# THE MERCHANT SHIPPING ACT, 1958

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS


1. Short title and commencement.

2. Application of Act.

3. Definitions.


PART II

NATIONAL SHIPPING BOARD


4. Establishment of National Shipping Board.

5. Functions of National Shipping Board.

6. Power to make rules in respect of matters in this Part.


PART III

GENERAL ADMINISTRATION


**7.** Director-General of Shipping**.**

8. Mercantile Marine Department.

9. Surveyors.

10. Radio inspectors.

11. Shipping offices.

12. Seamen's employment offices.

13. Seamen's welfare officers.


[PART IV.—*Omitted*.].

PART V

REGISTRATION OF INDIAN SHIPS


20. Application of Part.

21. Indian ships.

22. Obligation to register**.**


*Procedure for registration*


23. Ports of registry.

24. Registrars of Indian ships.

SECTIONS

25. Register book.

26. Application for registry.

27. Survey and measurement of ships before registry.

28. Marking of ship.

29. Declaration of ownership on registry.

30. Evidence on first registry.

31. Entry of particulars in register book.

32. Documents to be retained by registrar.

33. Power of Central Government to inquire into title of Indian ship to be so registered.

*Certificate of registry*

34. Grant of certificate of registry.

35. Custody and use of certificate.

36. Power to grant new certificate when original certificate is defaced, lost, etc.

37. Endorsement on certificate of change of master.

38. Endorsement on certificate of change of ownership.

39. Delivery of certificate of ship lost or ceasing to be an Indian ship.

40. Provisional certificate for ships becoming Indian ships abroad.

41. Temporary pass in lieu of certificate of registry.

*Transfers of ships, shares, etc.*

42. Transfer of ships or shares.

43. Registry of transfer.

44. Transmission of property in Indian ship on death, insolvency, etc.

45. Order for sale where ship has ceased to be an Indian ship.

46. Transfer of ship on sale by order of court.

47. Mortgage of ship or share.

48. Entry of discharge of mortgage.

49. Priority of mortgages.

50. Mortgagee not deemed to be owner.

51. Rights of mortgagee.

52. Mortgage not affected by insolvency.

53. Transfer of mortgages.

54. Transmission of interest in mortgage in certain circumstances.

*Name of ship*

SECTIONS

55. Rules as to name of ship.

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

56. Registry of alterations.

57. Regulations for registry of alterations.

58. Provisional certificate and endorsement where ship is to be registered anew.

59. Registry anew on change of ownership.

60. Procedure for registry anew.

61. Transfer of registry.

62. Restrictions on re-registry of abandoned ships.

*National character and flag*

63. National colours for Indian ships.

64. Unlawful assumption of Indian character.

65. Concealment of Indian, or assumption of foreign, character.

66. Indian ships to hoist proper national colours in certain cases.

67. National character of ship to be declared before clearance.

*Miscellaneous*

68. Liabilities of ships not recognised as Indian ships.

69. Proceedings on forfeiture of ship.

70. Notice of trust not received.

71. Liability of owners.

72. Evidence of register book, certificate of registry and other documents.

73. Power to register Government ships under this Part.

74. Power to make rules in respect of matters in this Part.

PART VI

CERTIFICATES OF OFFICERS

*Masters, mates, engineers, skippers, etc.*

75. Application of Part.

75A. Definitions.

76. Certificates of competency to be held by officers of ships.

77. When officers deemed duly certificated.

78. Grade of certificates of competency.

79. Examination for, and grant of certificate.

SECTIONS

80. [*Omitted*.].

81. Form of certificates.

82. Record of orders affecting certificates.

83. Loss of certificates.

84. Production of certificates of competency to shipping master.

85. Power to cancel or suspend certificates obtained on false or erroneous information.

86. Recognition of certificate of competency granted in other countries.

86A. Foreign ships not to sail without certificated officers.

87. Power to make rules.

PART VIA

OBLIGATION OF CERTAIN CERTIFICATE HOLDERS TO SERVE GOVERNMENT OR IN INDIAN SHIPS

87A. Definitions.

87B. Holders of certificates to serve the Government or in Indian ships for certain period.

87C. Exemption from section 87B.

87D. Particulars of certificate, etc. to be furnished.

PART VII

SEAMEN AND APPRENTICES

*Classification of seamen, seafarer, maritime labour standards and prescription of minimum manning scale*

88. Power to classify seamen.

88A. Definitions.

88B. Application of maritime labour standards to seafarers and ships.

*Shipping Masters*

89. Duties of shipping masters.

90. Fees to be paid.

*Apprenticeship to the sea service*

91. Assistance for apprenticeship to sea service.

92. Special provisions as to apprenticeship to the sea service.

93. Manner in which contract is to be recorded.

94. Production of contracts to authorised person before voyage in ship.

*Seamen's employment offices*

95. Business of seamen's employment offices.

96. Supply or engagement of seamen in contravention of Act prohibited.

SECTIONS

97. Receipt of remuneration, donation, fees, etc., from seamen for shipping them prohibited.

97A. Prohibition against discrimination.

*Engagement of seamen*

98. Qualifications for, and medical examination of, seamen.

99. Prohibition of engagement of seamen in Indian port without discharge certificate.

99A. Prohibition of engagement of seafarer without seafarer's identity document.

100. Agreements with crew.

101. Form and contents of the agreement.

102. Engagement of seaman where agreement is made out of India.

103. Special provisions with regard to agreements with crew of Indian ships.

104. Renewal of running agreements in certain cases.

105. Changes in crew to be reported.

106. Certificate as to agreement with crew.

107. Copy of agreement to be made accessible to the crew.

108. Alteration in agreement with the crew.

*Employment of young persons*

109. Prohibition of engagement of underage persons in certain cases.

110. [*Omitted*.].

111. Medical examination of young persons.

112. Maintenance of list or register of young persons in a ship.

113. Power to make rules respecting employment of young persons.

*Engagement of seamen by masters of ships other than Indian ships*

114. Engagements between seamen and masters of ships other than Indian ships.

115. Power to prohibit engagement of persons as seamen.

116. Engagement of seamen outside India for Indian ships.

117. Power to board ships and master seamen.

*Discharge of seamen*

118. Discharge before shipping master.

119. Certificate of discharge.

120. Certificate as to work of seamen.

121. Discharge and leaving behind of seamen by masters of Indian ships.

122. Wages and other property of seaman or apprentice left behind.

123. Repatriation of seamen or termination of service at foreign port.

SECTIONS

124. Discharge of seamen on change of ownership.

*Payment of wages*

125. Master to deliver account of wages.

126. Disrating of seamen.

127. Deductions from wages of seamen.

128. Payment of wages before shipping master.

129. Time of payment of wages.

130. Settlement of wages.

130A. Certain undisbursed amounts to be utilised for welfare of seamen.

131. Master to give facilities to seaman for remitting wages.

132. Decision of questions by shipping masters.

133. Power of shipping master to require production of ship's papers.

134. Rule as to payment to seamen in foreign currency.

*Advance and allotment of wages*

135. Advance of wages.

136. Allotment notes respecting seaman's wages.

137. Commencement and payment of sums allotted.

*Rights of seamen in respect of wages*

138. Right to wages and provisions.

138A. Working hours of seamen.

139. Right to recover wages and salvage not to be forfeited.

140. Wages not to depend on freight.

141. Wages on termination of service by wreck, illness, etc.

142. Wages not to accrue during absence without leave, refusal to work or imprisonment.

143. Compensation to seamen for premature discharge.

144. Restriction on sale of and charge upon wages.

*Mode of recovering wages*

145. Summary proceedings for wages.

146. Restrictions on suits for wages.

147. Wages not recoverable outside India in certain cases.

148. Remedies of master for wages, disbursements, etc.

*Power of courts to rescind contracts*

149. Power of Court to rescind contract between master, owner or agent and seaman or apprentice.

*Disputes between seamen and employers*

SECTIONS


150. Power to refer disputes between seamen and their employers to tribunals.

151. Conditions of service, etc., to remain unchanged during pendency of proceedings before tribunal.


*Property of deceased seamen and apprentices*


152. Master to take charge of the effects of deceased seamen.

153. Dealing with and account of property of seamen who die during voyage.

154. Master to pay and deliver property of deceased seamen.

155. Property of deceased seaman left abroad but not on board ship.

156. Dealing with property of deceased seamen.

157. Recovery of wages, etc., of seamen lost with their ship.

158. Property of seamen dying in India.

159. Payment over of property of deceased seamen by shipping master.

159A. Nomination.

160. Disposal of unclaimed property of deceased seamen.


*Distressed seamen*


161. Relief and maintenance of distressed seamen.

162. Mode of providing for return of seamen to proper return port.

163. Receiving distressed seamen on ships.

164. Provisions as to taking distressed seamen on ships.

165. What shall be evidence of distress.

166. Indian consular office to decide return port to which or route by which seaman is to be sent.

167. Power to make rules with respect to distressed seamen.


*Provisions, health and accommodation*


168. Ships to have sufficient provisions and water.

169. Allowances for short or bad provisions.

170. Foreign going Indian ship to carry duly certificated cook.

171. Weights and measures on board.

172. Beddings, towels, medicines, medical stores, etc., to be provided and kept on board certain ships.

173. Certain ships to carry medical officer.

174. Expenses of medical attendance in case of illness.

175. Accommodation for seaman.

SECTIONS

176. Inspection by shipping master, etc., of provisions, water, weights and measures and accommodation.

176A. Ships to possess Maritime Labour Certificate and Declaration of Maritime Labour Compliance.

177. Inspection by master of provisions, water and accommodation at sea.

177A. Power to make rules to prevent accidents, etc.

*Special provisions for the protection of seamen in respect of litigation*

178. Meaning of serving seaman.

179. Particulars to be furnished in plaints, etc.

180. Notice to be given in case of unrepresented seaman.

181. Power to set aside decrees and orders passed against serving seaman.

182. Modification of law of limitation where seaman is a party.

183. Reference in matters of doubt to shipping masters.

*Provisions for the protection of seamen in respect of other matters*

184. Facilities for making complaints.

185. Assignment or sale of salvage invalid.

186. No debt recoverable till end of voyage.

187. Seaman's property not to be detained.

188. Prohibition against solicitation by lodging house keepers.

189. Ship not to be boarded without permission before seamen leave.

*Provisions as to discipline*

190. Misconduct endangering life or ship.

191. Desertion and absence without leave.

192. Power to suspend deserter’s certificate of discharge.

193. Conveyance of deserter or imprisoned seaman on board ship.

194. General offences against discipline.

195. Smuggling of goods by seamen or apprentices.

196. Entry of offences in official logs.

197. Report of desertions and absence without leave.

198. Entries and certificates of desertion abroad.

199. Facilities for proving desertion in proceedings for forfeiture of wages.

200. Application of forfeiture.

201. Decision of questions of forfeiture and deduction in suits for wages.

202. Payment of fines imposed under agreement to shipping master.

SECTIONS


203. Seaman or apprentice not to be enticed to desert.

204. Deserters not to be harboured.

205. Stowaways and seamen carried under compulsion.

206. Procedure where seaman not shipped in India is imprisoned on complaint of master or owner.

207. Power to send on board seaman not shipped in India who is undergoing imprisonment.

208. On change of master, documents to be handed over to successor.

209. Transmission of documents on transfer of seaman from one ship to another.

210. Leaving behind in India of seaman or apprentice engaged abroad.

211. Deserters from foreign ships.

*Official logs*

212. Official logs to be kept and to be dated.

213. Entries in official log books how and when to be made.

214. Entries required to be made in official log books.

215. Offences in respect of official logs.

216. Delivery of official logs to shipping masters.

217. Official logs to be sent to shipping master in case of transfer of ship or loss.

*National Welfare Board of Seafarers*

218. Functions of National Welfare Board for Seafarers.

218A. Power to make rules for purposes of Maritime Labour Convention.

PART VIII

PASSENGER SHIPS

*Survey of passenger ships*

219. Application of Part.

220. No ship to carry passengers without a certificate of survey.

221. Power of surveyor.

222. Fees in respect of survey.

223. Declaration of survey.

224. Sending of declaration by owner, agent or master to Central Government.

225. Grant of certificate of survey by Central Government.

226. Power of Central Government to order a second survey.

227. Duration of certificates of survey.

228. Cancellation or suspension of certificate of survey by Central Government.

229. Alterations in ships subsequent to grant of certificate of survey, and additional surveys.

SECTIONS


230. Power to require delivery of expired or cancelled certificate of survey.

231. Certificate of survey to be affixed in conspicuous part of ship.

232. Ship not to carry passengers in contravention of Act.

*Keeping Order in Passenger ships*

233. Offences in connection with passenger ships.

234. Power to exclude drunken passengers from passenger ships.

235. Ships with certificates of survey or certificates of partial survey granted outside India.

236. Power to make rules as to surveys.

*Special trade passenger ships and pilgrim ships*

237. Ports or places where special trade passengers or pilgrims may embark or be discharged.

238. Notice to be given of day of sailing.

239. Power to enter on and inspect ship.

240. Ship not to sail without certificates A and B.

241. Contents of certificate A.

242. Contents of certificate B.

243. Officers entitled to grant certificates.

244. Survey of ship.

245. Discretion as to grant of certificate B.

246. Copy of certificate A to be exhibited.

247. Special trade passengers or pilgrims to be supplied with prescribed provisions.

248. Number of passengers on board not to exceed that allowed by or under this Part.

249. Special trade passenger or pilgrim not to be landed at a place other than that at which he has contracted to land.

250. Forwarding of passengers by Indian consular officers.

251. Recovery of expenses incurred in forwarding passengers.

252. Ship not to make voyage in contravention of contract.

253. Information to be sent to ports of embarkation and discharge.

254. Reports etc., under section 253 to be admissible in evidence.

255. Destination of ship, time of sailing etc., to be advertised.

256. Ship taking additional passengers at intermediate place.

257. Statements concerning passengers.

258. Death of special trade passengers on voyage.

259. Certain ships to carry medical officer and attendants.

260. Bringing passengers from foreign port in excess of authorised number prohibited.

SECTIONS

261. [*Repealed.*].

261A. Bunks to be provided for passengers.

261B. Space to be provided for passengers when bunks are not provided.

261C. Airing space to be provided for passengers.

262. Power to make rules as to special trade passenger ships.

263. [*Repealed.*].

264. Hospital accommodation.

265. [*Omitted.*].

266. [*Omitted*.].

267. [*Omitted.*].

268. [*Omitted.*].

269. [*Omitted.*].

270. Bond where pilgrim ship proceeds on outward voyage.

271. Medical inspection and permission required before embarkation of pilgrims.

272. Medical inspection after embarkation in certain cases.

273. Pilgrims to arrange return passages.

274. Issue or production of tickets.

275. Refund of passage money and deposits.

276. Disposal of unclaimed passage money and deposit.

277. Cost of return journey of pilgrims on ships other than those for which return ticket is available.

278. [*Omitted.*].

279. Compensation for delay in sailing.

280. Substitution of ships.

281. Sanitary taxes payable by master of pilgrim ship.

282. Power to make rules relating to pilgrim ships.

PART IX

SAFETY

283. Countries to which Load Line Convention or Safety Convention applies.

283A. Definitions.

*Construction of ships*

284. Construction rules.

*Prevention of collisions*

285. Collision regulations.

SECTIONS

286. Observance of collision regulations.

287. Inspectors of lights and shapes and fog and distress signals.

*Life saving appliances and fire appliances*

288. Power to make rules as to life saving appliances.

289. Rules relating to fire appliances.

290. Inspection of life saving appliances and fire appliances.

*Installation of Radio Telegraphy, Radio Telephony and Direction Finders*

291. Radio requirements.

292. Radio direction finding apparatus.

293. Radio log.

294. Powers of radio inspectors.

295. Application of this Part to ships other than Indian ships.

296. Power to make rules.

*Signalling lamps*

297. Signalling lamps.

*Stability Information*

298. Information about ship's stability.

*Safety certificates, safety equipment certificates, safety radio certificates, exemption certificates, etc.*

299. Safety certificates and qualified safety certificates for passenger ships.

299A. Safety construction certificates and construction certificates for cargo ships.

299B. Power to make rules.

300. Cargo ship safety equipment and cargo ship equipment certificates for ships other than passenger ships.

301. Cargo ship safety radio certificate and qualified cargo ship safety radio certificate etc.

302. Exemption certificates.

303. Duration of certificates.

304. Modification of safety convention certificates as respects life saving appliances.

305. Recognition of certificates issued outside India.

306. Issue of certificates to foreign ships in India and Indian ships in foreign countries.

307. Prohibition on proceeding to sea without certificates.

308. Production of certificates by ships other than Indian ships.

309. Application of certain sections to certificates.

309A. Alterations pending issue of a safely convention certificate.

