies of the valuation to both parties.

(2) A copy of a valuation made under subsection (1) signed by the valuer as certified true copy is admissible in evidence in subsequent proceedings.

(3) The Authority may determine the fees which shall be paid in respect of a valuation made under this section by the person applying for the valuation.

### **397. Detention of property liable to salvage by receiver**

- (1) Where salvage is due to a person under this Act, the receiver shall,
  - (a) where the salvage is due in respect of services rendered in assisting the vessel or aircraft or in saving life or in saving the cargo or apparel, detain the vessel or aircraft and cargo or apparel; and
  - (b) where the salvage is due in respect of the saving of a wreck and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Except as otherwise provided in this Act, the receiver shall detain the vessel or aircraft and the cargo or apparel or the wreck, until payment is made for salvage or pro-cess is issued for the arrest or detention of the person liable to pay for the salvage by a Court.

(3) The receiver may release the vessel, aircraft, cargo, apparel or wreck detained under this section, where security is given

- (a) to the satisfaction of the receiver, or
- (b) to the satisfaction of a Court where the claim for salvage exceeds the cedi equivalent of US \$5 000 and a question is raised as to the sufficiency of the security.

(4) A security given for salvage under this section exceeding the cedi equivalent of US \$5 000 may be enforced by a Court in the same manner as if bail had been granted by that Court.

### **398. Sale of detained property**

(1) The receiver may sell the vessel, aircraft, cargo, apparel or wreck detained by the receiver under section 397, where the person liable to pay for 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 thirty days after it has become due;
- (b) where the amount is disputed but an appeal does not lie from the decision of the Court to which the dispute was referred, and payment is not made within thirty days after the decision of the Court; or
- (c) where the amount is disputed after a decision has been given by a Court and payment is not made within thirty days or proceedings are not commenced for obtaining leave to appeal.

(2) The proceeds of sale of the vessel, aircraft, cargo, apparel or wreck shall, after deduction of the costs of the sale, be applied by the receiver in payment of the costs of salvage.

(3) The balance of the proceeds shall be paid to the owners of the property, or any other person entitled to the proceeds or in the absence of those owners or that person, to the Authority.

### **399. Apportionment of small amounts of salvage**

(1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Ghana has been finally determined by a District Court in the manner provided by this Part or by agreement, and does not exceed the cedi equivalent of US \$5 000 and a dispute arises as to the apportionment among several claimants, the person liable to pay the amount may pay the amount to the receiver.

(2) The receiver may receive the amount referred to in subsection (1) and issue a receipt in respect of the amount with a certificate stating the amount paid and the services in respect of which it is paid.

(3) A receipt issued under subsection (2) is a full discharge and indemnity to the person by whom the amount is paid, against any claim.

(4) The receiver shall promptly distribute the amount received by the receiver under this section among the persons entitled to it in the shares and proportions that the receiver considers fit, and may retain the money which appears to the receiver to be payable to a person who is absent.

### **400. Apportionment of salvage by Court**

Where the aggregate amount of salvage payable in respect of salvage services rendered in Ghana has been finally ascertained and the amount exceeds the cedi equivalent of US \$1 000 and where the aggregate amount of salvage payable in respect of salvage services rendered outside Ghana has been finally ascertained, if a delay or dispute arises as to its apportionment the Court may

- (a) cause the amount to be apportioned among the persons entitled in a manner that it considers just, and may for that purpose, appoint a person to carry that apportionment into effect; or
- (b) compel a person in whose hands or under whose control the amount may be, to distribute the amount or to bring it into court to be dealt with as the Court directs.

### **401. Salver's right to interest**

A salver is entitled to be paid interest on any payment due to the salver under this Part, and the amount

of the interest shall be at the discretion of the Court or person adjudicating the case.

#### **402. Application to the Government**

(1) Where salvage services are rendered by or on behalf of the Government, or with the aid of Government property, the Government is entitled, subject to the Regulations, to claim salvage in respect of the services and shall have the same rights and remedies as any other salvor.

(2) Subject to the provisions of the law relating to proceedings against the Government, this Part shall apply in relation to salvage services rendered in assisting a ship or an aircraft of the Government, or in saving life from it, or in saving the 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) A provision of this Part shall not prejudice the right of a salvor carrying out salvage under section 379 to avail that salvor of the rights and remedies provided in this Part including remuneration where the salvage operation is voluntary and beyond the normal official duties of the salvor.

#### **403. Limitation of actions**

(1) An action shall not be instituted in respect of salvage services unless the proceedings are commenced within two years after the date of completion of the salvage operations.

(2) The person against whom the claim is made may at any time during the period of two years referred to in subsection, (1) extend the period by a declaration to the claimant and may in the same manner further extend the period.

(3) An action for indemnity by a person liable under this Part may be instituted within two years after the date of termination of the salvage operations, but the Court may on justifiable grounds extend the limitation period to the extent and on the conditions that it considers fit.

#### **404. Publication of judicial and arbitral awards**

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

### **PART THIRTEEN**

#### *Passenger Ships*

#### **405. Power of the Minister to make Regulations in respect of passenger ships**

(1) The Minister may make Regulations

- (a) in respect of accommodation facilities and provisions on board ships which carry passengers to or from a port in Ghana;
- (b) requiring the preparation and furnishing of particulars of the passengers to or from a port in Ghana;
- (c) regulating the number of passengers which a ship may carry from a port in Ghana whether or not the ship is a passenger ship; and
- (d) to prescribe the terms and conditions on which a ship may carry passengers between ports in Ghana.

(2) In making Regulations under subsection (1) the Minister shall consider the 1974 International Convention on the carriage of passengers and their luggage on board ships and the amendments to it.

(3) The Minister may waive or vary the Regulations referred to in subsection (1) in respect of their application to licensed Ghanaian ships which carry passengers and operate solely within Ghanaian waters.

#### **406. Offences in connection with passenger ships**

(1) A person commits an offence if that person

- (a) on account of being drunk and disorderly is refused entry to a passenger ship or where that person is already on board, is requested by the owner or a person in the employment of the owner to leave the ship, and although the fare paid has been returned or tendered to that person, that person persists in attempting to enter the ship, or where that person is already on board, does not leave the ship;
- (b) after a warning by the master or any other officer of a ship, molests or continues to molest a passenger on board the ship;
- (c) on account of a ship being full, is refused admission or requested to leave the ship by the owner or a person in the owner's employ after having the amount of a fare paid by that person returned or tendered to that person, that person nevertheless persists in attempting to enter the ship, or where that person is already on board, does not leave the ship;
- (d) travels or attempts to travel on a ship without first paying the fare and with intent to avoid payment of the fare;
- (e) having paid the fare to travel on a ship for a certain distance, knowingly and wilfully proceeds in the ship beyond that distance without first paying the fare for the additional distance;
- (f) on arriving on a ship at a point to which the fare has been paid, knowingly refuses or neglects to leave the ship;
- (g) while on board a ship fails, when requested by the master or any other officer to pay the fare or exhibit a ticket or any other receipts showing payment of the fare as is usually given to persons travelling by and paying their fare for the ship; or
- (h) wilfully does or causes to be done anything in a manner so as to obstruct or damage a part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

(2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months.