*Load lines*

SECTIONS


310. Ships exempt from provisions relating to load lines.

311. Power to make rules as to load lines.

312. Marking of deck line and load lines.

312A. Alterations after survey.

313. Submersion of load lines.

314. Maintenance of load line marks.

315. Inspection of ships with respect to load lines.


*Load line certificates*


316. Issue of load line certificates and effect thereof.

317. Duration and cancellation of certificates.

318. Ships not to proceed to sea without certificate.

319. Publication of load line certificate and particulars relating to depth of loading.

320. Insertion of particulars as to load lines in agreements with crew.


*Special provisions as to ships other than Indian ships*


321. Issue to load line certificates to foreign ships in India and Indian ships in foreign countries.

322. Recognition of load line certificates issued outside India.

323. Inspection and control of Load Line Convention ships other than Indian ships.

324. Certificate of Load Line Convention ships other than Indian ships to be produced to customs.

325. Marking of deck line and load lines of ships other than Indian ships.

326. Submersion of load line of ships other than Indian ships.

327. Inspection of ships other than Indian ships belonging to non-Convention countries.

328. Load line certificates of ships other than Indian ships.

329. Certificates to be produced to customs by ships other than Indian ships registered in non-Convention countries.


*Loading of timber*


330. Power to make rules as to timber cargo.


*Dangerous goods and grain cargoes*


331. Carriage of dangerous goods.

331A. Grain loading plan.

332. Carriage of grain.


*Sub-division load lines*


333. Submersion of sub-division load lines in case of passenger ships.

*Unseaworthy ships*

SECTIONS

334. Unseaworthy ship not to be sent to sea.

335. Obligation of owner to crew with respect to seaworthiness.

*Detention of unsafe ships by the Central Government*

336. Power to detain unsafe ship and procedure for detention.

*Costs of detention and damages incidental thereto*

337. Liability of Central Government for costs and damage when ship wrongly detained.

338. Liability of shipowner for costs when ship rightly detained.

339. Method of calculating costs of detention and survey.

340. Power to require from complainant security for costs, etc.

341. Costs, etc., payable by Central Government recoverable from complainant.

342. Application to ships other than Indian ships of provisions as to detention.

343. Exemption of ships from certain provisions of this Part.

344. Power to make rules respecting certificates under this Part.

PART IXA

NUCLEAR SHIPS

344A. Application of Act to nuclear ships.

344B. Nuclear passenger ship safety certificates and nuclear cargo ship safety certificates.

344C. Prohibition of proceeding to sea without certificates.

344D. Safety assessment and operating manual.

344E. Foreign nuclear ships to give advance notice of arrival.

344F. Control on arrival of nuclear ships.

344G. Notice of accidents to nuclear ships.

344H. Application of certain sections to or in relation to certain certificates under section 344B.

344-I. Power to make rules.

PART IXB

SECURITY OF SHIPS AND PORT FACILITIES

344J. Application.

344K. Definitions.

344L. Ship identification number.

344M. Security measures.

344N. Port facility assessment.

344-O. Obligations of companies, etc.

SECTIONS

344P. Obligations of port facility.

344Q. International Ship Security Certificate.

344R. Ship Security Alert System.

344S. Control measures.

344T. Power to make rules.

PART X

COLLISIONS, ACCIDENTS AT SEA AND LIABILITY

345. Division of loss in case of collision.

346. Damages for personal injury.

347. Right of contribution.

348. Duty of master of ship to assist in case of collision.

349. Collision to be entered in official log.

350. Report to Central Government of accidents to ship.

351. Notice of loss of Indian ship to be given to Central Government.

PART XA

LIMITATION OF LIABILITY

352. Definitions.

352A. Limitation of liability of damages in respect of certain claims.

352B. Limits of liability.

352C. Limitation Fund and consolidation of claims.

352D. Release of ship, etc.

352E. Scope of application.

352F. Application of this Part to charterer, manager, etc., of a vessel.

352FA. Power to make rules.

PART XB

CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

352G. Application.

352H. Definitions.

352-I. Liability of owner.

352J. Limitation of liability.

352K. Constitution of limitation fund.

352L. Acquisition of right for compensation by subrogation.

352M. Consolidation of claim and distribution of fund.

SECTIONS

352N. Compulsory insurance or other financial guarantee.

352O. Acceptance of certificates issued outside India.

352P. Ban on entering or leaving an Indian port without certificate.

352Q. Government ships.

352R. Power to make rules.

PART XC

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

352S. Definitions.

352T. Contribution to the Fund.

352U. Contribution payable by persons to the Fund.

352V. Power to call for information.

352W. Liability of the Fund.

352X. Jurisdiction of Courts.

352Y. Extinguishment of claims.

352Z. Subrogation and right of recourse.

352ZA. Power to make rules.

PART XI

NAVIGATION

353. Method of giving helm orders.

354. Duty to report dangers to navigation.

354A. Communication of intelligence regarding dangers to navigation.

355. Obligation to render assistance on receiving signal of distress.

355A. Obligation to render assistance to persons in danger.

356. Power to make rules as to signals.

PART XIA

PREVENTION AND CONTAINMENT OF POLLUTION OF THE SEA BY OIL

356A. Application.

356B. Definitions.

356C. Issue of pollution prevention certificate.

356D. Issue of certificates for foreign ships in India and Indian ships in foreign countries.

356E. Requirement for construction and equipment in ships to prevent pollution.

356F. Record books.

356G. Inspection and control of oil tankers and other ships to which this Part applies.

SECTIONS

356H. Information regarding contravention of provisions of Convention.

356-I. Oil reception facilities at ports in India.

*PROVISIONS FOR CONTAINMENT OF ACCIDENTAL POLLUTION*

356J. Power to give a notice to owner, etc., of polluting ship.

356K. Powers to take measures for preventing or containing oil pollution.

356L. Power of the Central Government to give directions to certain ships to render certain services.

356M. [*Repealed.*].

356N. [*Repealed.*].

356-O. Power to make rules.

PART XIB

CONTROL OF HARMFUL ANTI-FOULING SYSTEMS OF SHIPS

356P. Application.

356Q. Definitions.

356R. Control of anti-fouling systems.

356S. Issuance of International Anti-Fouling System Certificate.

356T. Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in foreign countries.

356U. Controls of waste materials.

356V. Record of anti-fouling systems.

356W. Inspection and control of all ships above 400 gross tonnage.

356X. Information regarding contravention of the provisions of Convention.

356Y. Power to make rules.

PART XII

INVESTIGATIONS AND INQUIRIES

357. Definition of "coasts".

358. Shipping casualties and report thereof.

359. Report of shipping casualties to Central Government.

360. Application to court for formal investigation.

361. Court empowered to make formal investigation.

362. Power of court of investigation to inquire into charges against masters, mates and engineers.

363. Power of Central Government to direct inquiry into charges of incompetency or misconduct.

364. Opportunity to be given to person to make defence.

365. Power of court as to evidence and regulation of proceedings.

366. Assessors.

367. Power to arrest witnesses and enter ships.

368. Power to commit for trial and bind over witnesses.

SECTIONS

369. Report by court to Central Government.

370. Powers of court as to certificates granted by Central Government.

371. Power of court to censure master, mate or engineer.

372. Power of court to remove master and appoint new master.

*Marine Board*

373. Convening of Marine Boards outside India.

374. Constitution and procedure of Marine Board.

375. Decisions of Marine Board to be by majority.

376. Powers of Marine Board.

*Miscellaneous provisions relating to cancellation and suspension of certificates*

377. Powers of Central Government to cancel, suspend, etc., certificate of master, mate or engineer.

378. Delivery of Indian certificate cancelled or suspended.

379. Effect of cancellation or suspension of certificate.

380. Suspended certificate not to be endorsed.

381. Power of Central Government to cancel or suspend other certificates.

*Re-hearing of cases*

382. Re-hearing.

*Courts of survey*

383. Constitution of court of survey.

384. Appeal from surveyor to court of survey.

385. Powers and procedure of court of survey.

386. Power to make rules.

*Scientific referees*

387. Reference in difficult cases to scientific persons.

*Investigations into explosions or fires on board ships*

388. Power to investigate causes of explosion or fire on board ship.

389. Report to be made regarding cause of explosion or fire.

PART XIII

WRECK AND SALVAGE WRECK

390. Definition of "coasts".

391. Receivers of wreck.

392. Duty of receiver where vessel is in distress.

393. Power to pass over adjoining lands.

394. Power of receiver of wreck to suppress, plunder and disorder by force.

395. Procedure to be observed by persons finding wreck.

SECTIONS

396. Investigation of certain matters in respect of vessels wrecked, etc.

397. Notice to be given by receiver.

398. Immediate sale of wreck by receiver in certain cases.

399. Claims of owners to wreck.

400. Prohibition of certain acts in respect of wreck.

401. Search warrants where wreck is concealed.

402. Salvage payable for saving life, cargo or wreck.

403. Savings.

404. Power to make rules respecting wreck and salvage.

PART XIV

CONTROL OF INDIAN SHIPS AND SHIPS ENGAGED IN COASTING TRADE

405. Application of Part.

406. Indian ships and chartered ships to be licensed.

407. Licensing of ships for coasting trade.

408. Revocation or modification of licence.

409. Licences to be surrendered when they cease to be valid.

410. No port clearance until licence is produced.

411. Power to give directions.

411A. Powers of the Central Government to protect interests of Indian shipping from undue foreign intervention.

412. [*Repealed.*].

413. Power of Director-General to call for information.

414. Power to make rules.

PART XV

SAILING VESSELS

415. Application of Part.

416. Decision of question whether a vessel is a sailing vessel.

417. Certificate of registry.

418. Particulars relating to sailing vessel to be painted.

419. Change of name of sailing vessel.

420. Prevention of overloading or overcrowding.

421. Certificate of inspection.

422. Cancellation, re-issue, etc., of certificate of inspection.

423. Registry of alterations.

424. Transfer of registry.

425. Closure of registry.

SECTIONS

426. Restriction on transfer of sailing vessel.

427. Mortgages of sailing vessels.

428. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited.

429. Statement relating to crew of sailing vessel to be maintained.

430. Inquiry into jettisoning of cargo.

431. Non-Indian sailing vessels not to engage in coasting trade without permission.

432. Detention of overloaded non-Indian sailing vessels.

433. Power of courts to rescind contracts between owner and tindal.

434. Application to sailing vessels of other provisions relating to ships.

434A. Insurance of members of crew of asailing vessel.

434B. Policy of insurance.

435. Power to make rules respecting sailing vessels.

PART XVA

FISHING BOATS

435A. Application of Part.

435B. Definition.

435C. Obligation to register.

435D. Port of registry.

435E. Registrars of Indian fishing boats.

435F. Application for registry.

435G. Certificate of registry.

435H. Particular relating to Indian fishing boats to be painted.

435-I. Change of name of Indian fishing boat.

435J. Special provision for Indian fishing boats.

435K. Certificate of inspection.

435L. Cancellation, re-issue, etc. of certificate of inspection.

435M. Inspection of safety equipments and appliances.

435N. Registration of alteration.

435O. Transfer of registry.

435P. Closure of registry.

435Q. Restriction on Transfer of Indian fishing boats.

435R. Mortgage of Indian fishing boats.

435S. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited.

435T. Statement relating to crew of Indian fishing boat to be maintained.

435U. Power to make rules respecting Indian fishing boats.

435V. Application to Indian fishing boats of other provisions relating to ships.

SECTIONS

435W. Fishery data to be furnished by Indian fishing boats.

435X. Power to exempt.

PART XVI

PENALTIES AND PROCEDURE

*Penalties*

436. Penalties.

437. Place of trial.

438. Cognizance of offences.

439. Jurisdiction of Magistrate.

440. Special provision regarding punishment.

441. Offences by companies.

442. Depositions to be received in evidence when witness cannot be produced.

443. Power to detain foreign ship that has occasioned damage.

444. Power to enforce detention of ship.

445. Levy of wages, etc., by distress of movable property or ship.

446. Notice to be given to consular representative of proceedings taken in respect of foreign ship.

447. Application of fines.

448. Service of documents.

PART XVII

MISCELLANEOUS

449. Power to appoint examiners and to make rules as to qualifications of ship surveyors.

450. No person to practise as ship surveyor unless qualified.

451. Power of ship surveyor to inspect ship.

452. Inquiry into cause of death on board Indian ship.

453. Certain persons deemed to be public servants.

454. Powers of persons authorised to investigate, etc.

454A. Power to prescribe alternative fittings, etc.

455. Exemption of public ships, foreign and Indian.

456. Power to exempt.

457. General power to make rules.

458. Provisions with respect to rules and regulations.

459. Power to constitute committees to advise on rules, regulations and scales of fees.

460. Protection of persons acting under Act.

460A. Removal of difficulties.

PART XVIII

REPEALS AND SAVINGS

SECTIONS

461. Repeals and savings.

THE SCHEDULE.

# THE MERCHANT SHIPPING ACT, 1958

## ACT NO. 44 OF 1958[1]

[30*th October*, 1958.]

An Act to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board [2]* * * to provide for the [3][registration, certification, safety and security] of Indian ships and generally to amend and consolidate the law relating to merchant shipping.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

## PART I

### PRELIMINARY

**1. Short title and commencement**.—(*1*) This Act may be called the Merchant Shipping Act, 1958.

(2) It shall come into force on such date[4] as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

[5]**[2. Application of Act.—**(*1*) Unless otherwise expressly provided, the provisions of this Act which apply to—

(a) any vessel which is registered in India; or

(b) any vessel which is required by this Act to be so registered; or

(c) any other vessel which is owned wholly by persons to each of whom any of the descriptions specified in clause (*a*) or in clause (*b*) or in clause (*c*), as the case may be, of section 21 applies,

shall so apply wherever the vessel may be.

(2) Unless otherwise expressly provided, the provisions of this Act which apply to vessels other than those referred to in sub-section (*1*) shall so apply only while any such vessel is within India, including the territorial waters thereof.]

---

1. This Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and Sch. and to Pondicherry by Reg. 7 of 1963, s. 3 and Sch. I.
2. The words "and a Shipping Development fund" omitted by Act 66 of 1986, s. 3 (w.e.f. 3-4-1987).
3. Subs. by Act 40 of 2007, s. 2, for the word "registration"(w.e.f. 1-3-2008).
4. Parts I and II came into force w.e.f. 15th December, 1958, *vide* Notification No. S. O. 2583A, dated the 10th December, 1958, see Gazette of India, 1958, Pt. II. Sec. 3(*ii*).
   Part IV came into force w.e.f. 17th March, 1959, *vide* Notification No. S. O. 627, dated the 17th March, 1959, see Gazette of India, 1959, Pt. II, Sec. 3(*ii*).
   Sections 7, 405 to 414 (both inclusive), 436 (in so far as it relates to offences mentioned against S. Nos. 122 to 125), 437 to 442, 447, 448, 456 to 460 and so much of section 461 and of Part I of the Schedule as relate to the Control of Shipping Act, 1947 (26 of 1947), came into force on the 1st April, 1960, *see* Notification No. S. O. 565, dated the 26th February, 1960, Gazette of India, Pt. II, Sec. 3(*ii*).
   The remaining provisions came into force w.e.f. 1st January, 1961, vide Notification No. S. O. 3127, dated the 17th December, 1960, *see* Gazette of India, 1960, Pt. II, Sec. 3(*ii*).
5. Subs. by Act 12 of 1983, s. 2, for section 2 (w.e.f.18-5-1983).

**3. Definitions**.—In this Act, unless the context otherwise requires,—

[1][(*1*) "cargo ship" means a ship which is not a Passenger ship;]

[2][(*1A*)] "coasting ship" means a ship exclusively employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon or Burma;

(2) "coasting trade of India" means the carriage by sea of passengers or goods from any port or place in India to any other port or place on the continent of India;

(3) "collision regulations" means the regulations made under section 285 for the prevention of collisions at sea;

(4) "company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(5) "country to which the Load Line Convention applies" means,—

(a) a country the Government of which has been declared [3]*** under section 283 to have accepted the Load Line Convention and has not been so declared to have denounced that Convention;

(b) a country to which it has been so declared that, the Load Line Convention has been applied under the provisions of [4][article thirty-two] thereof, not being a country to which it has been so declared that that Convention has ceased to apply under the provisions of that article;

(6) "country to which the Safety Convention applies" means,—

(a) a country the Government of which has been declared under section 283 to have accepted the Safety Convention and has not been so declared to have denounced that Convention;

(b) a territory to which it has been so declare that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend;

(7) "court" in relation to sections 178 to 183 (inclusive) means a civil or revenue court;

(8) "Director-General" means the Director-General of Shipping appointed under section 7;

(9) "distressed seaman" means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or shipwrecked in, any ship at a place outside India, is in distress at that place;

(10) "effects", in relation to a seaman, includes clothes and documents;

(11) "equipment", in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spars, masts, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;

---

1. Ins. by Act 21 of 1966, s. 2 (w.e.f. 28.5.1966).
2. Clause (*1*) renumbered as clause (*1A*) by s. 2, *ibid.* (w.e.f. 28-5-1966).
3. The words "or is deemed to have been declared" omitted by Act 25 of 1970, s. 2 (w.e.f. 21-7-1968).
4. Subs. by s. 2, *ibid.*, for "article twenty-one" (w.e.f. 21-7- 1968).

[1][(*11A*) "family" means—

(i) in the case of male, his wife, his children whether married or unmarried, his dependent parents and his deceased son's widow and children:

Provided that if a person proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong to be entitled to maintenance she shall no longer be deemed to be a part of such person‟s family for the purpose of this Act unless such person subsequently intimates by express notice, in writing, to the Central Government that she shall continue to be so regarded; and

(ii) in the case of female, her husband, her children, whether married or unmarried, her dependent parents, her husband's dependent parents and her deceased son's widow and children:

Provided that if a person by notice in writing to the Central Government expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently cancels in writing any such notice.

*Explanation*.—In either of the above two cases, if the child, or, as the case may be, the child of a deceased son, of a person has been adopted by another person and if under the personal law of the adopter adoption is legally recognised, such a child shall be considered as excluded from the family of the first mentioned person.]

(12) "fishing vessel" means a ship fitted with mechanical means of propulsion which is exclusively engaged in sea fishing for profit;

(13) "foreign-going ship" means a ship, not being a home trade ship, employed in trading between any port or place in India and any other port or place or between ports or places, outside India;

[2][(*14*) "free board" means the distance measured vertically downwards, amidships, from the upper edge of the deck line to the upper edge of the related load line;]

(15) "High Court", in relation to a vessel, means the High Court within the limits of whose appellate jurisdiction—

(a) the port of registry of the vessel is situate; or

(b) the vessel is for the time being; or

(c) the cause of action wholly or in part arises;

(16) "home-trade ship" means a ship not exceeding three thousand tons gross which is employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon, Maladive Islands, Federation of Malaya, Singapore or Burma;

(17) "Indian consular officer" means the consul-general, consul, vice-consul, consular agent and pro-consul appointed as such by the Central Government, and includes any person authorised by the Central Government to perform the functions of consul-general, consul, vice-consul, consular agent or pro-consul;

---

1. Ins. by Act 41 of 1984, s. 2 (w.e.f. 15-7-1985).
2. Subs. by Act 25 of 1970, s. 2, for clause (*14*) (w.e.f.21-7-1968).

(18) "Indian ship" means a ship registered as such under this Act and includes any ship registered at any port in India at the commencement of this Act which is recognised as an Indian ship under the proviso to sub-section (*2*) of section 22;

[1][(*18A*) "international voyage" means a voyage from or to a port or place in India to or from a port or place outside India;]

(19) "load line certificate" means the certificate issued under section 316 or section 321;

[2][(*20*) "Local Line Contention" means the International Convention on Load Lines signed in London on the 5th day of April, 1966, as amended from time to time;]

(21) "Marine Board" means a Board of Marine Inquiry convened under section 373;

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

[1][(*22A*) "nuclear ship" means a ship provided with a nuclear power plant;]

(23) "owner" means—

(a) in relation to a ship, the person to whom the ship or a share in the ship belongs;

(b) in relation to a sailing vessel, the person to whom the sailing vessel belongs;

(24) "passenger" means any person carried on board a ship except—

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

(b) a person on board the ship either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled;

(c) a child under one year of age;

(25) "passenger ship" means a ship carrying more than twelve passengers;

(26) "pilgrim" means a person making a pilgrimage and, in the case of a passenger on board a pilgrim ship, includes every person accompanying or travelling with the person making the pilgrimage;

[3][(*27*) "pilgrimage" means pilgrimage to any holy place in the Hedjaz or to any other place declared by the Central Government to be a place of pilgrimage by notification in Official Gazette;

(28) "pilgrim ship" means a special trade passenger ship which makes a voyage to or from the Hedjaz, or, as the case may be, to or from any other place of pilgrimage declared as such by the Central Government in pursuance of clause (*27*), during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship;]

(29) "port of registry", in relation to a ship or a sailing vessel, means the port at which she is registered or is to be registered;

---

1. Ins. by Act 21 of 1966, s 2 (w.e.f. 28-5-1966).
2. Subs. by Act 25 of 1970, s. 2, for clause (*20*) (w.e.f.21-7-1968).
3. Subs. by Act 69 of 1976, s. 3, for clauses (*27*) and (*28*) (w.e.f. 1-12-1976).

(30) "prescribed" means prescribed by rules made under this Act;

(31) "proceeding" in relation to sections 178 to 183 (inclusive) includes any suit, appeal or application;

(32) "proper officer" means the officer designated by the Central Government to be the proper officer at the port or place and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

(33) "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged, or the port agreed to as such by the master, seaman or apprentice, as the case may be;

(34) "radio inspector" means a person appointed as such under section 10;

(35) "registrar" means the registrar referred to in section 24;

(36) (*a*) "repatriation expenses" means expenses incurred in returning a distressed seaman to a proper return port and in providing him with necessary clothing and maintenance until his arrival at such port, and includes in the case of a ship wrecked seaman the repayment of expenses incurred in conveying him to port after shipwreck and maintaining him while being so conveyed; and

(*b*) "excepted expenses", in relation to repatriation expenses, means repatriation expenses incurred in cases where the cause of the seaman being left behind is desertion or absence without leave or imprisonment for misconduct, or discharge from his ship by a Marine Board on the ground of misconduct;

(37) "Safety Convention" means the Convention for the Safety of Life at Sea signed in London on the [1][1st day of November, 1974] as amended from time to time;

[2][(*38*) "safety convention certificate" means,—

(i) a passenger ship safety certificate,

[3][(*ia*) a special trade passenger ship safety certificate,

(*ib*) a special trade passenger ship space certificate,]

(ii) a qualified passenger ship safety certificate,

(iii) a cargo ship safety construction Certificate,

(iv) a qualified cargo ship safety construction certificate,

(v) a cargo ship safety equipment certificate,

(vi) a qualified cargo ship safety equipment certificate,

(vii) a cargo ship safety radio telegraphy certificate,

(viii) a cargo ship safety radio telephony certificate,

(ix) an exemption certificate,

(x) a nuclear passenger ship safety certificate,

1. Subs. by Act 12 of 1983, s. 3, for "17th day of June, 1960" (w.e.f. 18-5-1983).
2. Subs. by Act 21 of 1966, s. 2, for clause (*38*) (w.e.f. 28-5-1966).
3. Ins. by Act 69 of 1976, s. 3 (w.e.f. 1-12-1976).

(xi) a nuclear cargo ship safety certificate, issued under Part IX or, as the case may be, Part IXA;]

(39) "sailing vessel", means any description of vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, and includes a rowing boat or canoe but does not include a pleasure craft;

(40) "salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

(41) "sea-going", in relation to a vessel, means a vessel proceeding to sea beyond inland waters or beyond waters declared to be smooth or partially smooth waters by the Central Government by notification in the Official Gazette;

(42) "seaman" means every person (except a master, pilot or apprentice) employed or engaged as a member of the crew of a ship under this Act, but in relation to sections 178 to 183 (inclusive) includes a master;

(43) "seamen's employment office" means the seamen's employment office referred to in section 12;

(44) "seamen's welfare officer" means the seamen's welfare officer referred to in section 13;

[1][(*44A*) "security" means maritime security and includes any measure to protect ports or ships or any person or thing relating directly or indirectly to maritime navigation,—

(i) against terrorism, sabotage, stowaways, illegal migrants, asylum seekers, piracy, armed robbery, seizure or pilferage; and

(ii) against any other hostile act or influence which threatens the security in the maritime transport sector,

employed by the owners or operators or persons in charge of the vessels or management of port facilities, offshore installations and other marine organisations or establishments;]

(45) "ship" does not include a sailing vessel;

(46) "shipping master" means the shipping master referred to in section 11; but in relation to any seaman for the purposes of sections 178 to 183 ((inclusive) means a shipping master appointed,—

(i) for the port at which the seaman entered into, or is believed to have entered into, an agreement, or

(ii) where the seaman did not enter into his agreement in India, for the port to which the seaman has returned, or is expected to return, on the completion of his latest voyage;

(47) "shipping office" means the shipping office referred in section 11;

[2][(*47A*) "special trade" means the conveyance of large number of passengers by sea within prescribed sea areas;

(*47B*) "special trade passenger" means a passenger carried in special trade passenger ship in spaces on the weather deck or upper deck or between decks which accommodate more than eight passengers and includes a pilgrim or a person accompanying a pilgrim;

---

1. Ins. by Act 40 of 2007, s. 3 (w.e.f. 1-3-2008).
2. Ins. by Act 69 of 1976, s. 3 (w.e.f. 1-12-1976).

(*47C*) "special trade passenger ship" means a mechanically propelled ship carrying more than thirty special trade passengers;]

(48) "surveyor" means the surveyor referred to in section 9;

[1][(*48A*) "tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;]

(49) "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour;

(50) "tindal" means the person in command or charge of a sailing vessel;

[2]* * * * *

(53) "valid international load line certificate" means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(54) "valid safety convention certificate" means a certificate purporting to have been issued in accordance with the Safety Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(55) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation;

(56) "voyage" for the purposes of Part VIII, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(57) "wages" includes emoluments;

(58) "wreck" includes the following when found in the sea or in tidal water or on the shores thereof—

(a) goods which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

(c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a vessel abandoned without hope or intention of recovery;

(59) "young person" means a person under eighteen years of age.

## PART II

### NATIONAL SHIPPING BOARD

**4. Establishment of National Shipping Board.**—(*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established a Board to be called the National Shipping Board (hereinafter in this Part referred to as the Board).

1. Ins. by Act 21 of 1966, s.2 (w.e.f. 28-5-1966).
2. Clauses (*51*) and (*52*) omitted by Act 69 of 1976, s. 3 (w.e.f. 1-12-1976).

(2) The Board shall consist of the following members, namely:—

(a) six members elected by Parliament, four by the House of the People from among its members and the other two by the Council of States from among its members;

(b) such number of other members, not exceeding sixteen as the Central Government may think fit to appoint to the Board, to represent—

(i) the Central Government,

(ii) ship owners,

(iii) seamen, and

(iv) such other interests as, in the opinion of the Central Government, ought to be represented on the Board:

Provided that the Board shall include an equal number of persons representing the ship owners and seamen.

(3) The Central Government shall nominate one of the members of the Board to be the Chairman of the Board.

(4) The Board shall have power to regulate its own procedure.

**5. Functions of National Shipping Board**.—The Board shall advise the Central Government—

(a) on matters relating to Indian shipping, including the development thereof; and

(b) on such other matters arising out of this Act as the Central Government may refer to it for advice.

**6. Power to make rules in respect of matters in this Part.—**(*1*) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of members of the Board and the manner of filling casual vacancies in the Board;

(b) the appointment of officers and other employees to enable the Board to discharge its functions under section 5 and the terms and conditions of their service;

(c) the travelling and other allowances payable to members of the Board.

## PART III

## GENERAL ADMINISTRATION

**7. Director-General of Shipping—**(*1*) The Central Government may by notification in the Official Gazette, appoint a person to be the Director-General of Shipping for the purpose of exercising or discharging the powers, authority or duties conferred or imposed upon the Director-General by or under this Act.

(2) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act as may be specified in the order shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General or by such other officer as may be specified in the order.

(3) The Director-General may, by general or special order, and with the previous approval of the Central Government, direct that any power or authority conferred upon or delegated to, and any duty imposed upon, the Director-General by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercised or discharged also by such officer or other authority as he may specify in this behalf.

**8. Mercantile Marine Department.**—(*1*) The Central Government may establish and maintain at each of the ports of Bombay, Calcutta and Madras and at such other port in India as it may consider necessary an office of the Mercantile Marine Department for the administration of this Act and the rules and regulations thereunder.

(2) The office of the Mercantile Marine Department at the port of Bombay, Calcutta or Madras shall be in the charge of a principal officer, and the office at any other port shall be in the charge of such officer as the Central Government may appoint in this behalf.

(3) In the discharge of their duties, the principal officer and other officers shall be subject to the control of the Director-General.

**9. Surveyors.**—(*1*) The Central Government may by, notification in the Official Gazette, appoint at such ports as it may consider necessary as many persons as it may think fit to be surveyors for the purposes of this Act.

[1][(*1A*) Without prejudice to the provisions of sub-section (*1*), the Central Government, in the case of cargo ships, may, by notification in the Official Gazette authorise any person or body of persons, on such terms and conditions as may be specified therein, to be surveyor or surveyors for the purposes of this Act.]

(2) The surveyors may be nautical surveyors, ship surveyors or engineer and ship surveyors.

(3) At any port at which no surveyor appointed under this section is available, the Central Government may, by notification in the Official Gazette, appoint any qualified person to perform the functions of a surveyor under this Act.

(4) All acts done under this Act by a principal officer of the Mercantile Marine Department or a person appointed under sub-section (*3*) relating to matters within the competence of a surveyor shall have the same effect as if done by a surveyor for the purposes of this Act.

**10. Radio inspectors.**—The Central Government may, by notification a in the Official Gazette, appoint as many radio inspectors as it may consider necessary for the purpose of securing that the requirements of this Act and the rules and regulations there under relating to radio telegraphy, radio telephony and direction finders are complied with.

**11. Shipping offices.**—(*1*) The Central Government may, by notification in the Official Gazette, establish a shipping office at every port in India in which it thinks it necessary so to do, and shall appoint thereto a shipping master and as many deputy shipping masters and assistant shipping masters, as it may consider necessary.

(2) Shipping masters, deputy shipping masters and assistant shipping masters shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

1. Ins. by Act 21 of 1966, s. 3 (w.e.f. 25-8-1966).

(3) The Central Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house or at the office of the port officer or at such other office as the Central Government may specify, and thereupon the same shall be conducted accordingly.

(4) All acts done by or before a deputy shipping master, an assistant shipping master and the officer to whom any business of the shipping office is committed under sub-section (*3*) shall have the same effect as if done by or before a shipping master for the purposes of this Act.

**12. Seamen's employment offices.**—(*1*) The Central Government may, by notification in the Official Gazette, establish at every port in India in which it thinks it necessary so to do, a seamen's employment office and shall appoint thereto a director and as many deputy directors and assistant directors as it may consider necessary.

(2) The directors, deputy directors and assistant directors shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

(3) All acts done by or before a deputy or assistant director shall have the same effect as if done by or before a director for the purposes of this Act.

(4) The Central Government may, by notification in the Official Gazette, direct that at any port at which no separate seamen's employment office is established, the functions of the seamen's employment office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the office of the person or body of persons so specified shall be deemed to be the seamen's employment office established at that port for the purposes of this Act.

**13. Seamen's welfare officers.**—(*1*) The Central Government may appoint a seamen's welfare officers at such ports in or outside India as it may consider necessary.

(2) A seamen's welfare officer appointed under sub-section (*1*) shall perform—

(a) in the case of any such officer appointed at any port in India, such functions in relation to welfare of seamen as may be assigned to him by the Central Government;

(b) in the case of any such officer appointed at any port outside India, such functions in relation to welfare of seamen and such functions of an Indian consular officer under Part VII as may be assigned to him by the Central Government.

(3) If any seamen's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer under Part VII, such functions shall have the same effect as if they had been performed by an Indian consular officer for the purposes of that Part.

[1]* * * * *

## PART V

### REGISTRATION OF INDIAN SHIPS

**20. Application of Part.**—This Part applies only to sea-going ships fitted with mechanical means of propulsion.

**21. Indian ships.**—For the purposes of this Act, a ship shall not be deemed to be an Indian ship unless owned wholly by persons to each of whom [2][any] of the following descriptions applies:—

(a) a citizen of India; or

1. Part IV omitted by Act 66 of 1986, s. 3 (w.e.f. 3-4-1987).
2. Subs. by Act 43 of 1961, s. 2, for "either" (w.e.f. 28-9-1981).

[1][(*b*) a company or a body established by or under any Central or State Act which has its principal place of business in India; or

(*c*) a co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law relating to co-operative societies for the time being in force in any State.]

**22. Obligation to register.—**(*1*) Every Indian ship, unless it is a ship which does not exceed fifteen tons net and is employed solely in navigation on the coasts of India, shall be registered under this Act.

(2) No ship required by sub-section (*1*) to be registered shall be recognised as an Indian ship unless she has been registered under this Act:

Provided that any ship registered at the commencement of this Act at any port in India under any enactment repealed by this Act, shall be deemed to have been registered under this Act and shall be recognised as an Indian ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces a certificate of registry in respect of the ship.