### PART FOURTEEN

#### *Limitation and Division of Liability*

#### **407. Interpretation**

For the purposes of this Part,

“**salvage operation**” includes the operations referred to in section 409 (1) (d), (e) and (f);

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

“**salver**” means a person rendering salvage services;

“**ship**” includes every description of lighter, barge or similar vessel, however propelled and any structure launched and intended for use in navigation as a ship or as a part of a ship;

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

“**Unit of Account**” means the special drawing right as defined in section 2 of Article XXI of the Articles of Agreement of the International Monetary Fund.

#### **408. Persons entitled to limit liability**

(1) Ship-owners and salvers may limit their liabilities in accordance with this Part.

(2) An insurer of liability for claims subject to limitation under this Part is entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default, the ship-owner or salver is responsible, may limit the person’s liability under this Part.

#### **409. Claims subject to limitation**

(1) Subject to sections 410 and 411, the following claims are subject to limitation of liability regardless of the basis of liability:

- (a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation, that occur on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting from these;
- (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 any other loss resulting from infringement of rights other than contractual rights, that occur in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board the ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of a ship; and
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit liability in accordance with this Part, and further loss caused by those measures.

(2) The claims referred to in subsection (1) are subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, except that the claims referred to in paragraphs (d), (e) and (f) of subsection (1) are not subject to limitation of liability where the claims relate to remuneration under a contract with the person liable.

#### **410. Liability against ships and invoking limitation not an admission of liability**

For the purposes of this Part, the liability of a ship-owner includes liability in an action against the ship of the ship-owner, and the act of invoking limitation does not constitute an admission of liability.

#### **411. Claims exempted from limitation**

Limitation of liability under this Part does not apply to

- (a) claims for salvage or contribution in general average;
- (b) claims by employees of the ship-owner or employees of the salver whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or any other persons entitled to make the claims,
  - (i) if under the contract of service between the ship-owner or salver and the employees, the ship-owner or salver is not entitled to limit the liability of the ship-owner in respect of the claims; or
  - (ii) if the ship-owner is under a contract that provides for a limited liability of an amount greater than that provided for in section 414; and
- (c) claims in respect of air-cushioned vehicles and floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the sub-soil of the sea-bed.

#### **412. Conduct barring limitation**

A person liable is not entitled to limit liability if it is proved that the loss resulted from that person's personal act or omission with the intent to cause the loss, or from that person's recklessness and with knowledge that the loss would probably be the result.

#### **413. Set off of claims**

Where a person entitled to limitation of liability under this Part has a claim against the claimant arising from the same issue, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance.

#### **414. Limits of liability calculation**

The limits of liability for claims other than those provided for in section 415, that arises on a distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury, 333,000 Units of Account for a ship with a tonnage not exceeding five hundred tons; for a ship with a tonnage exceeding five hundred tons, the following amounts in addition to the 333,000 Units of Account:
  - (i) for each ton from 501 to 3,000 tons, 500 Units of Account;
  - (ii) for each ton from 3,001 tons, to 30,000 tons, 333 Units of Account;
  - (iii) for each ton from 30,001 to 70,000 tons, two hundred and fifty Units of Account; and
  - (iv) for each ton in excess of 70,000 tons, 167 Units of Account;
- (b) any other claim, 167,000 Units of Account for a ship with a tonnage not exceeding five hundred tons; for a ship with a tonnage exceeding five hundred tons the following amount in

addition to the 167,000 Units of Account:

- (i) for each ton from 501 to 30,000 tons, 167 Units of Account;
- (ii) for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
- (iii) for each ton in excess of 70,000 tons, 83 Units of Account.

#### **415. Priorities**

(1) Where the amount calculated in accordance with paragraph (a) of section 414 is insufficient to pay the claims mentioned in full, the amount calculated in accordance with paragraph (b) of section 414 shall be available for payment of the unpaid balance of claims under paragraph (a) and the unpaid balance shall rank rateably with claims under paragraph (b).

(2) Despite the right of claim for loss of life or personal injury referred to in paragraph (a) of section 414, claims referred to in section 418 shall have priority over the claims referred to in paragraph (b) of section 414.

(3) The limitation of liability for a salvor not operating from a ship or for a 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 one thousand five hundred tons.

#### **416. Measurement of ship's tonnage**

For the purposes of this Part, a ship's tonnage shall be her gross tonnage as defined in the Tonnage Regulations made under this Act.

#### **417. Limitation of liability of port and owners of docks**

(1) The owners of a dock, canal, harbour or port are not liable for a loss or damage caused to

- (a) a vessel, or
- (b) goods, merchandise or other things whether on board a vessel or not,

in excess of an aggregate amount equivalent to 70 Units of Account for each ton of the tonnage of the largest ship which has visited that dock, canal, harbour or port within five years to the occurrence of the loss or damage.

(2) For the purposes of this section a ship shall not be considered to have visited a dock canal, harbour or port by reason of the fact that

- (a) it has been built or fitted out within the area,
- (b) it has taken shelter within the area, or
- (c) it has passed through the area on a voyage between two places both situated outside that area.

(3) The limitation of liability under this section shall relate to the whole of a loss or damage which may arise on one distinct occasion, although the loss or damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under an enactment despite anything contained in any enactment.

(4) For the purposes of this section, the owner of a dock, canal, harbour or port includes a person who or an authority that has the control and management of a dock, canal, harbour or port and a ship repairer

using the dock, canal, harbour or port.

(5) A provision of this section does not impose a liability in respect of a loss or damage on an owner or authority in a case where a liability would not have existed if this Act had not been enacted.

#### **418. Limitation for passenger claims**

(1) The limitation of liability of a ship-owner in respect of claims on a distinct occasion for loss of life or personal injury to passengers of a ship 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 certificate, but not exceeding 25 million Units of Account.

(2) For the purposes of this section claims for loss of life or personal injury to passengers of a ship means a claim brought by or on behalf of a person carried in that ship,

- (a) under a contract of passenger carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

#### **419. Conversion of Unit of Account to Ghanaian currency**

The amounts referred to in sections 414 and 418 shall be converted into cedi according to the value of the cedi to a Unit of Account on the date the security or guarantee referred to in section 421 is deposited.

#### **420. Aggregation of claims**

(1) The limitation of liability determined in accordance with section 414 applies to the aggregate of the claims which arise on a distinct occasion against

- (a) the ship-owner and a person for whose act, neglect or default the ship-owner may be responsible;
- (b) the ship-owner of a ship rendering salvage services from that ship and the salvor operating from that ship and a person responsible for the act, neglect or default; or
- (c) the 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 a person responsible for the act, neglect or default.

(2) The limitation of liability determined in accordance with section 418 applies to the aggregate of the claims referred to in that section which may arise on a distinct occasion against the ship-owner and a person responsible for the act, neglect or default of the ship-owner.

#### **421. Provision of security and release of ship**

(1) A person alleged to be liable and seeking to limit liability under this Part shall deposit into Court an amount equivalent to at least the limit provided for in section 414 or section 418 as appropriate, in the form of a security or guarantee, together with interest from the date of the occurrence that gives rise to the liability until the date the security or guarantee is deposited, and the amount 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 a person or the insurer of a person mentioned in paragraphs (a), (b) or (c) of subsection (1), or subsection (2) of section 420, shall be deemed to have been deposited by the persons mentioned in that section.