[2][*Explanation*.—For the purposes of this section, "ship" does not include a fishing vessel.]

*Procedure for registration*

**23. Ports of registry**.—(*1*) The ports at which registration of ships shall be made shall be the ports of Bombay, Calcutta and Madras and such other ports in India as the Central Government may, by notification in the Official Gazette, declare to be ports of registry under this Act.

(*2*) The port at which an Indian ship is registered for the time being under this Act shall be deemed to be her port of registry and the port to which she belongs.

**24. Registrars of Indian ships**.—At each of the ports of Bombay, Calcutta and Madras, the principal officer of the Mercantile Marine Department, and at any other port such authority as the Central Government may, by notification in the Official Gazette, appoint, shall be the registrar of Indian ships at that port:

[3][Provided that subject to such order as the Central Government may issue in this behalf when the office of registrar of Indian ships at any port is vacant or the holder of such office is on leave or is not available, for any reason at the port to exercise and discharge the powers, duties and functions of the office the senior most surveyor at that port may act as and exercise and discharge the powers' duties and functions of the registrar of Indian ships at that port.]

**25. Register book**.—Every registrar shall keep a book to be called the register book and entries in that book shall be made in accordance with, the following provisions:—

(a) the property in a ship shall be divided into ten shares;

(b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than ten individuals shall be entitled to be registered at the same time as

1. Subs. by Act 68 of 1993, s. 2, for clauses (*b*) and (*c*) (w.e.f. 27-10-1993).
2. *Explanation* ins. by Act 12 of 1983, s. 4 (w.e.f. 18-5-1983).
3. Proviso ins. by Act 41 of 1984, s. 3 (w.e.f. 15-7-1985).

owners of any one ship; but this rule shall not affect the beneficial interest of any number of persons represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person and shall not be entitled to dispose in severally of any interest in a ship or any share therein in respect of which they are registered;

(e) a company [1][or a co-operative society] may be registered as owner by its name.

**26. Application for registry**.—An application for the registry of an Indian ship shall be made—

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

(b) in the case of more than one individual requiring to be so registered, by some one or more of the persons so requiring or by his or their agent; and

(c) in the case of a company [2][or a co-operative society] requiring to be so registered, by its agent;

and the authority of the agent shall be testified by writing, if appointed by an individual, under the hand of the person appointing him and, if appointed by a company, [2][or a co-operative society] under its common seal.

**27. Survey and measurement of ships before registry**.—(*1*) The owner of every Indian ship in respect of which an application for registry is made shall cause such ship to be surveyed by a surveyor and the tonnage of the ship ascertained in the prescribed manner.

(*2*) The surveyor shall grant a certificate specifying the ship"s tonnage and build and such other particulars descriptive of the identity of the ship as may be prescribed and the certificate of the surveyor shall be delivered to the registrar before registry.

**28. Marking of ship**.—(*1*) The owner of an Indian ship who applies for registry under this Act shall, before registry, cause her to be marked permanently and conspicuously in the prescribed manner and to the satisfaction of the registrar and any ship not so marked may be detained by the registrar.

(*2*) Subject to any other provision contained in this act and to the provisions of any rules made there under, the owner and the master of an Indian ship shall take all reasonable steps to ensure that the ship remains marked as required by this section, and the said owner or master shall not cause or permit any alterations of such marks to be made except in the event of any of the particulars thereby denoted being altered in the manner provided in this Act or except to evade capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

**29. Declaration of ownership on registry**.—A person shall not be registered as the owner of an Indian ship or of a share therein until he or, in the case of a company [3][or a co-operative society], the person authorised by this Act to make declarations on its behalf has made and signed a declaration of

1. Ins. by Act 43 of 1981, s. 3 (w.e.f. 28-9-1981).
2. Ins. by s. 4, *ibid*. (w.e.f. 28-9-1981).
3. Ins. by s. 5, *ibid*. (w.e.f. 28-9-1981).

ownership in the prescribed form referring to the ship as described in the certificate of the surveyor and containing the following particulars:—

(a) a statement whether he is or is not a citizen of India; [1][or in the case of a company, or a co-operative society, whether the company or a co-operative society, satisfies the requirements specified in clause (*b*) or, as the case may be, clause (*c*) of section 21];

(b) a statement of the time when and the place where the ship was built or if the ship is built outside India 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 India, a statement of the name by which she was so registered;

(c) the name of her master;

(d) the number of shares in the ship in respect of which he or the company, [2][or the co-operative society], as the case may be, claims to be registered as owner; and

(e) a declaration that the particulars stated arc true to the best of his knowledge and belief.

*Explanation*.—In respect of a ship or share owned by more than one person, a declaration may be made by such one of them as may be authorised by them.

**30. Evidence on first registry**.—On the first registry of an Indian ship the following evidence shall be produced in addition to the declaration of ownership:—

(a) in the case of a ship built in India, a builder‟s certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and the tonnage of the ship as estimated by him and the time when and the place where she was built, and the name of the person, if any on whose account the ship was built, and if there has been any sale, the instrument of sale under which the ship or the share therein has become vested in the applicant for registry;

(b) in the case of a ship built outside India, the same evidence as in the case of a ship built in India unless the declarant who makes the declaration of ownership declares that the time and place of her building are not known to him, or that the builder‟s certificate cannot be procured, in which case there shall be required only the instrument of sale under which the ship or a share therein has become vested in the applicant for registry.

**31. Entry of particulars in register book**.—As soon as the requirements of this Act preliminary to registry have been complied with the registrar shall enter in the register book the following particulars in respect of the ship:—

(a) the name of the ship and the name of the port to which she belongs;

[3][(*aa*) the ship identification number;]

(b) the details contained in the surveyor‟s certificate;

1. Subs. by Act 43 of 1981, s. 5, for "or in the case of a company, whether the company satisfies the requirements specified in clause (*b*) of section 21" (w.e.f. 28-2-1981).
2. Ins. by s. 5, *ibid*. (w.e.f. 28-2-1981).
3. Ins. by Act 40 of 2007, s. 4 (w.e.f. 1-3-2008).

(c) the particulars respecting her origin stated in the declaration of ownership; and

(d) the name and description of her registered owner or owners, and, if there are more owners than one, the number of shares owned by each of them.

**32. Documents to be retained by registrar**.—On the registry of a ship, the registrar shall retain in his custody the following documents :—

(a) the surveyor's certificate;

(b) the builder's certificate;

(c) any instrument of sale by which the ship was previously sold;

(d) all declarations of ownership.

**33. Power of Central Government to inquire into title of Indian ship to be so registered**.—(*1*) Where it appears to the Central Government that there is any doubt as to the title of any Indian ship to be registered as an Indian ship, it may direct the registrar of her port of registry to require evidence to be given to his satisfaction within such time, not being less than thirty days as the Central Government may fix, that the ship is entitled to be registered as an Indian ship.

(*2*) If within such time as may be fixed by the Central Government under sub-section (*1*) evidence to the satisfaction of the registrar that the ship is entitled to be registered as an Indian ship is not given, the ship shall be liable to forfeiture.

*Certificate of registry*

**34. Grant of certificate of registry**.—On completion of the registry of an Indian ship, the registrar shall grant a certificate of registry containing the particulars respecting her as entered in the register book with the name of her master.

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

(2) No person, whether interested in the ship or not, who has in his possession or under his control the certificate of registry of a ship, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship or to any registrar, customs collector or other person entitled by law to require such delivery.

(3) Any person refusing or omitting to deliver the certificate as required by sub-section (*2*), may, by order, be summoned by [1][any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be,] to appear before him and to be examined touching such refusal, and if the person is proved to have absconded so that the order of such magistrate cannot be served on him, or if he persists in not delivering up the certificate, [2][the said Magistrate] shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "any magistrate of the first class" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, *ibid.*, for "the magistrate" (w.e.f. 18-5-1983).

(4) If the master or owner of an Indian ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence under this sub-section and the ship shall be liable to forfeiture.

**36. Power to grant new certificate when original certificate is defaced, lost, etc**.—(*1*) In the event of the certificate of registry of an Indian ship being defaced or mutilated, the registrar of her port of registry may, on the delivery to him of that certificate, grant a new certificate in lieu of her original certificate.

(2) In the event of the certificate of registry of an Indian ship being mislaid, lost or destroyed or of the person entitled thereto being unable to obtain it from the custody of any other person, the registrar of her port of registry shall grant a new certificate in lieu of her original certificate.

(3) If the port at which the ship is at the time of the event referred to in sub-section (*2*) or first arrives after the event is outside India, then the master of the ship or some other person having knowledge of the facts of the case shall make a declaration stating such facts and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief to the nearest available Indian consular officer who may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.

(4) The provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered by the master to the registrar of her port of registry and the registrar shall thereupon grant a new certificate of registry.

(5) If the certificate of registry stated to have been mislaid, lost or destroyed shall at any time afterwards be found, or if the person entitled to the certificate of registry obtains it at any time afterwards, the said certificate shall forthwith be delivered to the registrar of her port of registry to be cancelled.

**37. Endorsement on certificate of change of master**.—Where the master of an Indian ship is changed, each of the following persons, that is to say,—

(a) if the change is made in consequence of the removal of the master by a Marine Board or by a court under this Act, the presiding officer of the Marine Board or of the court, as the case may be;

(b) if the change occurs from any other cause,—

(i) In India, the registrar or any other officer authorised by the Central Government in this behalf at the port where the change occurs; and

(ii) outside India, the Indian consular officer at the port where the change occurs;

shall endorse and sign on the certificate of registry a memorandum of the change, and any customs collector at any port in India may refused to permit any person to do any act there as master of an Indian ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

**38. Endorsement on certificate of change of ownership**.—(*1*) Whenever a change occurs in the registered ownership of an Indian ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of registry or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship‟s port ofregistry.

(2) The master shall, for the purposes of such endorsement by the registrar of the ships port of registry, deliver the certificate of registry to the registrar forthwith after the change if the change

occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return, then, upon her first return to that port.

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

**39. Delivery of certificate of ship lost or ceasing to be an Indian ship.—**(*1*) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt or broken up or ceasing for any reason to be an Indian ship, every owner of the ship or any share in the ship shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry and that registrar shall make an entry thereof in the register book and its registry in that book shall be considered as closed except so far as relates to any unsatisfied mortgages entered therein.

(*2*) In any such case, except where the ship"s certificate of registry is mislaid, lost or destroyed, the master of the ship shall, immediately if the event occurs in any port in India, or within ten days after his arrival in port if it occurs elsewhere, deliver the certificate to the registrar of the port or any other officer specified in this behalf by the Central Government if the port of arrival is in India, or if the arrival is in any port outside India to the Indian consular officer there, and the registrar if he is not himself the registrar of her port of registry or the officer so specified or the Indian consular officer, as the case may be, shall forthwith forward the certificate delivered to him to the registrar of her port of registry.

**40. Provisional certificate for ships becoming Indian ships abroad.—**(*1*) If at any port outside India a ship becomes entitled to be registered as an Indian ship, the Indian consular officer there may grant to her master on his application a provisional certificate containing such particulars as may be prescribed in relation to the ship and shall forward a copy of the certificate at the first convenient opportunity to the Director-General.

(*2*) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from its date or until the arrival of the ship at a port where there is a registrar whichever first happens, and on either of those events happening shall cease to have effect.

**41. Temporary pass in lieu of certificate of registry.—**Where it appears to the Central Government that by reason of special circumstances it is desirable that permission should be granted to any Indian ship to pass without being previously registered from one port to any other port in India, the Central Government may authorise the registrar of the first-mentioned port to grant a pass in such form as may be prescribed, and that pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

*Transfers of ships, shares, etc.*

**42. Transfer of ships or shares.—**(*1*) No person shall transfer or acquire any Indian ship or any share or interest therein [1][at any time during which the security of India or of any part of the territory thereof is threatened by war or external aggression and during which a Proclamation of Emergency issued under clause (1) of article 352 of the Constitution is in operation] without the previous

1. Ins. by Act 68 of 1993, s. 3 (w.e.f. 27-10-1993).

approval of the Central Government and any transaction effected in contravention of this provision shall be void and unenforceable.

(2) The Central Government may, if it considers it necessary or expedient so to do for the purpose of conserving the tonnage of Indian shipping, refuse to give its approval to any such transfer or acquisition.

[1][(*2A*) No transfer or acquisition of any Indian ship shall be valid unless—

(a) all wages and other amounts due to seamen in connection with their employment on that ship have been paid in accordance with the provisions of this Act;

(b) the owner of the ship has given notice of such transfer or acquisition of the ship to the Director-General.]

(3) Subject to the other provisions contained in this section, an Indian ship or a share therein shall be transferred only by an instrument in writing.

(4) The instrument shall contain such description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the registrar and shall be in the prescribed form or as near thereto as circumstances permit and shall be executed by the transferor in the presence of and be attested by at least two witnesses.

**43. Registry of transfer**.—(*1*) Every instrument for the transfer of an Indian ship or of a share therein when duly executed shall be produced to the registrar of her port of registry, and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof.

(*2*) Every such instrument shall be entered in the register book in the order of its production to the registrar.

**44. Transmission of property in Indian ship on death, insolvency, etc**.—(*1*) Where the property in an Indian ship or share therein is transmitted to a person on the death or insolvency of any registered owner, or by any lawful means other than by a transfer under this Act,—

(a) that person shall authenticate the transmission by making and signing a declaration in the prescribed form (in this Act referred to as a declaration of transmission) identifying the ship and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on insolvency, the declaration of transmission shall be accompanied by proper proof of such claim;

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a succession certificate, probate or letters of administration under the Indian Succession Act, 1925 (39 of 1925), or a duly certified copy thereof.

(*2*) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of the provisions of this Act with respect to the number of persons claiming to be registered as owners, be considered as one person:

---

1. Ins. by Act 68 of 1993, s. 3 (w.e.f. 27-10-1993).

Provided that nothing in this sub-section shall require the registrar to make an entry in the register book under this section, if he is of opinion that by reason of the transmission the ship has ceased to be an Indian ship.

**45. Order for sale where ship has ceased to be an Indian ship**.—(*1*) Where by reason of the transmission of any property in a ship or a share therein on death, insolvency or otherwise, a ship ceases to be an Indian ship, the registrar of her port of registry shall submit a report to the Central Government setting out the circumstances in which the ship has ceased to be an Indian ship.

(2) On receipt of such report, the Central Government may make an application to the High Court for a direction for the sale to any citizen of India [1][or any [2][company or body or co-operative society] which satisfies the requirements specified in clause (*b*) or, as the case may be, clause (*c*) of section 21] of the property so transmitted.

(3) The High Court may require any evidence in support of the application it thinks requisite and may make such order thereon and on such terms and conditions as it thinks just or may reject the application [3][in case] it finds that the ship has not ceased to be an Indian ship; and in case the ship or the share is ordered to be sold, it shall direct that the proceeds of the sale after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise.

(4) Every application for sale shall be made within such time as may be prescribed:

Provided that an application may be admitted by the High Court after the time prescribed, if the Central Government satisfies the High Court that it had sufficient cause for not making the application within such time.

**46. Transfer of ship on sale by order of court**.—Where any court, whether under section 45 or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

**47. Mortgage of ship or share**.—(*1*) A registered ship or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument the registrar of the ship's port of registry shall record it in the register book.

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

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

1. Subs. by Act 43 of 1981, s. 6, for "or any company which satisfies the requirements specified in clause (*b*) of section 21" (w.e.f.28-9-1981).
2. Subs. by Act 68 of 1993, s. 4, for "company or any co-operative society" (w.e.f. 27-10-1993).
3. Subs. by Act 58 of 1960, s. 3 and the Second Schedule, for "in any case" (w.e.f.16-12-1960).

has been discharged, and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested, if the mortgage had not been made.

**49. Priority of mortgages**.—If there are more mortgages than one recorded in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

**50. Mortgagee not deemed to be owner**.—Except in so far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage, be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

[1][**51. Rights of mortgagee**.—(*1*) Where there is only one registered mortgagee of a ship or share, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged ship or share without approaching the High Court:

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due in the High Court as provided in sub-section (*2*).

(2) Where there are two or more registered mortgagees of a ship or share they shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged ship or share be sold in execution of the decree.

(3) Every registered mortgagee of a ship or share who intends to recover the amount due under the mortgage by selling the mortgaged ship or share under sub-section (*1*) shall give an advance notice of fifteen days relating to such sale to the registrar of the ship's port of registry.

(4) The notice under sub-section (*3*) shall be accompanied with the proof of payment of the wages and other amounts referred to in clause (*a*) of sub-section (*2A*) of section 42.]