#### **422. Distribution of the fund**

(1) Subject to sections 414 and 418, the proceeds of the security or guarantee deposited with the Court shall be distributed among the claimants in proportion to their established claims.

(2) The Court may stay proceedings pending in relation to the matter, and may proceed in any manner, subject to the orders of the Court, as to the exclusion of the claimants who do not claim within a specified time and as to payment of costs, that the Court thinks just.

(3) A lien or any other right in respect of a ship or property shall not affect the proportions in which the amount is distributed among several claimants.

(4) Sums paid for or on account of loss or damage in respect of the liability of owners shall be limited under the provisions of this Part and costs incurred in relation to them may be brought into account among part owners of the same ship in the same manner as money disbursed for their use.

(5) Where the person liable or the insurer of that person has settled the claim, that person shall be subrogated to the rights which the person so compensated would have enjoyed under this Part before the proceeds of the security or guarantee are distributed.

(6) In making a distribution in accordance with this section, the Court may postpone the disbursement of a part of the amount to be distributed that it considers appropriate having regard to the claims subrogated or as may otherwise be established later.

#### **423. Bar to other actions**

(1) Where a security or guarantee has been deposited with the Court in accordance with section 421, a person who has made a claim against the security or guarantee shall be barred from exercising a right in respect of the claim against any other assets of a person by or on behalf of whom the security or guarantee has been deposited.

(2) Where a ship or any other property is seized or arrested in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Part, and in respect of which a security or guarantee is deposited, the Court shall order the release of the ship or property if the security or guarantee has been deposited in Ghana 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;
- (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 considered to have submitted to the jurisdiction of the Court to adjudicate on the claim.

(3) Subsections (1) and (2) shall apply only if the claimant brings a claim before the Court and the security or guarantee deposited with the Court is actually available and freely transferable in respect of that claim.

#### **424. Rules as to division of loss**

(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to the property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was at fault except that where, having regard

to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2) A provision of this section shall not

- (a) operate to render a vessel liable for a loss or damage if the vessel has not by a default contributed to the loss or damage;
- (b) affect the liability of a person under a contract of carriage or any other contract; or
- (c) be construed as imposing a liability on a person from which liability that person is exempted by a contract or by law.

#### **425. Damages for personal injury**

(1) Where loss of life or personal injury is suffered by a person on board a vessel owing to the fault of that vessel and another vessel, the liability of the owners of the vessels shall be joint and several.

(2) A provision of this section shall not be construed as depriving a person of a right of defence which that person apart from this section might have in an action brought against that person by the person injured or a person entitled to sue in respect of the loss of life, or shall not affect the right of a person to limit the person's liability in cases to which this section relates in the manner provided by law.

#### **426. Definition of "freight"**

In sections 424 and 428 "**freight**" includes passage money and hire, and references to damage or loss caused by the fault of a ship includes references to a salvage or any other expenses consequent on that fault recoverable at law as damages.

#### **427. Right of contribution**

(1) Where loss of life or personal injury is suffered by a person on board a vessel owing to the fault of that vessel and another vessel and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which the vessel was at fault, the owners may recover by way of contribution the amount of the excess from the owners of the other vessel to the extent to which that other vessel was at fault, but an amount shall not be so recovered which could not, by reason of a 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 a person entitled to sue.

(2) In addition to any other remedy provided by law the persons entitled to a contribution shall for the purpose of recovering the contribution and subject to the provisions of this Act have the same rights and powers as the person entitled to sue for damages in the first instance.

#### **428. Limitation of actions**

(1) Subject to this section, an action shall not be brought to enforce a claim or lien against a ship or the owners of the ship in respect of a damage to or loss of another ship, her cargo or freight, or any other property on board, or in respect of loss of life or personal injury suffered by a person on board that other ship, caused by the fault of the ship, whether that other ship is wholly or partly at fault unless proceedings are commenced within two years from the date when the damage or loss or injury was caused.

(2) An action shall not be brought under this Act to enforce a contribution in respect of an overpaid proportion of damages for loss of life or personal injury unless proceedings are commenced within one year from the date of payment.

(3) A court may in accordance with the rules of court extend a period on the conditions that it thinks fit and shall do so, if satisfied that during the period there has not been a reasonable opportunity to arrest the defendant ship within the jurisdiction of the Court or within the territorial seas of the country to which the plaintiff resides or has a principal place of business.

## PART FIFTEEN

### *Court of Survey*

#### **429. Court of Survey**

(1) The High Court is a Court of Survey for a port in Ghana and shall for that purpose consist of a Justice of High Court sitting with two assessors appointed for each case by the Chief Justice.

(2) The assessors are persons with nautical, engineering or any other special skills and experience, one of whom shall be nominated by the Authority or, in the case of a foreign ship, by the consular officer of the country to which the ship belongs who is at or near the port, where the cause of action has arisen.

#### **430. Jurisdiction of Court of Survey**

The Court of Survey shall have the power and the duty to hear matters referred to it under this Act.

#### **431. Power and procedure of Court of Survey**

(1) The following provisions apply in relation to the power and proceedings of a Court of Survey concerning a ship which is the subject of an action before the Court

- (a) the case shall be heard in open court;
- (b) the Justice and each assessor may survey the ship and go on board the ship and inspect the machinery equipment and cargo and may require the unloading or removal of the cargo, ballast or tackle, and shall for the purposes have all the powers of a surveyor;
- (c) the Court may order the ship to be surveyed and appoint a competent person to survey the ship and report to the Court;
- (d) the Justice shall have the same power as the Authority to order the ship to be released or finally detained, but unless one of the assessors agrees with an order for the detention of the ship, the ship shall be released wherever detained; and
- (e) the owner or the master of the ship and a person appointed by the owner or master, may attend at an inspection or survey made under of this section.

(2) The Court may make the order with respect to the costs of an inquiry or investigation under this Act that it thinks fit, and the costs are recoverable in the same manner as a judgment debt.

## PART SIXTEEN

### *Inquiries and Investigations into Marine Casualties*

#### **432. Investigations of shipping casualties**

- (1) Where any of the following casualties occurs,
  - (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 an accident to a ship or ship's boat, or by an accident occurring on board a ship or ship's boat, or
  - (c) a damage caused to or by a ship,

and, at the time of its occurrence, the ship was a Ghanaian ship or the ship or ship's boat was in Ghanaian waters, the Authority may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Director-General.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), the Authority may cause a formal investigation to be conducted by a Wreck Commissioner.

#### **433. Preliminary inquiry**

For the purposes of a preliminary inquiry under section 432, the person holding the inquiry shall have the powers of a surveyor under this Act.

#### **434. Formal investigation**

(1) The Authority may appoint a Wreck Commissioner to hold a formal investigation into a shipping casualty under this Part.

(2) There shall be appointed not less than two assessors who are persons who have nautical, engineering or any other special skills or knowledge as the occasion demands, to assist the Wreck Commissioner in a formal investigation.

(3) Where a formal investigation involves or is likely to involve a question of cancellation or suspension of the certificate of an officer, the Wreck Commissioner shall hold the investigation with the assistance of not less than two assessors who are persons who have experience in merchant marine as master or chief engineer of a foreign ship.