**52. Mortgage not affected by insolvency**.—A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage, notwithstanding that the mortgagor, at the commencement of his insolvency, had the ship or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

**53. Transfer of mortgages**.—(*1*) A registered mortgage of a ship or share may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the registrar shall record it by entering in the register book the name of the transferee as mortgagee of the ship or share and shall, by memorandum under his hand, notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.

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

---

1. Subs. by Act 68 of 1993, s. 5, for section 51 (w.e.f. 27-10-1993).

**54. Transmission of interest in mortgage in certain circumstances**.—(*1*) Where the interest of a mortgagee in a ship or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.

(*2*) The registrar, on receipt of the declaration and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

*Name of ship*

**55. Rules as to name of ship**.—(*1*) An Indian ship shall not be described by any name other than that by which she is for the time being registered.

(2) The registrar may refuse the registry of any Indian ship by the name by which it is proposed to register the ship if that name is already borne by another ship or if the name be so similar as is calculated or likely to deceive.

(3) A change shall not be made in the name of an Indian ship except in the prescribed manner.

(4) If any person acts or suffers any person under his control to act in contravention of this section or omits to do or suffers any person under his control to omit to do anything required under this [1][section] the ship may be detained until the provisions of this section are complied with:

Provided that nothing in this sub-section shall apply to a foreign ship which has become, and is sought to be registered as, an Indian ship.

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

**56. Registry of alterations**.—When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a registrar, that registrar, or if it is made elsewhere, the registrar of the first port haying a registrar at which the ship arrives after the alteration, shall, on application being made to him stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew.

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

(*2*) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship's port of registry in his register book; and for that purpose the registrar to whom the application for the registry of the alteration has been made (if he is not the registrar of the ship's port of registry) shall forthwith report to the last mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

---

1. Subs. by Act 58 of 1960, s. 3 and the Second Schedule, for "sub-section" (w.e.f. 26-12-1960).

**58. Provisional certificate and endorsement where ship is to be registered anew**.—(*1*) Where any registrar, not being the registrar of the ship‟s port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered to the registrar thereof and that registrar shall cause the ship to be registered anew.

(3) The registrar granting a provisional certificate, or provisionally endorsing a certificate under this section shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement.

**59. Registry anew on change of ownership**.—Subject to the other provisions contained in this Act, where the ownership of any Indian ship is changed, the registrar of the port at which the ship is registered may, on the application of the owner of the ship, register the ship anew although registry anew is not required under this Act.

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

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

**61. Transfer of registry**.—(*1*) The registry of any ship may, with the previous approval of the Director-General, be transferred from one port of registry to another on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing in the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On receipt of any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a copy of all particulars relating to the ship and the names of all persons appearing in that register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered to the registrar either of the existing or intended port of registry, and, if delivered to the former, shall be transmitted to the registrar of the intended port of registry.

(4) On receipt of the documents aforesaid the registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thenceforth such ship shall be considered to be registered at the new port of registry, and the name of the ship‟s new port of registry shall be substituted for the name of her former port of registry on the ship.

**62. Restrictions on re-registry of abandoned ships**.—Where a ship has ceased to be registered as an Indian ship by reason of having been wrecked or abandoned, or for any reason other than

capture by the enemy, the ship shall not be re-registered until she has at the expense of the applicant for the registry been surveyed by a surveyor and certified by him to be seaworthy.

*National character and flag*

**63. National colours for Indian ships**.—(*1*) The Central Government may, by notification in the Official Gazette, declare what shall be the proper national colours for all ships registered under this Act and for all ships which are not so registered but which are owned by the Government or by any local authority or by any body corporate established by or under any law for the time being in force in India or by a citizen of India; and different colours may be declared for different classes of ships.

(*2*) Any commissioned officer of the Indian Navy, or any customs collector, or any Indian consular officer, may board any ship on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

**64. Unlawful assumption of Indian character**.—No person on board a ship which is not an Indian ship shall, for the purpose of making it appear to be an Indian ship, use the Indian national colours, unless the assumption of Indian character has been made (the burden of proving which shall lie on him) for the purpose of escaping capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

**65. Concealment of Indian, or assumption of foreign, character**.—No owner or master of an Indian ship shall knowingly do anything, or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Indian character of the ship from any person entitled by any law for the time being in force to inquire into the same, or with intent to assume a foreign character for the ship, or with intent to deceive any person so entitled as aforesaid.

**66. Indian ships to hoist proper national colours in certain cases**.—An Indian ship shall hoist the proper national colours—

(a) on a signal being made to her by any vessel of the Indian Navy;

(b) on entering or leaving any foreign port;

(c) if of fifty tons gross tonnage or more, on entering or leaving any Indian port.

**67. National character of ship to be declared before clearance**.—(*1*) A customs collector shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the country to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance.

(*2*) If a ship attempts to proceed to sea without such clearance, she may be detained by any customs collector until the declaratioin is made.

*Miscellaneous*

**68. Liabilities of ships not recognised as Indian ships**.—Where it is declared by this Act that an Indian ship shall not be recognised as such, that ship shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Indian ships or to use the Indian national colours for Indian ships or to assume the Indian national character, but so far as regards the payment of dues the liability to fine and forfeiture and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised Indian ship.

**69. Proceedings on forfeiture of ship**.—Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part, any commissioned officer of the Indian Navy, any

customs collector or any Indian consular officer or any other officer authorised by the Central Government, may seize and detain the ship, and bring her for adjudication before the High Court, and the High Court may thereupon adjudge the ship with her equipment to be forfeited to the Government, and make such order in the case as to the High Court seems just and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship or any share therein as the High Court thinks fit.

**70. Notice of trust not received**.—No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the registrar, and subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power to dispose of the ship or share in the manner provided in this Act and to give effectual receipts for any money paid or advanced by way of consideration.

**71. Liability of owners**.—Where any person is beneficially interested otherwise than by way of mortgage in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties with or without joining the other of them.

**72. Evidence of register book, certificate of registry and other documents**.—(*1*) On application to the registrar and on payment of the prescribed fee, a person may, at any time during office hours, inspect any register book, and may obtain a certified copy of any entry in the register book.

(2) The following documents shall be admissible in evidence in any Court in manner provided by this Act, namely:—

(a) any register book on its production from the custody of the registrar or other person having the lawful custody thereof;

(b) a certificate of registry under this Act purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(c) an endorsement on a certificate of registry purporting to be signed by the registrar or any other officer authorised in this behalf by the Central Government;

(d) every declaration made in pursuance of this Part in respect of an Indian ship.

(3) A certified copy of an entry in a register book shall be admissible in evidence in any Court and have the same effect to all intents as the original entry in the register book of which it is a copy.

**73. Power to register Government ships under this Part**.—The Central Government may, by notification in the Official Gazette, direct that, subject to such rules as may be made in this behalf, ships belonging to the Government other than ships of the Indian Navy may be registered as Indian ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the notification either generally or with respect to any class of ships belonging to Government, shall apply to ships belonging to Government registered in accordance with those rules as they apply to Indian ships registered in manner provided by this Act.

**74. Power to make rules in respect of matters in this Part**.—(*1*) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise, including the mode of measurement;

(b) the recognition for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in any country outside India, the tonnage regulations of which are substantially the same as the tonnage rules made by the Central Government, including the conditions and restrictions subject to which such recognition may be granted;

(c) the manner in which surveys of ships shall be conducted and the form of certificates of surveying officers;

(d) the manner in which ships shall be marked;

(e) the form in which any document required by this Part shall be prepared and the particulars which it should contain;

(f) the persons by whom and the authorities before which any declaration required by this Part shall be made and the circumstances in which any such declaration may be waived and other evidence accepted;

(g) the form of the instrument creating a mortgage on a ship or share of transferring a mortgage;

(h) the returns that shall be made by registrars to the Director-General or to such other authority as the Central Government may appoint and the form in which and the intervals within which such returns shall be made;

(i) the procedure for the registration, marking or alteration of the names of Indian ships;

[1][(*j*) the fees that may be levied for the survey or inspection of any ship for the purposes of registration and the manner in which such fees may be collected;]

(k) the manner in which registrars and other authorities may exercise their powers under the Part or maintain their books and other registers;

(l) the manner in which ships belonging to the Government, to which the provisions of this Act may be made applicable under section 73, may be registered;

(m) any other matter which may be or is to be prescribed.

## PART VI

### CERTIFICATES OF OFFICERS

### [2][*Masters, mates, engineers, skippers, etc.*]

[3][**75. Application of Part.—**This Part applies to—

(a) every sea-going Indian ship fitted with mechanical means of propulsion wherever it is; and

(b) every foreign ship while it is a port or place in India.

1. Subs. by Act 12 of 1983, s. 5, for clause (*j*) (w.e.f.18-5-1983).
2. Subs. by Act 13 of 1987, s. 2, for "*Masters, mates and engineers*" (w.e.f.1-7-1989).
3. Subs. by s. 3, *ibid*., for sections 75 and 76 (w.e.f. 1-7-1989).

**75A. Definitions**.—In this Part, unless the context otherwise requires,—

(a) "contiguous zone" means the contiguous zone of India described, or notified as such for the time being under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(b) "convention" means the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978, signed at London on the 7th day of July, 1978, as amended from time to time;

[1][**76. Certificates of competency to be held by officers of ships**.—(*1*) Every Indian ship, when going to sea from any port or place, shall be provided with officers duly certificated under this Act in accordance with such manning scales as may be prescribed:

Provided that the Central Government may prescribe different manning scales for different types of ships.

(*2*) Every ship, whether at sea or in any port or place, shall engage such number of persons and with such qualifications as may be prescribed for maintaining watches.]]

**77. When officers deemed duly certificated**.—Subject to the provisions contained in section 86, an officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade granted in accordance with this Act.

[2][**78. Grades of certificates of competency**.—(*1*) Certificates of competency shall be granted in accordance with the provisions of this Act for each of the following grades, namely:—

extra Master;

master of a foreign-going ship;

first mate of a foreign-going ship;

second mate of a foreign-going ship;

master of a home-trade ship;

mate of a home-trade ship;

navigational watchkeeping officer;

extra first class engineer;

marine engineer officer class I;

marine engineer officer class II;

marine engineer officer class III;

marine engineer officer class IV;

engine driver of a sea-going ship;

skipper grade I of a fishing vessel;

skipper grade II of a fishing vessel;

mate of a fishing vessel;

engineer of a fishing vessel;

engine driver of a fishing vessel;

dredger master grade I;

dredger master grade II;

---

1. Subs. by Act 63 of 2002, s. 2, for section 76 (w.e.f.1-2-2003).
2. Subs. by Act 13 of 1987, s. 4, for section 78 (w.e.f. 1-7-1989).

dredger mate grade I;

dredger mate grade II;

dredger engineer grade I;

dredger engineer grade II;

dredger driver grade I;

dredger driver grade II.

(2) A certificate of competency granted for any grade of engineer or engine driver shall state whether it entitles the holder to act as engineer of ships or fishing vessels fitted with steam or motor engines or with any other type of engines and the holder shall not be entitled to act as engineer of a ship fitted with a type of engine not stated in the certificate.

(3) Certificates issued to masters, mates and engineers who have to work on board ships carrying dangerous goods shall require endorsement as to the additional qualifications that may be prescribed.

(4) If it appears to the Central Government that certificates of competency for grades, other than those referred to in sub-section (*1*) may be granted, it may, by notification in the Official Gazette, specify the other grades in respect of which certificates of competency may be granted.

(5) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate of a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such home-trade ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship.

(6) A certificate of competency as extra master shall be deemed to be of a higher grade than any other certificate of competency as master or mate of a foreign-going ship or a home-trade ship or navigational watch keeping officer.

(7) A certificate of competency as extra first class engineer shall be deemed to be of a higher grade than any other certificate of competency as marine engineer officer, engineer or engine driver of a fishing vessel or engine driver of a sea-going ship.]

**79. Examinations for, and grant of, certificates**.—(*1*) The Central Government or a person duly authorised by it in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificate of competency under section 78.

(*2*) The Central Government or such authorised person shall grant to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the Central Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

[1][(*3*) Every certificate granted under sub-section (*2*), shall be valid for such period as may be prescribed.]

**80.** [*Certificates of service of naval officers.*] *Omitted by Act Merchant Shipping* (*Amendment*) *Act*, 1986 (33 *of* 1986), *s*. 2 (*w.e.f.* 14-8-1986).

**81. Form of certificates**.—Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

1. Ins. by Act 13 of 1987, s. 5 (w.e.f.1-7-1989).

**82. Record of orders affecting certificates**.—A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept under section 81.

**83. Loss of certificates**.—Whenever a person holding a certificate granted under this Act proves to the satisfaction of the Central Government that he has, without fault on his, part, lost or been deprived of such certificate, the Central Government shall on payment of the prescribed fee, cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

**84. Production of certificates of competency to shipping master**.—(*1*) The master of a foreign-going ship or the master of a home-trade ship of two hundred tons gross or more—

(a) on signing the agreement with his crew, shall produce to the shipping master before whom the same is signed, the certificates of competency which the [1][mates and engineers] of the ship are by this Act required to hold; [2]***

(b) in the case of a running agreement, shall, also, before the second and every subsequent voyage, produce to the shipping master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

[3][(*c*) who is not required to sign the agreement with the crew, shall submit before commencing the first voyage from any port to the Mercantile Marine Department having jurisdiction over such port, a list of crew with the particulars of grades of certificates of master, mates and engineers and shall also report to that Department of any later change in the list of the crew before any subsequent voyage.]

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

(3) The master shall, before proceeding to sea, produce the certificate given to him by the shipping master to the customs collector.

(4) No customs collector shall clear any such ship outwards without the production of such certificate; and, if any ship attempts to go to sea without a clearance, the customs collector may detain her until the certificate is produced.

**85. Power to cancel or suspend certificates obtained on false or erroneous information**.—If it appears to the Central Government that the holder of a certificate granted under this Act has obtained it on false or erroneous information, it may cancel or suspend such certificate:

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

**86. Recognition of certificate of competency [4]*** granted in other countries**.—(*1*) If provision is made by the laws in force in any country other than India for the grant of certificates of competency [2]*** similar to those referred to in this Act, and the Central Government is satisfied—

(a) that the conditions under which any such certificates are granted in that country require standards of competency [2]*** not lower than those required for the grant under this Act of corresponding certificates; and

---

1. Subs. by Act 13 of 1987, s. 6, for "master, mate, engineers and engine drivers" (w.e.f. 1-7-1989).
2. The word "and" omitted by s. 6, *ibid*. (w.e.f. 1-7-1989).
3. Ins. by s. 6, *ibid.* (w.e.f. 1-7-1989).
4. The words "or service" omitted by Act 33 of 1986, s. 3 (w.e.f. 14-8-1986).

(b) that certificates granted under this Act are accepted in that country in lieu of the corresponding certificates granted under the laws of that country;

the Central Government may, by notification in the Official Gazette, declare that any certificate of competency [2]*** granted under the laws in force in that country and specified in that notification, shall for the purposes of this Act be recognised as equivalent to the corresponding certificate of competency [2]*** granted under this Act and specified in the notification.

(*2*) Whenever the provisions of this Act require that a person employed in any capacity on board any ship shall be the holder of a specified certificate of competency [2]*** granted under this Act, any person employed in that capacity shall, if he is the holder of a certificate recognised under sub-section (*1*) as equivalent to the first-mentioned certificate or to a certificate of higher grade granted under this Act, and still in force, be deemed to be duly certificated under this Act.

[1]**[86A. Foreign ships not to sail without certificated officers.—**(*1*) Every master of a foreign ship shall, before proceeding to sea from any port or place in India, ensure that the ship has the requisite number of officers and engineers of appropriate grades as specified by the Convention.

(2) A surveyor or any person authorised in this behalf by the Central Government may, at any reasonable time, go on board a ship to which any of the provisions of this Part applies for the purpose of ensuring that the officers holding certificates issued in accordance with the Convention are actually appointed and are present, and satisfy himself about the adequacy of such officers for the watch-keeping duties in ports and at sea.

(3) If any report made under sub-section (*2*) by a surveyor or any person authorised in this behalf by the Central Government, reveals any deficiency in a foreign ship in relation to the requirements of the Convention and the Central Government is satisfied that it will be unsafe for such ship to proceed to sea, that ship may be detained by the officer authorised for this purpose till such requirements are fulfilled.]

[2]**[87. Power to make rules**.**—**(*1*) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:**—**

(a) the form and manner in which a service endorsement shall be made on the certificate of competency of a marine engineer officer class II;

(b) the number of persons and the qualifications they may possess for maintaining watches [3][by different types of ships] at sea or in any port or place;

(c) the conduct of the examination of persons desirous of obtaining certificates of competency and endorsements thereon for the grades falling under section 78;

(d) the qualifications to be required of persons desirous of obtaining certificates of competency for the grades falling under section 78;

(e) the fees to be paid by applicants for examination;

(f) the period for which certificate granted under sub-section (*2*) of section 79 shall be valid;

(g) the form of such certificates and the manner in which copies of certificates are to be kept and recorded;

(h) the circumstances or cases in which certificates of competency may be cancelled or suspended.]

---

1. Ins. by Act 13 of 1987, s. 7 (w.e.f. 1-7-1989).

2. Subs. by s. 8, *ibid*., for section 87(w.e.f. 1-7-1989).

3. Subs. by Act 63 of 2002, s. 3, for "by a ship"(w.e.f. 1-2-2003).

[1][PART VIA

OBLIGATION OF CERTAIN CERTIFICATE HOLDERS TO SERVE GOVERNMENT OR IN INDIAN SHIPS

**87A. Definitions**.—In this Part, unless the context other requires,—

(a) "appointed day" means the date on which the Merchant Shipping (Amendment) Act, 1979 (20 of 1979), comes into force;

(b) "certificate" means—

(i) a certificate of competency referred to in section 78; or

[2]* * * * *

(*iii*) a certificate of competency [3]*** referred to in section 86,

which has been obtained by any person by availing of training facilities in any of the merchant navy training establishments in India or experience of sea service on board any Indian ship [4]***;

(c) "Government" includes—

(i) a Board of Trustees constituted under the Major Port Trusts Act, 1963 (38 of 1963) for any port,

(ii) a corporation established by or under a Central, Provincial or State Act,

(iii) A Government company within the meaning of section 617 of the Companies Act,1956 (1 of 1956), and

(iv) a Merchant Navy Training Institution financed wholly or mainly by Government;

(d) "suitable employment", in relation to the holder of any certificate, means employment in a capacity for which the holding of such certificate is an essential qualification.

**87B. Holders of certificates to serve the Government or in Indian ships for certain period**.—(*1*) Every citizen of India who obtains, on or after the appointed day, a certificate shall be liable to serve the Government or in any Indian ship, for such period not extending beyond four years from the date on which he obtains such certificate or for such shorter period as the Central Government may, by a general or special order published in the Official Gazette, specify.

(2) No citizen of India who has obtained on or, after the appointed day a certificate shall accept any employment other than an employment under the Government or in any Indian ship, before the expiry of the period during which he is liable to serve the Government or in any Indian ship in accordance with the provisions of sub-section (*1*) and the orders made thereunder.

(3) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), a citizen of India who has obtained, on or after the appointed day, two or more certificates shall not be liable to serve under the Government or in any Indian ship for any period or periods exceeding, or, as the case may be, exceeding in the aggregate, seven years or such shorter period as the Central Government may, by a general or special order, published in the Official Gazette, specify.

**87C. Exemption from section 87B**.—(*1*) When any person referred to in section 87B has failed to secure suitable employment within a reasonable period from the date on which he applied for the same, he may make an application to the Director-General for exempting him from the requirements of sub-sections (*1*) and (*2*) of that section and if the Director-General is satisfied that the grounds

1. Part VIA ins. by Act 20 of 1979, s. 2 (w.e.f. 4-5-1979).

2. Sub-clause (*ii*) omitted by Act 33 of 1986, s. 4 (w.e.f. 14-8-1986).

3. The words „or service" omitted by s. 4, *ibid.* (w.e.f. 14-8-1986).

4. The words "or Indian Naval ship" omitted by s. 4, *ibid.* (w.e.f. 14-8-1986).

stated in the application justify the exemption sought for, he shall, by order, exempt such person from the requirements of those sub-sections.

(2) The Director-General may, either on own motion or on an application made by any person referred to in section 87B, by order in writing, exempt such person from the requirements of sub-sections (*1*) and (*2*) of that section, if the Director-General is satisfied—

(a) that it is necessary so to do for compliance with any request made by the Government of any foreign country to make available the services of Indian personnel for meeting shortage of qualified personnel in its ships or shore establishments, or for compliance with any request made by any agency of the United Nations Organisation for making available Indian personnel for providing consultancy services on its behalf in technical co-operation or technical assistance programme in any country; or

(b) that such person is likely to suffer undue hardship if he is not so exempted.

(3) An application for exemption under sub-section (*1*) or sub-section (*2*) shall set out clearly all the particulars on the basis of which such exemption is applied for.

(4) Every such application shall be disposed of by the Director-General as expeditiously as possible and where the Director-General refuses to grant the exemption applied for, he shall record his reasons therefore and communicate the same to the applicant.

(5) Where, within a period of forty-five days of the date of receipt of any such application, the Director-General does not refuse to grant the exemption applied for, or does not communicate the refusal to the applicant, the Director-General shall be deemed to have granted the exemption applied for.

(6) Where the Director-General refuses to grant the exemption applied for, the applicant may prefer an appeal against such refusal to the Central Government within thirty days of the receipt of the order of the Director-General refusing the exemption and the Central Government may make such orders as it deems fit:

Provided that the Central Government may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time:

Provided further that no order confirming the order of the Director-General shall be made under this sub-section without giving the appellant an opportunity to represent his case.

**87D. Particulars of certificate, etc., to be furnished**.—Every citizen of India who obtains, on or after the appointed day, a certificate, shall furnish, in such form and at such intervals as may be described, particulars of the certificate or certificates obtained by him and of his employment.]

## PART VII

### SEAMEN AND APPRENTICES

### [1][*Classification of seamen, seafarer, maritime labour standards and prescription of minimum manning scale*]

**88. Power to classify seamen**.—The Central Government may make rules for the classification of seamen other than ship's officers into different categories and for the prescription of the minimum manning scale of seamen of such categories for ships; and different scales may be prescribed for different classes of ships.

[2][**88A. Definitions**.—In this Part, unless the context otherwise requires,—

(a) "Declaration of Maritime Labour Compliance" means a declaration issued by the Director-General of Shipping or by any officer, authority or organization authorized by him in this behalf, in respect of a ship that it meets with the requirements and standards set out in the provisions of the Maritime Labour Convention;

---

1. Subs. by Act 32 of 2014, s. 2, for "*Classification of seamen and prescription of minimum manning scale*" (w.e.f. 1-4-2015).
2. Ins. by s. 3, *ibid*. (w.e.f. 1-4-2015).

(b) "Maritime Labour Certificate" means the certificate issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him in this behalf, in accordance with the provisions of the Maritime Labour Convention;

(c) "Maritime Labour Convention" means the International Convention of Maritime Labour Organisation on Maritime Labour Standards signed in Geneva on the 23rd February, 2006;

(d) "seafarer" means any person who is employed or engaged or works in any capacity on board a sea going ship, but does not include—

(i) the employment or engagement or work on board in any capacity of any person in a ship of war; or

(ii) any Government ship used for military or non-commercial purposes.

**88B. Application of maritime labour standards to seafarers and ships.—**(*1*) The provisions relating to maritime labour standards as contained in the Maritime Labour Convention, shall apply to all seafarers and ships engaged in commercial activities, but does not include—

(a) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply;

(b) ships engaged in fishing activities;

(c) traditionally built ships such as dhows and junks;

(d) ships of war or naval auxiliaries.

(*2*) Subject to the provisions of sub-section (*1*), the Central Government may, on the recommendation of the Director-General of Shipping, by order, extend the provisions of the said sub-section to ships not engaged in commercial activities with such exceptions and modifications as it may consider necessary.]

*Shipping Masters*

**89. Duties of shipping masters.—**It shall be the duty of shipping masters—

(a) to superintend and facilitate the engagement and discharge of seamen in the manner provided in this Act;

(b) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

(c) to facilitate the making of apprenticeship to the sea service;

(d) to hear and decide disputes under section 132 between a master, owner or agent of a ship and any of the crew of the ship:

[1][(*dd*) to transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director-General, International Labour Organisation Office;]

(e) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act.

---

1. Ins. by Act 9 of 1998, s. 2 (w.e.f. 26-9-1997).

**90. Fees to be paid**.—(*1*) The Central Government may, by notification in the Official Gazette, fix the fees which shall be payable upon all engagements and discharges effected before a shipping master.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and a shipping master may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seamen in a shipping office or before a shipping masters shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of reimbursing himself in part, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding such sums as the Central Government may, by notification in the Official Gazette, fix in this behalf:

Provided that, if in any case the sums which may be so deducted exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

*Apprenticeship to the sea service*

**91. Assistance for apprenticeship to sea service**.—All shipping masters shall give to persons desirous of apprenticing [1][young persons not under the age of sixteen years] to sea service or requiring apprentices not under that age for the sea service such assistance as may be in their power, and may receive from those persons such fees as the Central Government may fix.

**92. Special provisions as to apprenticeship to the sea service**.—[2][(*1*) The apprenticeship of any person to the sea service shall be by contract in writing between the apprentice or if he is a young person, then, on his behalf by his guardian, and the master or owner of the ship requiring the apprentice.]

(2) Every such contract shall be executed in duplicate in the prescribed form and in accordance with the rules made by the Central Government in this behalf.

(3) Every such contract shall be executed in the presence of, and shall be attested by, the shipping master of the port, who shall, before the execution of the contract, satisfy himself—

(a) that the intended apprentice—

(i) understands the contents and provisions of the contract;

(ii) freely consents to be bound;

(iii) has attained the age of [3][sixteen years]; and

(iv) is in possession of a certificate to the effect that he is physically fit for sea service;

(b) if the intended apprentice is [4][an young person], that his guardian's consent has been obtained to his being bound as an apprentice.

1. Subs. by Act 32 of 2014, s. 4, for "boys not under fifteen years of age" (w.e.f. 1-4-2015).
2. Subs. by s. 5, *ibid*., for sub-section (*1*) (w.e.f. 1-4-2015).
3. Subs. by s. 5, *ibid.*, for "fifteen years" (w.e.f. 1-4-2015).
4. Subs. by s. 5, *ibid*., for "a minor" (w.e.f. 1-4-2015).

(4) Every such contract made in India and every assignment, alteration or cancellation thereof, and where the apprentice bound dies or deserts, the fact of the death or desertion shall be recorded in the manner specified in section 93.

**93. Manner in which contract is to be recorded**.—For the purpose of the record—

(a) the master or owner of the ship to whom an apprentice to the sea service is bound shall transmit the contract executed in duplicate within seven days of the execution thereof, to the shipping master, who shall record one copy and endorse on the other the fact that it has been recorded and redeliver it to the master or owner;

(b) the master or owner shall notify any assignment or cancellation of the contract and the death or desertion of the apprentice to the shipping master, within seven days of the occurrence, if it occurs within India, or, as soon as circumstances permit, if it occurs elsewhere.

**94. Production of contracts to authorised person before voyage in ship.—**(*1*) The master of a ship shall, before carrying an apprentice to sea from a port in India, cause the apprentice to appear before the shipping master before whom the crew are engaged, and shall produce to him the contract by which the apprentice is bound, and every assignment thereof.

(2) The name of the apprentice, with the date of the contract and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew.

*Seamen's employment offices*

**95. Business of seamen's employment offices**.—(*1*) It shall be the business of the seamen's employment offices—

[1][(*a*) to issue licence, to regulate and control the recruitment and placement service, and to—

(i) ensure that no fees or other charges for recruitment or placement of seafarers are borne directly or indirectly or in whole or in part, by the seafarers;

(ii) ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services; and

(iii) to maintain registers of seamen in respect of the categories of seamen.]

(*c*) to perform such other duties relating to seamen and merchant ships as are, from time to time, committed to them by or under this Act.

[2]* * * * *

(3) The Central Government may make rules for the purpose of enabling seamen's employment offices effectively to exercise their powers under this Act; and in particular and, without prejudice to the generality of such power, such rules may, provide for—

(a) consultation with respect to any specified matter by seamen's employment offices with such advisory boards or other authorities as the Central Government may think fit to constitute or specify in this behalf;

[3][(*b*) the levy and collection of such fees as may be specified for the issue of licences to recruitment and placement services, renewal of such licences and services to be rendered by the seamen's employment office;

(c) the issue of directions by the Central Government to any seamen's employment office or any recruitment and placement service with reference to the exercise of any of its powers;

1. Subs. by Act 63 of 2002, s. 4, for clauses (*a*) and (*b*) (w.e.f. 1-2-2003).
2. Omitted by s. 4, *ibid.* (w.e.f. 1-2-2003).
3. Subs. by s. 4, *ibid*., for clauses (*b*) and (*c*) (w.e.f. 1-2-2003).

(*ca*) the conditions under which the recruitment and placement service to recruit and place seafarers abroad;

(*cb*) the circumstances and conditions under which licence to be suspended or withdrawn;

(*cc*) the conditions under which seafarers' personal data to be processed by the recruitment and placement services including the collection, storage, combination and communication of such data to third parties;]

(d) the supersession of any seamen's employment office which fails to comply with any such direction.

[1][*Explanation*.—For the purposes of this section,—

(*a*) "recruitment and placement service" means any person, company, institution, agency or other organisation, in the public or private sector which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers;

[2]* * * * *

**96. Supply or engagement of seamen in contravention of Act prohibited**.—(*1*) A person shall not engage or supply a seaman to be entered on board any ship in India unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seaman's employment office, or a shipping master.

(2) A person shall not employ for the purpose of engaging or supplying a seaman to be entered on board any ship in India, any persons unless that person is the owner, master or mate of the ship, or is the agent of the owner or is *bona fide* the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master.

(3) A person shall not receive or accept to be entered on board any ship any seaman, if that person knows that the seaman has been engaged or supplied in contravention of this section or section 95.

[3][**97. Receipt of remuneration, donation, fees, etc., from seamen for shipping them prohibited.—**(*1*) A person or company or organisation including a union purporting to represent the interests of seamen shall not demand or receive, either directly or indirectly, from any seaman or person seeking employment as seaman or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seaman or person's employment as seaman, other than the fees authorised by this Act.

(2) It shall be the duty of the company employing or proposing to employ person as seaman to ensure that no money has been demanded or received by any person or company or organisation including the union purporting to represent the interests of seamen by way of any remuneration or donation or fees or compulsory subscription of any kind attributable to employment of such person as seaman.]

[4][**97A. Prohibition against discrimination**.—There shall be no discrimination between seamen,—

(a) on the ground of their membership or lack of membership in any particular union purporting to represent the interests of seamen and membership in such union shall not be pre-requisite condition;

(b) on the basis of training institute from where they obtained training or place of issue of their continuous discharge certificates,

for their recruitment and engagement on board any ship.]

---

1. The *Explanation* ins. by Act 63 of 2002, s. 4 (w.e.f. 1-2-2003).
2. *Explanation* omitted by Act 32 of 2014, s. 6 (w.e.f. 1-4-2015).
3. Subs. by Act 63 of 2002, s. 5, for section 97 (w.e.f. 1-2-2003).
4. Ins. by s. 6, *ibid*. (w.e.f. 1-2-2003).

*Engagement of seamen*

**98. Qualifications for, and medical examination of, seamen**.—(*1*) The Central Government may, by notification in the Official Gazette, direct that, with effect from such date as may be specified in the notification, seamen generally or any category of seamen in particular shall not be engaged or carried to sea to work in any capacity in any ship or in any class of ships so specified, unless each one of them possesses the prescribed qualifications.

(2) Except as otherwise provided under the rules made under sub-section (*3*), no person shall engage or carry to sea any seaman to work in any capacity in any ship or in any class of ships specified in this behalf by the Central Government, unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(3) The Central Government may make rules for the purpose of giving effect to the provisions of this section; and, in particular, and, without prejudice to the generality of such power, any rules so made may provide for—

(a) the courses of training to be pursued, the vocational standards to be attained or the tests to be passed by seamen generally or by any class of seamen in particular;

(b) the standard of physical fitness required of seaman, different standards being laid down, if necessary, for different classes of seamen having regard to the age of the seamen to be examined or the nature of the duties to be performed by them;

(c) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted, and the fees payable therefore;

(d) the form and contents of medical certificates and the period of their validity;

(e) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination;

(f) the circumstances in which, or the conditions subject to which, any seaman or class of seamen, or any ship or class of ships, may be exempted from the operation of sub-section (*2*).

**99. Prohibition of engagement of seamen in Indian port without discharge certificate**.—No person shall engage or carry to sea any seaman under this Act in any ship, except a home-trade ship of less than two hundred tons gross, from any port in India unless the seaman is in possession of a certificate of discharge or a continuous certificate of discharge issued under this Part.

[1][**99A. Prohibition of engagement of seafarer without seafarer's identity document.—**(*1*) No person shall engage or carry to sea any seafarer in any ship, unless the seafarer is in possession of seafarer's identity document.

(*2*) The seafarer"s identity document under sub-section (*1*) shall be issued in such form and manner and on payment of such fees as may be prescribed.