(4) The Director-General of the Authority shall render assistance to the Wreck Commissioner as lies in the power of the Director-General in a formal investigation.

(5) The Wreck Commissioner, after hearing the case shall make a full report containing a statement of the case and the recommendations of the Wreck Commissioner together with extracts from the evidence, and each assessor shall sign the report or state in writing to the Authority the dissent of the assessor and the reasons for the dissent.

(6) The Authority shall pay the costs of a formal investigation.

(7) For the purposes of this Part, the Wreck Commissioner holding a formal investigation shall have the powers of a District Court and of a surveyor in the exercise of the function of a surveyor under this Act.

(8) A formal investigation into a shipping casualty shall be conducted in the same manner as the trial of a case by a District Court.

#### **435. Power of Authority as to certificates**

(1) The Director-General, on the recommendation of the Wreck Commissioner, shall cancel or suspend the certificate of an officer issued in Ghana whether the holder is a citizen or not if the Wreck

Commissioner finds that

- (a) the loss, abandonment or serious damage to a ship or loss of life has been caused by the wrongful act or default of the officer, or
- (b) the officer is unfit to discharge the duties of office by reason of incompetence or misconduct or for any other reason has been seriously negligent in the discharge of the duties of office,

except that at least one of the assessors shall agree with the finding of the Wreck Commissioner.

(2) The Wreck Commissioner shall in all cases send a full report of the case together with the evidence to the Director-General.

(3) Where a certificate referred to in subsection (1), of an officer has been issued by a foreign government or authority, the Director-General shall forward a copy of the report of the formal investigation to the appropriate government or authority of the state concerned with recommendations to take action against the officer which that government or that authority considers appropriate.

#### **436. Limitation on power of the Director-General as to certificate**

A certificate shall not be cancelled or suspended by the Director-General under this Part, unless the holder of the certificate has before the commencement of formal investigation been furnished with a statement of the case on which the formal investigation was ordered.

#### **437. Delivery of certificate**

An officer whose certificate is cancelled or suspended by the Director-General shall deliver the certificate to the Director-General on demand and if the officer fails to comply, the officer commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both then fine and the imprisonment.

#### **438. Right of appeal against the Director-General's decision**

An officer aggrieved by the decision of the Director-General to suspend or cancel the certificate of the officer may appeal to a court of competent jurisdiction.

#### **439. Rehearing of investigations**

(1) The Director-General may order a case to be reheard whether generally or partially in any case under this Part where a formal investigation into a shipping casualty has been held

- (a) if new evidence which could not be produced at the investigation is discovered, or
- (b) if for any other reason there is in the opinion of the Director-General grounds for suspecting that there has been a miscarriage of justice.

(2) The Director-General may order the case to be reheard by the Wreck Commissioner by whom the case was heard in the first instance or by a different Wreck Commissioner as the Director-General may appropriately determine.

(3) The owner of a ship, or any other person who has an interest in a formal investigation, and is affected by the decision of the Wreck Commissioner, may appeal from that decision in the same manner and subject to the same conditions as are applicable to a decision for the cancellation or suspension of the certificate of an officer.

## PART SEVENTEEN

### *Legal Proceedings*

#### *Jurisdiction*

#### **440. Jurisdiction in case of offences**

(1) For the purpose of determining jurisdiction under this Act, an offence shall be considered to have been committed and a cause of complaint to have arisen at the place where the offence was actually committed or cause of complaint arose, or at a place where the offender or person complained against is found.

(2) Where, in legal proceedings under this Act, a question arises whether a ship or person is or is not within the provisions of this Act, that ship or that person shall be taken to be within these provisions unless the contrary is proved.

#### **441. Provisions as to mortgages of ships sold to foreigners**

Where the registration of a ship is considered to be closed under section 10 on account of a transfer to a person not qualified to be an owner of a Ghanaian ship, an unsatisfied mortgage may, if the ship comes within the jurisdiction of a Court, be enforced by the Court despite a transfer, except in cases where the ship has been sold under a judgment of a Court.

#### **442. Jurisdiction over ships lying off the coast**

Where a Court has jurisdiction within a district which is situated on the coast of a sea, or abutting on or projecting into a bay, channel, lake, river or any other navigable water, the Court shall have jurisdiction over a vessel being on, or lying or passing off that coast, or being in or near that bay, channel, lake, river or navigable water and over persons on board that vessel as if the vessel or persons were within the limits of the ordinary jurisdiction of the Court.

#### **443. Jurisdiction in case of offences on board ship**

Despite anything contained in the Criminal Offences Act, 1960 (Act 29) as amended or in any other enactment, where a person

- (a) who is a citizen is charged with an offence committed on board
  - (i) a Ghanaian ship on the high seas, or in a foreign port, river or harbour, or
  - (ii) a foreign ship, or
- (b) who is not a citizen and has been charged with an offence committed on board a Ghanaian ship on the high seas,

is found within Ghana, a Court that would have had jurisdiction to try the offence, if the offence had been committed within the limits of its ordinary jurisdiction, shall have jurisdiction to try the offence.

#### **444. Offences at foreign ports**

An offence against property or a person committed in or at a place ashore, afloat or in a foreign port by

a master or seafarer who at the time when the offence was committed or within three months before the offence was committed, was employed in a Ghanaian ship, shall be considered to be an offence committed on a Ghanaian ship and the offender is liable to be tried by a Court having jurisdiction under section 443.

#### **445. Jurisdiction in collision and other cases**

(1) A Court in Ghana shall not entertain an action *in personam* to enforce a claim to which this section applies unless

- (a) the habitual residence or place of business of the defendant is within Ghana,
- (b) the cause of action arose within the territorial waters of Ghana or within the limits of a harbour or port of Ghana, 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 Court.

(2) A Court in Ghana shall not entertain an action *in personam* to enforce a claim to which this section applies until proceedings previously brought by the plaintiff in a court outside Ghana 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) apply to counterclaims, 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 shall be a reference to the plaintiff or the defendant in a counterclaim.

(4) Subsections (1) to (3) shall not apply to an action or a counterclaim if the defendant submits or has agreed to submit to the jurisdiction of the Court.

(5) Subject to subsection (4) where a Court has jurisdiction for the purposes of this Act, to entertain an action *in personam* to enforce a claim to which this section applies where any of the conditions specified in subsection (1) is satisfied, the rules of court relating to the service of process outside the jurisdiction shall apply.

#### **446. Actions *in rem***

In any case in which an action may be brought against a ship other than actions arising from claims to the possession or ownership of a share in it, or a claim in respect of a mortgage or charge on a ship or a share, where the person who would be liable on the claim in an action *in personam*, when the cause of action arose, was 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 beneficially owned in respect of all the shares by that person; or
- (b) any other ship which, at the time when the action is brought, is beneficially owned as under paragraph (a);

but in determining whether a person would be liable on a claim in an action *in personam*, it shall be assumed that the habitual residence or a place of business of that person is within Ghana.

#### **447. Power to detain foreign ships**

(1) Where

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

and at any time after that period that ship or any other ship wholly and beneficially owned by the same owner is found in Ghana, the High Court may, on being satisfied that the damage or injury was caused by the misconduct or want of skill of the master or crew of the ship, issue an order to an officer of the Authority or an officer of the Customs, Excise and Preventive Service requiring the officer to detain the ship until the time that the owner, master or agent has satisfied the claim arising out of the damage or injury.

(2) The owner or agent of the ship shall obey the decision, suit or any other legal proceedings that may be instituted in respect of the damage or injury and pay costs and damages that may be awarded by the Court.

(3) An officer to whom the order is given shall detain the ship accordingly.

(4) Where it appears that before an application can be made under this section the ship in respect of which the application is to be made would have departed from Ghana, the ship may be detained for a time that will allow the application to be made or adequate security to be provided in respect of the application and the result shall be communicated to the officer detaining the ship.

(5) In legal proceedings in relation to damage or personal injury, the person giving security shall be made defendant and shall be stated to be the owner of the ship that has occasioned the damage or injury.

#### **448. Enforcing detention of ships**

(1) Where under this Act a ship is to be detained, a commissioned officer on full pay in the Ghana Armed Forces, a proper officer of Customs, or an officer of the Authority designated by the Board for the purpose may enforce the detention of the ship.

(2) Where a ship during detention, or after service on the master of the order or a notice of an order for detention, proceeds to sea before it is released by a competent authority, the master of ship, as well as the owner, and a person who sends the ship to sea each commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

(3) Where a ship proceeds to sea taking on board an officer authorised to detain the ship or a surveyor or any other officer performing the functions of office under this Act or any other enactment, the owner and master of the ship commits an offence and each is liable on summary conviction to

- (a) a fine not exceeding two thousand five hundred penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment;
- (b) a fine of one hundred penalty units for each day or part of a day during which the offence continues; and
- (c) pay the expenses of and incidental to the officer being taken to sea.

(4) An officer detaining a ship may place a police guard on that ship.

(5) A police guard placed on board a ship under subsection (4) shall take the necessary steps to prevent the ship from leaving the port.

(6) A person who obstructs an officer or a police guard or surveyor detaining a ship commits an offence and is liable on summary conviction to a fine of two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(7) An officer detaining a ship shall notify the proper officer of the Customs, Excise and Preventive Service that the ship is being detained.

(8) Where a ship is liable to detention under this Act, the proper officer of the Customs, Excise and Preventive Service may detain the ship and refuse to clear that ship outwards.

(9) For the purposes of this section the expression “**proper officer of the Customs, Excise and Preventive Service**” means the officer able to grant a clearance to the ship.

#### **449. Notice to consular officer on detention of foreign ship**

(1) Where

(a) a foreign ship is detained under this Act, or

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

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

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

#### **450. Distress of ships**

Where a Court makes an order directing payment to be made of a seafarer’s wages, fines or any other sums of money, and the party directed to pay is the master or owner of a ship and the money is not paid at the time and in the manner ordered, the Court, may direct the amount unpaid to be levied in distress and sale of the ship, the tackle, furniture and apparel of the ship.

#### **451. Inquiries into deaths of crew members and others**

(1) Subject to subsection (5) where

(a) a person dies in a Ghanaian ship, or

(b) the master or a seafarer employed in a Ghanaian ship dies in a country outside Ghana,

an inquiry into the cause of death shall be held by an officer of the Authority designated by the Director-General for the purpose.

(2) The officer holding an inquiry under subsection (1) shall for the purpose of the inquiry have all the powers of a surveyor under the Act.

(3) Where in the course of the inquiry it appears to the officer holding the inquiry that the death has been caused on board the ship by violence or other improper means, the officer shall report the matter to the Director-General, or if the emergency of the case so requires, shall take immediate steps to bring the offender to justice.

(4) The officer holding the inquiry under subsection (1) shall make a report of the findings to the Director-General and the Director-General shall, on request, make a copy of the report available to the next of kin of the deceased person or to any other person who appears to the Director-General to be interested.

(5) An inquiry shall not be held under subsection (1) where an inquest or inquiry into death is to be held or made under a law relating to inquests or criminal procedure.

#### **452. Ship may be seized and sold if penalty not paid**

(1) Where a conviction has been secured against the owner of a ship for a contravention of a provision of this Act, and a fine has been imposed

- (a) the ship is able, if the fine is not paid, be liable to be seized after a reasonable notice that the Director-General may in each case determine has been given; and
- (b) the ship may be sold by a person authorised for that purpose in writing by the Director-General and that person may by a bill of sale, give to the purchaser a valid title to the ship free from a mortgage or any other claim on it which at the time of the sale may be in existence.

(2) The remainder from the proceeds of sale after the payment of the fine and the costs of conviction, together with the costs of the seizure and sale, shall be paid over to the owner of the ship, or the mortgagee.

#### **453. Conveyance of offenders and witnesses to Ghana**

(1) Where a complaint is made to a consular officer of Ghana that

- (a) an offence against the property or a person has been committed at a place, ashore or afloat, outside Ghana by a seafarer who at the time when the offence was committed or within three months before that time, was employed on a Ghanaian ship, or
- (b) an offence on the high seas has been committed by a seafarer belonging to a Ghanaian registered ship,

the consular officer may inquire into the case on oath, and may if necessary, take the steps in the power of the consular officer for the purpose of placing the offender under the necessary restraint and of sending the offender as soon as practicable in safe custody to Ghana.

(2) The consular officer may order the master of a ship registered in and bound for Ghana to receive and give passage and subsistence during the voyage to the offender and as many witnesses as can be given, suitable accommodation.

(3) The consular officer may endorse on the agreement with the crew of the ship the particulars with respect to an offender or witness sent in the ship as the Authority requires.

(4) A master of a ship to whose charge an offender is committed shall, on the arrival of the ship in Ghana, hand the offender over into the custody of a police officer, who shall take the offender before a Court to deal with the matter as in cases of offences committed on the high seas.

(5) A master of a Ghanaian ship who, when required by a consular officer to receive and give passage and subsistence to an offender or witness, does not do so or who does not deliver an offender committed to the charge of that master into the custody of a police officer as directed commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of

imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(6) The expense of imprisoning an offender and of conveying the offender and a witness to Ghana in a manner other than in the ship to which they respectively belong, shall where the expenses are not paid as part of the costs of the prosecution, be paid out of Government funds.

### *Prosecution and Compounding of Offences*

#### **454. Liability of ship owners**

(1) Where a person is beneficially interested otherwise than by way of mortgage, in a ship or a share in a ship, the person interested, and the registered owner of the ship, are subject to all pecuniary penalties imposed by this Act or any other enactment on the owner of the ship or the owner of the share in a ship.

(2) Proceedings may be taken for the enforcement of the penalties referred to in subsection (1) against both or either of the parties referred to jointly or severally.

#### **455. Offences by bodies of persons, servants and agents**

(1) Where a body corporate, firm, association or any 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 similar officer or a partner of the body corporate, firm, association or body of persons, or was purporting to act in that capacity, also commits the offence and is also liable to the penalty provided for the offence unless that person proves

- (a) that the offence was committed without the knowledge of that person and that the ignorance was not caused by the wilful default or neglect of that person, or
- (b) that having regard to the nature of that person's functions in that capacity and to all the circumstances, that person exercised due diligence to prevent the commission of the offence.