[2]* * * * *

**100. Agreements with crew.—**The master of every Indian ship, except a home-trade ship of less than two hundred tons gross, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from any port in India.

---

1. Ins. by Act 40 of 2007, s. 5 (w.e.f. 1-3-2008).
2. *Explanation* omitted by Act 32 of 2014, s. 7 (w.e.f. 1-4-2015).

**101. Form and contents of the agreement**.—(*1*) An agreement with the crew shall be in the prescribed form, and shall be dated at the time of the first signature thereof, and shall be [1][signed by the owner or agent and the master] before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

(a) the name of the ship or ships on board which the seaman undertakes to serve;

(b) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(c) the number and description of the crew of different categories in each department;

[2][(*cc*) hours of work and rest in a week, as may be prescribed;]

(d) the time at which each seaman is to be on board or to begin work;

(e) the capacity in which each seaman is to serve;

(f) the amount of wages which each seaman is to receive;

[2][(*ff*) the entitlement for leave, as may be prescribed; and]

(g) a scale of the provisions which are to be furnished to each seaman, such scale being not less than the scale fixed by the Central Government and published in the Official Gazette;

(h) a scale of warm clothing and a scale of additional provisions to be issued to each seaman during periods of employment in specified cold regions;

(i) any regulations as to conduct on board and as to fines or other lawful punishment for misconduct, which have been sanctioned by the Central Government as regulations proper to be adopted, and which the parties agree to adopt;

(j) payment of compensation for personal injury or death caused by accident [3][arising out of employment or] in the course of employment;

(k) where it is agreed that the services of any seaman shall end at any port not in India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in India as may be agreed upon, or a passage to some port in India free of charge or on such other terms as may be agreed upon;

[2][(*kk*) the terms of agreement with the crew shall be determined after consultation with such organisations in India as the Central Government may, by order, notify to be the most representative of the employers of seamen and of seamen.]

(l) stipulations relating to such other matters as may be prescribed.

(3) The agreement shall provide that in the event of a dispute arising outside India between the master, owner or agent of a ship and a seaman in respect of any matter touching the agreement, such dispute shall be referred to the Indian consular officer whose decision thereon shall be binding on the parties until the return of the ship to the port in India at which the seaman is to be discharged:

---

1. Subs. by Act 41 of 1984, s. 4, for "signed by the master" (w.e.f.15-7-1985).
2. Ins. by Act 32 of 2014, s. 8 (w.e.f. 1-4-2015).
3. Subs. by s. 8, *ibid*., for "arising out of and" (w.e.f. 1-4-2015).

Provided that in the case of a ship other than an Indian ship, no such dispute shall be referred to the Indian consular officer if such reference is contrary to the rules of international law.

(4) The agreement with the crew shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act) respecting the advance and allotment of wages and may contain any other stipulations which are not contrary to law.

[1][**102. Engagement of seaman where agreement is made out of India**.—Notwithstanding anything contained in any other provision of this Act, the master of a ship registered at a port outside India who has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged may engage in any port in India—

(a) a seaman who is not a citizen of India and who holds a continuous discharge certificate or any other similar document of identity issued by the competent authority of the country in which the ship is registered or, as the case may be, of the country in which the said agreement was made; or

(b) a seaman who is a citizen of India and who holds a certificate of discharge or a continuous certificate of discharge issued under this Act,

and any seaman so engaged under clause (*a*) or clause (*b*) may sign the agreement aforesaid and it shall not be necessary for him to sign an agreement under this Act.]

**103. Special provisions with regard to agreements with crew of Indian ships.—**(*1*) The following provisions shall have effect with respect to every agreement made in India with the crew of an Indian ship, namely:—

(a) the agreement shall, subject to the provision of this Act as to substitute, be signed by each seaman in the presence of a shipping master;

(b) the shipping master shall cause the agreement to be read over and explained to each seaman, in a language understood by him or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature;

(c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;

(d) when a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, if practicable, be made before a shipping master, and if not practicable, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.

(2) In the case of an agreement made in India with the crew of a foreign-going Indian ship the following provisions shall have effect in addition to the provisions specified in sub-section (*1*), namely:—

(a) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements;

(b) a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival

1. Subs. by Act 41 of 1984, s. 5, for section 102 (w.e.f. 15-7-1985).

of the ship at her port of destination in India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such running agreement shall continue in force, if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port outside India to any other such port which is not on the direct route or a customary route to her port of destination in India;

(c) on every return to a port in India before the final termination of a running agreement, the master shall discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law;

(d) the master shall deliver the running agreement so endorsed to the shipping master, and the shipping master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(3) In the case of an agreement made in India with the crew of a home-trade Indian ship of two hundred tons gross or more, the following provisions shall have effect in addition to the provisions specified in sub-section (*1*), namely:—

(a) the agreement shall not be for a period longer than six months, but if the period for which the agreement was entered into expires while the ship is not in an Indian port, the agreement shall continue in force until the ship is again in an Indian port:

Provided that, except with the consent in writing of the seaman concerned, the agreement shall not continue in force for more than three months after the expiration of the period for which it was entered into;

(b) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.

**104. Renewal of running agreements in certain cases**.—(*1*) When a running agreement has been made with a crew of a foreign-going Indian ship and the ship arrives after the expiration of a period of six months from the date on which it was executed at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping master renew the agreement with the crew, or may be required by the shipping master so to renew the agreement for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

(*2*) If the master of the ship is required by the shipping master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

**105. Changes in crew to be reported**.—[1][(*1*)] The master of every foreign-going Indian ship and of every home-trade Indian ship of two hundred tons gross or more, the crew of which has been engaged before a shipping master, shall, before finally leaving the port where the engagement took place, sign and send to the nearest shipping master a full and accurate statement in the prescribed form, of every change which has taken place in his crew, and that statement shall be admissible in evidence.

1. Section 105 renumbered as sub-section (*1*) thereof by Act 41 of 1984, s. 6 (w.e.f. 15-7-1985).

[1][(*2*) A copy of the statement referred to in sub-section (*1*) shall also be sent to the seaman's employment office concerned.]

**106. Certificate as to agreement with crew**.—(*1*) In the case of a foreign-going Indian ship or a home-trade Indian ship of two hundred tons gross or more, on the due execution of an agreement with the crew in accordance with this act, and also when, in the case of a foreign-going Indian ship, the agreement is a running agreement, on compliance by the master before the second and every subsequent voyage made after the first commencement of the agreement with the provisions of this Act respecting that agreement, the shipping master shall grant the master of the ship a certificate to that effect.

(2) The master of every such ship shall, before proceeding to sea, produce that certificate to the customs collector whose duty it is to grant a port clearance.

(3) No customs collector shall clear any such ship outwards without the production of such certificate, and, if any such ship attempts to go to sea without a clearance, the customs collector may detain her until such certificate as aforesaid is produced.

(4) The master of every such ship shall, within forty-eight hours after the ship's arrival at the port in India at which the crew is to be discharged, deliver such agreement to a shipping master at the port; and such shipping master shall thereupon give to the master a certificate of such delivery; and no customs collector shall clear any such inwards without the production of such certificate.

**107. Copy of agreement to be made accessible to the crew**.—The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a certified translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

**108. Alteration in agreement with the crew**.—Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, [2][unless proved to have been made with the consent of all the persons, interested in the erasure, interlineation or alteration by the written attestation,—

(a) if in India, of some shipping master or customs collector; or

(b) if outside India, by an Indian consular officer or at any port outside India at which no Indian consular officer is available any such person as is authorised in this behalf by the Central Government by notification in the Official Gazette].

*Employment of young persons*

[3]**[109. Prohibition of engagement of underage persons in certain cases.—**(*1*) No person under the age of sixteen years shall be engaged or carried to sea to work in any capacity in any ship.

(*2*) (*a*) No young person shall be engaged in night work.

(b) The period of night work shall be such, as may be prescribed:

Provided that the Director-General of Shipping,—

(i) for giving effective training; or

(ii) for performing a specific nature of duty,

---

1. Ins. Act 41 of 1984, by s. 6 (w.e.f. 15-7-1985).
2. Subs. by s. 7, *ibid*., for certain words (w.e.f. 15-7-1985).
3. Subs. by Act 32 of 2014, s. 9, for section 109 (w.e.f. 1-4-2015).

at night, may, by order permit engagement of any young person in night work which shall not be detrimental to the health or well being of such young person.]

***110.*** [*Engagement of young persons as trimmers or stokers.*] *Omitted by the Merchant Shipping* (*Second Amendment*) *Act*, 2014 (32 *of* 2014), *s*. 10 (*w.e.f.* 1-4-2015).

**111. Medical examination of young persons.—**(*1*) Save as otherwise provided in sub-section (*2*), no young person shall be engaged or carried to sea to work in any capacity in any ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(2) Sub-section (*1*) shall not apply,—

(a) to the employment of a young person in a ship in which all persons employed are members of one family; or

(b) where the shipping master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (*1*) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (*1*).

(3) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

**112. Maintenance of list or register of young persons in a ship.—**There shall be included in every agreement with the crew of every Indian ship and every other ship which engages young persons in India, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

[1][**113. Power to make rules respecting employment of young persons.—**The Central Government may make rules for the purposes of employment of young persons, prescribing**—**

(a) the authorities, whose certificates of physical fitness shall be accepted for the purposes of section 111;

(b) the form of register of young persons to be maintained in ships where there is no agreement with the crew.]

*Engagement of seamen by masters of ships other than Indian ships*

**114. Engagements between seamen and masters of ships other than Indian ships.—**(*1*) When the master of a ship other than an Indian ship engages a seaman at any port in India to proceed to any port outside India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping master in the manner provided by this Act for the making of agreements in the case of foreign going Indian ships.

(2) All the provisions, of this Act respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same shall be applicable to the engagement of such seaman.

(3) The master of a ship other than an Indian ship shall give to the shipping master a bond with the security of some approved person resident in India for such amount as may be fixed by the Central Government in respect of each seaman engaged by him at any port in India and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Central

1. Subs. by Act 32 of 2014, s. 11, for section 113 (w.e.f. 1-4-2015).

Government of all expenses which may be incurred by it in respect of any such seaman who is discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of this Act:

Provided that the shipping master may waive the execution of a bond under this section where the owner of the ship has an agent at any port in India and such agent accepts liability in respect of all matters for which the master of the ship would be liable if he were to execute a bond under this section or may accept from the agent such security as may be approved by the Central Government.

(4) The fees fixed under section 90 shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under the said section 90.

**115. Power to prohibit engagement of persons as seamen**.—The Central Government or any officer authorised by it in this behalf, if satisfied that in the national interest or in the interests of seamen generally it is necessary so to do, may, by order in writing, prohibit the owner, master or agent of any ship other than an Indian ship specified in the order from engaging in India or in any specified part of India, any person to serve as a seaman on such ship.

**116. Engagement of seamen outside India for Indian ships**.—With respect to the engagement of seamen outside India, the following provisions shall have effect:—

When the master of an Indian ship engages a seaman at any port outside India, the provisions of this Act respecting agreements with the crew made in India shall apply subject to the following modifications:—

(a) at any such port having an Indian consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall, if not contrary to any law in force in that port, engage the seaman before that officer;

(b) the master shall request the Indian consular officer to endorse upon the agreement an attestation to the effect that it has been signed in his presence and otherwise, made as required by this Act, and that it has his sanction, and if the attestation is not made, the burden of proving that the engagement was made as required by this Act shall lie up on the master.

**117. Power to board ships and master seamen**.—For the purpose of preventing seamen from being taken on board any ship at any port in India contrary to the provisions of this Act, any shipping master or deputy or assistant shipping master or any director, deputy director or assistant director of the seamen's employment office, may enter at any time on hoard any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

*Discharge of seamen*

**118. Discharge before shipping master**.—(*1*) When a seaman serving in a foreign-going ship is, on the termination of his engagement, discharged in India, he shall, whether, the agreement with the crew be an agreement for the voyage or running agreement, be discharged in the manner provided by this Act in the presence of a shipping master.

(2) The provisions of sub-section (*1*) shall apply inflation to the discharge, of seamen serving in a home-trade Indian ship of two hundred tons gross or more as they apply in relation to the discharge of seamen serving in a foreign-going ship:

Provided that this sub-section shall not apply where a seaman is discharged from a Ship under an agreement made in accordance with section 103 for service in two or more ships, for the purpose of being engaged in another ship to which the agreement relates.

(3) If the master, owner or agent of a home-trade ship, other than a ship to which the last preceding sub-section applies, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

**119. Certificate of discharge**.—(*1*) The master shall sign and give to a sea man discharged from his ship in India, either on his discharge or on payment of his wages, a certificate of his discharge in the prescribed form specifying the period of his service and the time and place of his discharge.

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

**120. Certificate as to work of seamen**.—(*1*) When a seaman is discharged from a ship in India, the master shall furnish to the shipping master before whom the discharge is made a report in the prescribed form stating —

(a) the quality of the work of the seaman; or

(b) whether the seaman has fulfilled his obligations under the agreement with the crew; or

(c) that he declines to express an opinion on those particulars;

and the shipping master shall, if the seaman so desires, give to him or endorse on his certificate of discharge a copy of such report.

(2) A seaman who is entitled to a certificate of discharge under section 119 may, if he so desires, be granted by the master, in lieu of the certificate referred to in sub-section (*1*) of the said section or the report referred to in sub-section (*1*) of this section, a continuous discharge certificate specifying the period of his service together with an endorsement stating —

(a) the quality of the work of the seaman; or

(b) whether the 'seaman has fulfilled his obligations under the agreement with the crew; or

(c) that he declines to express an opinion on those particulars;

and the shipping master shall thereupon sign and give such continuous discharge certificate notwithstanding anything to the contrary contained in sub-section (*1*).

(3) If the master states that he declines to express an opinion on the particulars mentioned in clauses (*a*) and (*b*) of sub-section (*1*) or sub-section (*2*), he shall enter in the official log book his reasons for so declining.

**121. Discharge and leaving behind of seamen by masters of Indian ships**.—(*1*) The master of an Indian ship shall not—

(a) discharge a seaman before the expiration of the period for which he was engaged, unless the seaman consents to his discharge; or

(b) except in circumstances beyond his control, leave a seaman or apprentice behind;

without the authority of the officer specified in this behalf by the Central Government and the officer aforesaid shall certify on the agreement with the crew that he has granted such authority, and also the reason, for the seaman being discharged or the seaman or apprentice being left behind.

(2) The officer aforesaid to whom application is made for authority in terms of sub-section (*1*) shall investigate the grounds on which the seaman is to be discharged or the seaman or apprentice left behind and may in his discretion grant or refuse to grant such authority:

Provided that he shall not refuse to grant his authority if he is satisfied that the seaman has without reasonable cause—

(a) failed or refused to join his ship or to proceed to sea therein; or

(b) been absent from his ship without leave, either at the commencement or during the progress of a voyage for a period of more than forty-eight hours.

(3) The officer aforesaid shall keep a record of all seamen or apprentices discharged or left behind with his authority; and whenever any charge is made against a seaman or apprentice under section 191, the fact that no such authority is so recorded shall be *prima facie* evidence that it was not granted.

**122. Wages and other property of seaman or apprentice left behind**.—(*1*) If a seaman or apprentice is left behind, the master shall enter in the official logbook a statement of the amount due to the seaman or apprentice in respect of wages at the time when he was left behind and of all property left on board by him, and shall take such property into his charge.

(2) Within forty-eight hours after the arrival of the ship at the port in India at which the voyage terminates, the master shall deliver to the shipping master —

(a) a statement of the amount due to the seaman or apprentice in respect of wages, and of all property left on board by him; and

(b) a statement, with full particulars, of any expenses that may have been caused to the master or owner of the ship by the absence of the seaman or apprentice, where the absence is due to a contravention by the seaman or apprentice of section 191; and, if required by the shipping master to do so shall furnish such vouchers as are reasonably required to verify the statements.

(3) The master shall at the time when he delivers the statements referred to in sub-section (*2*) to the shipping master also deliver to him the amount due to the seaman or apprentice in respect of wages and the property that was left on board by him, and the shipping master shall give to the master a receipt therefor in the prescribed form.

(4) The master shall be entitled to be reimbursed out of the wages or property referred to in clause (*a*) of sub-section (*2*) such expenses shown in the statement referred to in clause (*b*) of that sub-section as appear to the shipping master to be properly chargeable.

**123. Repatriation of seamen or termination of service at foreign port**.—(*1*) When the service of a seaman or apprentice terminates without the consent of the said seaman or apprentice at a port outside India, and before the expiration of the period for which the seaman was engaged or the apprentice was bound, the master or owner of the ship shall, in addition to any other relative obligation imposed on either of them by this Act, make adequate provision for the maintenance of the seaman or apprentice according to his rank or rating, and for the return of that seaman or apprentice to a proper return port.