#### **456. General penalty and continuing offences**

(1) A person who commits an offence under this Act, or does anything or omits to do anything in contravention of the provisions of this Act, for which a penalty is not provided elsewhere than in this section is liable to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(2) Where an offence under this Act is a continuing one, and a penalty is not provided in respect of the continuance every person who commits that offence is, in addition to any other liability, liable to a fine not exceeding fifty penalty units for each day or part of a day during which the offence continues.

#### **457. Compounding of offences**

(1) The Authority may compound an offence under this Act if the person suspected of having committed the offence pays a sum to be determined by the Authority but in any case not less than two hundred and fifty penalty units to the Authority.

(2) On the payment of a sum of money under subsection (1),

- (a) the person suspected of having committed the offence in respect of which the payment has been made shall if the person is in custody be discharged;
- (b) a ship detained in respect of the offence shall be released; and

- (c) further proceedings shall not be taken against the person or ship in respect of that offence.

#### **458. Admissibility of document in evidence**

(1) Where a document is declared under this Act to be admissible in evidence, the document shall on its production from the proper custody, be admissible in evidence in a Court or before a person who has by law or consent of the parties the authority to receive evidence and subject to all just exceptions, shall be prima facie proof of the matters stated in it in pursuance of this Act or by an officer in pursuance of the duties of the officer.

(2) A copy of the document or an extract from it shall also be admissible in evidence if it is proved to be a copy or extract of the original, or if it purports to be a certified true copy or extract of the original signed by the officer in whose custody the original document was entrusted.

(3) A person who has by law or consent of the parties authority to receive evidence shall have the same powers as a Court to impound a document to which this section applies which has a false or counterfeit seal, stamp or signature affixed to it.

#### **459. Service of documents**

(1) Where for the purposes of this Act a document is to be served on any person, that document may be served

- (a) in any case by delivering a copy personally to the person to be served, or by leaving a copy at the last place of abode of that person;
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the document for the master or person on board that ship with the person being or appearing to be in command or charge of the ship; and
- (c) if it is a document to be served on the master of a ship, where there is no master, and the ship is in Ghana, on the managing owner, on an agent of the owner residing in Ghana, or where no agent is known or can be found, by affixing a copy of it in a conspicuous place on the ship.

(2) A person who obstructs the service on the master of a ship of a document under the provisions of this Act, commits an offence and on summary conviction is liable to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment, and if the owner or master of the ship is privy to the obstruction, the owner or master is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **460. All officers to be public officers**

An officer appointed or authorised under this Act is a public officer.

#### **461. Protection of public officers**

Subject to the Constitution, a suit shall not be maintained against a public officer for anything done or omitted to be done in good faith by that officer in the exercise or performance or in the purported exercise or performance of a power, an authority or a duty conferred or imposed on the officer under this Act.

#### **462. 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-General, to a person who is not an officer appointed under this Act, the notice, authority, order, direction or other communication shall be in writing.

## PART EIGHTEEN

### *Miscellaneous*

#### **463. Definition of authorised officer**

In this Part, “**authorised officer**” includes

- (a) the Director-General,
- (b) a surveyor of ships, and
- (c) a person appointed to exercise a power under this Act.

#### **464. Powers of authorised officers to board ships**

(1) An authorised officer, alone or with another person, may go on board a ship in Ghana where the officer

- (a) suspects that an offence under this Act has been or is about to be committed on the ship, or
- (b) considers it necessary to do so in the discharge of a duty imposed on the officer by this Act or any other enactment.

(2) Where a ship is registered in Ghana the powers conferred by this section on an authorised officer may also be exercised outside Ghana by a proper officer, in addition to an authorised officer.

(3) A master of a ship who without reasonable excuse refuses to allow an officer to board the ship in the exercise of the powers conferred on the officer by subsection (1) or (2), commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **465. Power to require production of documents**

(1) Where an authorised officer has reason to suspect that the provisions of this Act, or of a law relating to shipping or seafarers, is not being complied with that officer may

- (a) require the owner, master or a member of the crew of a Ghanaian ship to produce an official log book or any other document relating to the crew or a member in the person’s possession or control;
- (b) require a master to produce a list of all persons on board the ship of that master, and take copies of the official log books or documents, or of any part of them;
- (c) muster the crew of that ship; or
- (d) summon the master to appear and give an explanation concerning the ship or the crew or the official log books or documents produced or required to be produced.

(2) A person who on being requested by an authorised officer

- (a) fails without reasonable excuse to produce to that officer an official log book or document as

requested,

- (b) refuses to allow the official log book to be inspected or copied,
- (c) impedes a muster of the crew required under this section,
- (d) refuses or neglects to give any explanation which that person is required to give, or
- (e) knowingly misleads or deceives an authorised officer who demands any explanation,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **466. Inspection of ships**

(1) For the purpose of ensuring that the provisions of this Act and the Regulations are complied with, an authorised officer may at a reasonable time

- (a) inspect a ship and its equipment or a part of it,
- (b) inspect articles on board a ship and a document carried on the ship,
- (c) ensure compliance with an international convention relating to shipping to which Ghana is a party, and
- (d) where the ship is registered in Ghana, the powers conferred by this section may also be exercised on a ship outside Ghana by an authorised officer.

(2) A person exercising powers under this section

- (a) shall not unnecessarily detain or delay a ship, and
- (b) may where necessary in consequence of an accident or for any other reason require a ship to be taken into dock for a survey of its hull or machinery.

(3) Where an authorised officer has reasonable grounds to believe that there are on any premises provisions and water intended for supply to a ship registered or licensed in Ghana which, if provided on the ship, would not be in accordance with the Regulations made under section 152, the authorised officer may enter the premises and inspect the provisions and water for the purpose of ascertaining whether they are in accordance with the Regulations.

(4) A person who

- (a) obstructs an authorised officer in the exercise of the powers of the authorised officer under this section,
- (b) fails without reasonable cause to comply with a requirement made under subsection (2), or
- (c) refuses or fails to give an authorised officer reasonable facilities for the exercise of the powers of the authorised officer under this section,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **467. Report by surveyor to Director-General**

The Director-General may require a surveyor to report to the Director-General on

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

#### **468. Powers of surveyor**

(1) A surveyor of ships in the execution of the duties of a surveyor may

- (a) go on board a ship and inspect the ship or a part of it, or any of the machinery, boats, equipment or articles on board, or any of the certificates of an officer to which the provisions of this Act apply;
- (b) investigate and report to the Director-General on the nature and causes of an accident or any damage which a ship has sustained or caused or is alleged to have sustained or caused;
- (c) require the attendance of the persons to appear before the surveyor and examine them on oath or affirmation for the purpose of the surveyor report; and
- (d) require answers or returns to the inquiries.

(2) A person summoned under paragraph (c) of subsection (1) shall be paid the expenses which would be paid to a witness attending on subpoena to give evidence before a court.

#### **469. Returns by surveyors**

(1) Surveyors shall make returns to the Surveyor-General as the latter requires, with respect to

- (a) surveys and inspections of ships,
- (b) 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) An owner, master or engineer of a ship surveyed by a surveyor shall on demand give to the surveyor the information and assistance within the power of that owner, master or engineer as the surveyor may require for the purpose of making a return under subsection (1).

(3) An owner, master or engineer of a ship who fails without reasonable cause to give information or assistance required under subsection (2) after a demand by a surveyor commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **470. Receipt of fee by surveyor an offence**

A surveyor of ships who fraudulently demands or receives directly or indirectly a fee, gratuity or remuneration in respect of duties performed by that surveyor under this Act except as directed by the Director-General, commits an offence and is liable on summary conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding three years or to both the fine and the imprisonment.

#### **471. Obstruction of surveyor**

(1) A person shall not wilfully impede or obstruct a surveyor in the execution of the duties of the surveyor under this Act, whether on board a ship or elsewhere.

(2) A person who wilfully impedes a surveyor of ships or a person having the powers of a surveyor of ships in the execution of the duty of the surveyor, whether on board a ship or elsewhere commits an offence is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

#### **472. Power of arrest**

(1) An authorised officer, officer of the Customs, Excise and Preventive Service, or police officer may arrest without warrant, a person who in the presence of the officer commits an offence under this Act or the Regulations.

(2) An article, in respect of which an offence referred to in subsection (1) is believed to have been committed may, unless sooner given up by an order of a Court, be impounded and taken to the police station and kept there, until the charge relating to the offence is disposed of by due process of law.

#### **473. Books**

(1) Subject to this Act, the Authority may on the directions of the Minister prepare and issue forms for a book, an instrument or a paper required under this Act, other than those required under Part Three.

(2) The Minister shall cause every form to be sealed with the seal of the Minister or marked with some other distinguishing mark, before finally directing the Authority and on making an alteration on a form give notice to the public in a manner that the Minister considers necessary to prevent inconvenience to the public.

(3) The Minister may cause forms to be supplied at moderate charges to the Customs Houses and Shipping Offices in Ghana.

(4) A book, instrument or paper, if made in a form purporting to be the proper form and if sealed in accordance with this section, shall be considered to be in the form required by this Act unless the contrary is proved.

#### **474. Exemption from stamp duty**

The following instruments are exempt from stamp duty:

- (a) an instrument used by or under the direction of the Director-General in carrying into effect the provisions of this Act, and
- (b) an instrument which is made under this Act.

#### **475. Offences in respect of use of forms**

A person who

- (a) without reasonable cause uses a form not approved by the Minister in a case where the approved form is under this Act required to be used, or
- (b) prints, sells or uses a document purporting to be a form approved by the Minister under this Act, knowing that the form has not been approved, prepared or issued by or on the direction of the Minister,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine or the imprisonment.

#### **476. Power to apply Act to ships of other countries, and to exempt such ships**

Where

- (a) the Authority is satisfied that the provisions of the law of a foreign country applicable to ships registered in or belonging to that country are substantially the same or equally effective as any of the provisions of this Act or the Regulations;
- (b) it is proved that a ship of that country complies with the corresponding provisions of the laws of that country in which it is registered or to which it belongs, and
- (c) the Director-General is satisfied that the government of that country has provided or undertaken to provide for the exemption of Ghanaian ships while they are at a port in that country, from the corresponding provisions of the law of that country,

the Authority may by executive instrument direct that all or any of the provisions of this Act or the Regulations shall not apply in respect of a ship registered in or belonging to that country while it is at a port in Ghana.

#### **477. General power to make Regulations**

The Minister may by legislative instrument make Regulations generally for carrying out the provisions of this Act and may in particular make Regulations

- (a) providing for anything which is to be prescribed under this Act;
- (b) prescribing the fees to be charged for any services rendered or acts performed under this Act;
- (c) prescribing for the control of ships, the regulation of maritime traffic, the administration of maritime search and rescue within Ghanaian waters;
- (d) relating to registration of ships (section 3);
- (e) relating to method of ascertaining tonnage of ship generally or tonnage of ships in compliance with international conventions (section 21);
- (f) for markings on ships and exemptions from marking (section 27);
- (g) relating to certificate of registry (sections 28 and 29);
- (h) relating to the licensing of Ghanaian ships (section 42);
- (i) to provide for manning of Ghanaian ships including inland watercrafts and qualifications of officers and crew (section 99);
- (j) relating to discipline aboard Ghanaian ships (section 110);
- (k) to provide for conditions of service of persons serving in Ghanaian ships and Ghanaians serving on foreign ships (section 121);
- (l) to prescribe for occupational safety (section 151);
- (m) to prescribe for provisions and water to be provided for seafarers employed in Ghanaian ships and any class of ships specified in the Regulations (section 152);

- (n) to prescribe for medical examinations of persons employed on board ships and the issue of medical certificates in respect of these persons (section 156);
- (o) to prescribe for provision of crew accommodation on board Ghanaian ships (section 157);
- (p) to require Ghanaian ships to carry medicines, medical stores, appliances and books containing instructions and advice as specified in the Regulations (section 159);
- (q) prescribe for official log book to be kept in a Ghanaian ship of not less than one hundred gross tons and a Ghanaian ship trading from Ghana (section 206);
- (r) in respect of prevention of collisions at sea and in other navigable waters, lights to be carried and exhibited and steering and sailing rules to be observed by ships (section 217);
- (s) relating to signals of distress and urgency (section 230);
- (t) for the removal of obstructions or impediments to navigation in a port or harbour or approach to a port or harbour (section 246);
- (u) relating to
  - (i) system of lighting, marks, and features and other characteristics of aid to navigation in conformity with international practice (section 248); and
  - (ii) navigation aids, dues and exemption from payment of the dues;
- (v) relating to safety at sea in conformity with international safety conventions (section 252);
- (w) relating to survey of ships (section 254);
- (x) prescribing cargo ship construction and survey regulations (section 276);
- (y) prescribing safety requirements and providing for the inspection, survey and issue of safety certificates in respect of ships (section 299);
- (z) to give effect to the Load Line Convention, prescribing load line requirements and providing for the issue of Ghanaian Load Line Certificates in respect of ships to which the Load Line Convention does not apply (section 303);
  - (aa) relating to the validity of Load Line Certificates issued in respect of a foreign ship (section 308) and carriage of deck cargo (section 316);
  - (bb) relating to carriage of bulk cargo having regard to the applicable international conventions (section 328);
  - (cc) relating to the carriage of dangerous goods on ships (section 331);
  - (dd) in respect of passenger ships to prescribe for
    - (i) accommodation facilities and provisions on board ships which carry passengers to or from a port in Ghana;
    - (ii) preparation and furnishing of particulars of passengers to or from a port in Ghana.
    - (iii) the number of passengers to be carried and terms and conditions for carrying passengers (section 405).

#### **478. Fees**

The fees prescribed by Regulation shall be paid in respect of

- (a) a certificate issued by the Authority in respect of a survey,
- (b) inspection of a ship or for a service provided in the engagement and the discharge of seafarers,
- (c) inspection of registers,
- (d) examinations of seafarers, and
- (e) verifying sea service or reproducing copies of documents.

**479. Publication of international conventions ratified by the Republic**

- (1) The Director-General shall from time to time by notice in the *Gazette* publish
  - (a) the international conventions including amendments to them and replacements and any other international instruments which apply to Ghana, and the reservations entered into by Ghana; and
  - (b) those international conventions, including amendments to them and replacements of them and any other international instruments which cease to apply to Ghana.
- (2) The Director-General shall keep a copy of
  - (a) the instruments referred to in subsection (1) that have application in Ghana, and
  - (b) notices issued under this Act,

and shall on payment of a prescribed fee make copies available for inspection and for the taking of copies by members of the public, seafarers or persons concerned with or having an interest in ships or shipping.

PART NINETEEN

*Final and Transitional Provisions*

**480. Application of this Act**

- (1) This Act applies to
  - (a) Ghanaian ships wherever they may be; and
  - (b) any other ships while in a port or place in or within the territorial and other waters of Ghana.
- (2) This Act does not apply to
  - (a) ships and aircrafts of the Ghana Armed Forces; and
  - (b) ships and aircrafts of a foreign visiting Armed Forces.
- (3) This Act applies to the Republic of Ghana.

**481. Interpretation**

In this Act, unless the contexts otherwise requires,

“**agent**” in relation to a ship means an agent of the owner, not being a managing owner, vested

with a specific authority by the owner;

**“aircraft”** includes any ship or vessel designed for flying but capable of being manoeuvred on water and is a seaplane or a ship or vessel able to alight on or hover over water;

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

**“Authority”** means the Ghana Maritime Authority;

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

**“Board”** means the governing board of the Ghana Maritime Authority;

**“cargo”** includes livestock;

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

**“citizen”** means a citizen of Ghana;

**“company”** means a body corporate registered under the Companies Act, 1963 (Act 179) or a partnership registered under the Incorporated Partnership Act, 1962 (Act 152);

**“consular officer”** means a person discharging the duties of a consular officer on behalf of the Government and when used in relation to any other country, means the officer recognised by the Government as a “consular officer” of that other country;

**“Court”** includes tribunals;

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

**“declaration of transmission”** means a declaration which authenticates a transmission as is referred to in section 46;

**“deposition”** includes summary of evidence;

**“Director-General”** means the Director-General appointed under section 8 of the Ghana Maritime Authority Act, 2002 (Act 630);

**“duly qualified medical practitioner”** means a person registered or licensed under the Medical and Dental Act, 1972;3(3)

**“fishing vessel”** means a mechanically propelled vessel used for catching fish, whales, seals, walrus or other living resources of the sea but does not include a vessel with an outboard motor;

**“foreign ship”** means a ship which is not a Ghanaian ship;

**“Ghana”** includes Ghanaian waters;

**“Ghanaian Government ship”** means a ship which belongs to the Government but does not include a ship which forms part of the Armed Forces of Ghana;

**“Ghanaian ship”** means a ship which is

(a) registered or licensed in Ghana under this Act, or

(b) owned by Ghanaians but exempted under this Act from being registered or licensed;

**“Ghanaian waters”** means the internal waters including inland waters and the territorial seas of Ghana;

**“Government”** means the Government of the Republic of Ghana;

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

**“identity mark”** means the combination and sequence of letters and numbers referred to in section 17;

**“inland waters”** means the internal waters of Ghana which are navigable;

**“inland water craft”** includes a vessel, other than a canoe, which is habitually used on a river or lake;

**“internal waters”** means the waters landward of the territorial sea baselines of Ghana as provided in the Maritime Zones (Delimitation) Act, 1986;4(4)

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

**“licensed Ghanaian ship”** means a ship or vessel that is licensed under section 40;

**“Liens and Mortgages Convention”** means the International Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages, 1993;

**“local trade in Ghanaian waters”** means the transporting locally of passengers or goods or the carrying on of any other operation or activity, within Ghanaian waters including inland waters for profit or reward;

**“machinery”** includes propulsion systems, steering systems, pressurised containers and pumping systems, windlasses, electrical systems and 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 a person not being an agent in whom an owner of the ship has vested authority to manage and operate the ship;

**“master”** includes every person who lawfully has, for the time being, command or charge of a ship;

**“merchant ship”** means a ship other than a fishing vessel, or a pleasure craft or a ship which forms part of the Armed Forces of Ghana or of another country;

**“Minister”** means the Minister charged with responsibility for Maritime Affairs;

**“national of Ghana”** means

(a) a citizen;

(b) a body corporate established by or under an enactment of Ghana and which has its principal place of business in Ghana;

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

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

**“passenger”** means a 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 that person;

(b) a child under one year of age; or

(c) a person carried on the ship under an obligation imposed on the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances which neither the master nor

the owner nor the charterer could prevent or foresee;

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

**“pilot”** in relation to any ship means any person belonging to the ship who, for the time being, has control of the ship;

**“pleasure craft”** means a ship, however propelled, that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward;

**“port”** has the same meaning as in the Ghana Ports and Harbours Authority Act, 1986(5);

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

**“prescribed”** means prescribed by the Act or the Regulations;

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

**“receiver”** includes a receiver of wreck so designated under section 349;

**“Registrar of Seafarers”** means the Registrar of seafarers appointed under the Ghana Maritime Authority Act, 2002 (Act 630);

**“Registrar of Ships”** means the Registrar of Ghanaian ships appointed under the Ghana Maritime Authority Act, 2002 (Act 630);

**“Regulations”** means the relevant Regulations made under this Act;

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

**“seafarer”** means a person employed or engaged in any capacity on board a ship, and includes apprentices except for the purposes of sections 183 to 206 inclusive, 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, other than a canoe, however, propelled and other water craft propelled by oars;

**“shipwrecked persons”** means persons belonging to any ship referred to in 349;

**“supernumerary”** means a person employed on a ship not for regular service but for use in times of need;

**“Surveyor”** includes a Surveyor appointed under section 254 and the Surveyor-General;

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

**“Tonnage Regulations”** means the Tonnage Regulations made under section 21;

**“vehicle”** includes a 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 watercraft with its equipment whether self-propelled or not that is used or capable of being used on water as a means of transportation for the purposes of navigation, fishing or commerce or for any other purpose;

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

“**wreck**” includes

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

“**Wreck Commissioner**” means a person appointed by the Director-General under section 434.

#### **482. Repeals and savings**

(1) The Merchant Shipping Act, 1963 (Act 183), as amended by the following enactments:

- (a) the Merchant Shipping Act, 1963 (Amendment) Decree, 1969 (N.L.C.D. 372);
- (b) the Merchant Shipping (Amendment) Law, 1991 (P.N.D.C.L. 248),

is hereby repealed.

(2) Part One of the Fisheries Law, 1991 (P.N.D.C.L. 256) as retained by the Fisheries Act, 2002 (Act 625) is hereby repealed.

(3) Notwithstanding the repeal under subsection (1) of this section, any instrument or notice issued, served or granted under the repealed enactment or any valid law in existence immediately before the coming into force of this Act, shall until revoked, amended or cancelled continue in force as if it were made or issued under this Act.

(4) In this section “**instrument**” means any Regulation, licence, certificate, validation, exemption, notice or other authority, issued, made or given.

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## Endnotes

### 1 (Popup - Footnote)

1. The Act was assented to on 3rd July, 2003 and notified in the *Gazette* on 11th July, 2003.

### 2 (Popup - Footnote)

2. Amended by [section 73](#) of the Ghana Maritime Security Act, 2004 ([Act 675](#)).

### 3 (Popup - Footnote)

3. [N.R.C.D. 91](#).

### 4 (Popup - Footnote)

4. [P.N.D.C.L. 159](#).

### 5 (Popup - Footnote)

5. [P.N.D.C.L. 160](#).