(*2*) If the master or owner fails without reasonable cause to comply with sub-section (*1*), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman or apprentice, be recoverable as wages due to him, and if defrayed by an Indian consular officer, be regarded as expenses falling within the provisions of sub-sections (*3*) and (*4*) of section 161.

*Explanation*.—Inability to provide the said expenses shall not, for the purposes of this sub-section, be regarded as reasonable cause.

**124. Discharge of seamen on change of ownership**.—(*1*) If an Indian ship is transferred or disposed of while she is at or on a voyage to any port outside India, every seaman or apprentice belonging to that ship shall be discharged at that port, unless he consents in writing in the presence of the Indian consular officer to complete the voyage in the ship if continued.

(2) If a seaman or apprentice is discharged from an Indian ship in terms of sub-section (*1*), the provisions of section 123 shall apply as if the service of the seaman or apprentice had terminated without his consent and before the expiration of the period for which the seaman was engaged or the apprentice was bound.

(3) Every seaman or apprentice discharged in terms of sub-section (*1*) shall, if the voyage for which he was engaged is not continued, be entitled to the wages to which he would have been entitled if his Service has been wrongfully terminated by the owner before the expiration of the period for which the seaman was engaged or the apprentice was bound.

*Payment of wages*

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

(*2*) The said account shall be delivered, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping master not less than twenty-four hours before the discharge or payment off.

**126. Disrating of seamen**.**—**(*1*) Where the master of a ship disrates a seaman, he shall forthwith enter of cause to be entered in the official log book, a statement of the disrating, and furnish the seaman with a copy of the entry; and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

(*2*) Any reduction of wage's consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 125 and 127.

**127. Deductions from wages of seamen**.**—**(*1*) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after such delivery.

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

**128. Payment of wages before shipping master**.**—**(*1*) Where a seaman is discharged in India before a shipping master, the shall receive his wages through, or in the presence of, the shipping master unless a competent Court otherwise directs.

(*2*) If the master or owner of a home-trade ship of less than two hundred tons gross so desires the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship, or from a home-trade ship of two hundred tons gross or more.

**129. Time of payment of wages**.**—**(*1*) The master, owner or agent of every ship shall pay to every seaman his wages within four days after the seaman's discharge, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If a master, owner or agent fails without reasonable cause to make payment at that time, he shall pay to the seaman such sum not exceeding the amount of two day‟s pay for each of the days commencing from the day of discharge, during which payment is delayed as the shipping master may in each case decide, but the sum so payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

**130. Settlement of wages**.**—**(*1*) Where a seaman is discharged and the settlement of his wages completed before a shipping master, the seaman, shall sign in the presence of the shipping master a release in the form, prescribed of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master, owner or agent of the ship and attested by the shipping master.

(2) The release so signed and attested shall be retained by the shipping master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement but shall not debar a claim, to compensation for personal injury caused by accident arising out of and in the course of employment.

(3) A copy of the release, certified under the hand of the shipping master to be a true copy, shall be given by him to any party thereto requiring the same and such copy shall be receivable in evidence upon any question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) No payment, receipt or settlement of the wages of a seaman made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim in respect of such wages.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to the master a statement of the whole amount so paid, and the statement shall as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

(6) Notwithstanding anything contained in the preceding sub-sections a seaman may except from the release signed by him any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release; and the release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall sub-section (*4*) apply to any payment, receipt or settlement made with respect to any such claim or demand.

[1][**130A. Certain undisbursed amounts to be utilised for welfare of seamen.—**Subject to the provisions of section 160 and to such restriction and conditions as may be prescribed any amount deposited with or recovered by the shipping master for making payment in accordance with the allotment note made by a seaman or for being paid to a seaman or his nominee may, if such amount remains unclaimed with the shipping master for a period of not less than six years be utilised for the welfare of seamen in such manner as the Central Government may direct.]

**131. Master to give facilities to seaman for remitting wages.—**Where a seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting any part of the balance of the wages due to him to a savings bank or to a near relative, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is within the limits, if any, specified in this behalf by the Central Government, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port or otherwise than conditionally on the seaman going to sea in the ship.

**132. Decision of questions by shipping masters.—**(*1*) Where under the agreement with the crew any dispute arises at any port in India between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the shipping master,—

[2][(*a*) where the amount in dispute is up to five lakh rupees or such higher amount not exceeding ten lakh rupees, as the Central Government may, by notification, specify, at the instance of either party to the dispute;]

(*b*) in any other case, if both parties to the dispute agree in writing to submit the dispute to the shipping master.

[3][(*1A*) Any complaint of dispute received by the shipping master from an Indian seaman, on a vessel registered in a country other than India, in Indian territorial waters, with the master, owner or agent.]

(2) The shipping master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be conclusive as to the rights of the parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

---

1. Ins. by Act 41 of 1984, s. 8 (w.e.f.15-7-1985).

2. Subs. by Act 32 of 2014, s. 12, for clause (*a*) (w.e.f. 1-4-2015).

3. Ins. by Act 9 of 1998, s. 3 (w.e.f. 26-9-1997).

(3) An award made by a shipping master under this section may be enforced by [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be,] in the same manner as an order for the payment of wages made by such Magistrate under this Act.

(4) Nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to any matter submitted to a shipping master for decision under this section.

**133. Power of shipping master to require production of ship's papers**.—In any proceedings under this Act before a shipping master relating to the wages, claims or discharge of a seaman, the shipping master may require the owner, master or agent or any mate or other member of the crew to produce any logbooks, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

**134. Rule as to payment to seamen in foreign currency**.—Where a seaman or apprentice has agreed with the master of a ship for payment of his wages in Indian or other currency, any payment of, or on account of, his wages, if made in any currency other than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the time being current at the place where the payment is made.

*Advance and allotment of wages*

**135. Advance of wages**.—(*1*) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman‟s wages, and no person shall have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(3) No seaman, who has been lawfully engaged and has received under his agreement an advance payment, wilfully or through misconduct shall fail to attend his ship or desert there from before the payment becomes really due to him.

(4) Where it is shown to the satisfaction of a shipping master that a seaman lawfully engaged has willfully or through misconduct failed to attend his ship, the shipping master shall report the matter to the Director-General who may direct that any of the seaman's certificates of discharge referred to in sections 119 and 120 shall be withheld for such period as he may think fit; and while a seaman's certificate of discharge is so withheld, the Director-General or any other person having the custody of the necessary documents may, notwithstanding anything in this Act, refuse to furnish copies of any such certificate or certified extracts therefrom.

**136. Allotment notes respecting seaman's wages**.—(*1*) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding three-fourths) of the amount of the monthly wages payable to him in favour of any such member of his family or any such relative or for any such purpose approved in this behalf by the Central Government by general or special order, as may be specified in the note.

(2) Every shipping master or other officer before whom the seaman is engaged shall, after the seaman has signed the agreement, inquire from the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note.

(3) Whenever a seaman requires such a stipulation, the stipulation shall be inserted in the agreement of the crew, and such stipulation shall be deemed to have been agreed to by the master.

---

1. Subs. by Act 12 of 1983, s. 17 and Sch., for “a magistrate” (w.e.f.18-5-1983).

(4) An allotment note shall be in the prescribed form and shall be signed by the owner, master or agent of the ship and by the seaman.

**137. Commencement and payment of sums allotted**.—(*1*) A payment under an allotment note shall begin at the expiry of [1][one month from the date on which the seaman's right to wages begins] and shall be made at the expiration of every subsequent month after the first month and shall be made only in respect of the wages earned before the date of payment.

(2) The owner, master or agent who has authorised the drawing of an allotment note shall pay to the shipping master on demand the sums due under the note, and, if he fails to do so, the shipping master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required or by a certified copy of some entry in the official logbook to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence of whatever description, as the Court may consider sufficient.

(3) The shipping master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(4) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping master.

(5) The said book shall at all reasonable times be open to the inspection of the parties concerned.

*Rights of seamen in respect of wages*

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

[2]**[138A. Working hours of seamen.—**The ordinary hours of work for all seamen shall not exceed forty-eight hours in a week.]

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

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

**140. Wages not to depend on freight**.—(*1*) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned, but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

---

1. Subs. by Act 41 of 1984, s. 10, for "one month from the date of the agreement" (w.e.f. 15-7-1985).

2. Ins. by Act 9 of 1998, s. 4 (w.e.f. 26-9-1997).

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

**141. Wages on termination of service by wreck, illness, etc**.—(*1*) Where the service of any seaman engaged under this Act terminates before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside India under a certificate granted under this Act of his unfitness or inability to proceed on the voyage the seaman shall be entitled to receive—

(a) in the case of wreck, loss or abandonment of the ship—

(i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port;

Provided that the period for which he shall be entitled to receive wages shall be not less than one month; and

(ii) compensation for the loss of his effects—

(a) in the case of a seaman employed on a home-trade ship, of not less than one month‟s wages; and

(b) in the case of a seaman employed on a foreign-going ship, of not less than three month‟s wages;

(b) in the case of unfitness or inability to proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port.

(2) A seaman shall not be entitled to receive wages under sub-clause (*i*) of clause (*a*) of sub-section (*1*) in respect of any period during which—

(a) he was, or could have been, suitably employed; or

(b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman.

(3) Any amount payable by way of compensation under sub-clause (*ii*) of clause (*a*) of sub-section (*1*) shall be deposited with the shipping master at the port of engagement in India for payment to the seaman, or, in the case of a deceased seaman,[1][to the person nominated by him in this behalf under section 159A or if he has not made any such nomination or the nomination made by him is or has become void, to his legal heirs.]

**142. Wages not to accrue during absence without leave, refusal to work or imprisonment**.—(*1*) A seaman or apprentice shall not be entitled to wages —

(a) for any period during which he is absent without leave from his ship or from his duty; or

(b) for any period during which he unlawfully refuses or neglects to work when required; or

(c) unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned.

(2) A seaman or apprentice shall not be disentitled to claim wages for any period during which he has not performed his duty if he proves that he was incapable of doing so by reason of illness, hurt or injury, unless it be proved that—

(a) his illness, hurt or injury was caused by his own willful act or default or his own misbehavior; or

---

1. Subs. by Act 41of 1984, s. 11, for “to his legal heirs” (w.e.f. 15-7-1985).

(b) his illness was contracted or his hurt or injury was sustained at a proper return port and was not attributable to his employment; or

(c) he has unreasonably refused to undergo medical or surgical treatment for his illness, hurt or injury involving no appreciable risk to his life.

**143. Compensation to seamen for premature discharge.—**(*1*) If a seaman having signed an agreement is discharged, otherwise than in accordance with the terms thereof, without fault on his part justifying the discharge and without his consent, he shall be entitled to receive from the master, owner or agent, in addition to any wages he may have earned, as due compensation for the damage caused to him by the discharge, such sum as the shipping master may fix having regard to the circumstances relating to the discharge:

Provided that the compensation so payable shall not exceed —

(a) in the case of a seaman who has been discharged before the commencement of a voyage, one month's wages; and

(b) in the case of a seaman who has been discharged after the commencement of a voyage, three months' wages.

(*2*) Any compensation payable under this section may be recovered as wages.

**144. Restriction on sale of and charge upon wages.—**(*1*) As respects wages due or accruing to a seaman or apprentice—

(a) they shall not be subject to attachment by order of any court;

(b) an assignment thereof made prior to the accruing thereof shall not bind the person making the same;

(c) a power of attorney or authority for the receipt thereof shall not be irrevocable;

(d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous assignment of those wages or any attachment thereof or encumbrance thereon.

(2) The provisions of clauses (*b*) and (*c*) of sub-section (*1*) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund or scheme approved in this behalf by the Central Government, the main purpose of which is the provision for seamen of health or social insurance benefits and the provisions of clauses (*a*) and (*d*) of sub-section (*1*) shall not apply to anything done or to be done for giving effect to such an assignment.

(3) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

*Mode of recovering wages*

**145. Summary proceedings for wages.—**(*1*) A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him become payable, apply to [1][any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be,] exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged or at which any person upon whom the claim is made is or resides, and [2][such Magistrate] shall try the case in a summary way and the order made by [2][such Magistrate] in the matter shall be final.

(*2*) An application under sub-section (*1*) may also be made by any officer authorised by the Central Government in this behalf by general or special order.

---

1. Subs. by Act 12 of 1983, s. 17 and Schedule, for "any magistrate" (w.e.f. 18-5-1983).

2. Subs. by s. 17 and Schedule, *ibid*., for "the magistrate" (w.e.f. 18-5-1983).

**146. Restrictions on suits for wages**.—A proceeding for the recovery of wages due to a seaman or apprentice shall not be instituted by or on behalf of any seaman or apprentice in any civil court except where—

(a) the owner of the ship has been declared insolvent;

(b) the ship is under arrest or sold by the authority of any Court;

(c) [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate as the case may be,] refers a claim to the Court.

**147. Wages not recoverable outside India in certain cases**.—Where a seaman is engaged for a voyage which is to terminate in India, he shall not be entitled to sue in any court outside India for wages unless he is discharged with such sanction as is required by this Act, and with the written consent of the master, or proves such ill-usage on the part, or by the authority, of the master, as to warrant a reasonable apprehension of danger to his life if he were to remain on board.

**148. Remedies of master for wages, disbursements, etc**.—(*1*) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) The master of a ship and every person lawfully acting as a master of a ship by reason of the decease or incapacity from illness, of the master of the ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for recovery of his wages.

(3) If in any proceeding in any court touching the claim of a master in respect of such wages, disbursements or liabilities any set-off is claimed or any counter-claim is made, the court may enter into, and adjudicate upon, all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

*Power of courts to rescind contracts*

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

*Disputes between seamen and employers*

**150. Power to refer disputes between seamen and their employers to tribunals**.—(*1*) Where the Central Government is of opinion that any dispute between seamen or any class of seamen or of any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed and exists or is apprehended and such dispute relates to any matter connected with or incidental to the employment of the seamen, the Central Government may, by notification in the Official Gazette, constitute a tribunal consisting of one or more persons, and refer the dispute to the tribunal for adjudication.

(2) The tribunal so constituted shall have power to regulate its own procedure and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters:—

(a) enforcing the attendance of any person and examining him on oath;

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for the words "a magistrate" (w.e.f. 19-5-1983).

(b) compelling the production of documents;

(c) issuing commissions for the examination of witnesses;

(d) any other matter which may be prescribed,

and any proceeding before the tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any proceeding before the tribunal except with the consent of the other party or parties to the proceeding and with the leave of the tribunal.

(4) The tribunal shall dispose of the reference expeditiously and shall, as soon as practicable on the conclusion of the proceedings, submit its award to the Central Government.

(5) On receipt of the award the Central Government shall cause it to be published and the award shall become enforceable on the expiry of thirty days from the date of such publication:

Provided that where the Central Government is of opinion that it will be inexpedient on public grounds to give effect to the award or any part of it, it may before the expiry of the said period of thirty days by order in the Official Gazette either reject the award or modify it, and where the Central Government does so, the award shall not become enforceable or shall become enforceable subject to the modifications, as the case may be.

(6) An award which has become enforceable under this section shall be binding on—

(a) all parties to the dispute;

(b) where any party to the dispute is the owner of the ship, his heirs, successors, or assigns.

(7) Save as otherwise provided in the award, an award shall remain in operation for a period of one year from the date on which it becomes enforceable and shall thereafter continue to remain in operation until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(8) Any money due to a seaman from the owner of a ship under an award may be recovered as wages.

(9) Nothing contained in the Industrial Disputes Act, 1947 (14 of 1947), shall apply to any dispute between seamen or any class of seamen or any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed.

**151. Conditions of service, etc., to remain unchanged during pendency of proceedings before tribunal**.—During the pendency of proceedings under section 150—

(a) no seamen or class of seamen or union of seamen shall go or remain on strike or otherwise act in a manner prejudicial to the normal operation of the ships in which the seamen are employed or are likely to be employed; and

(b) no owner of a ship shall—

(i) alter to the prejudice of the seamen concerned in the dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(ii) discharge or punish any seaman in respect of any matter connected with the dispute.

*Property of deceased seamen and apprentices*

**152. Master to take charge of the effects of deceased seamen**.—(*1*) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage, the master of the ship shall report the death to the next-of-kin of the seaman or apprentice and to the shipping master at his port of engagement and shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master shall thereupon enter in the official log book the following particulars, namely:—

(a) a statement of the amount of money and a detailed description of the other effects;

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

(3) The said money, balance of wages and other effects are in this Act referred to as the property of the seaman or apprentice.

**153. Dealing with and account of property of seamen who die during voyage**.—(*1*) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in India, dies during that voyage and the ship before coming to a port in India touches and remains for forty-eight hours at some port elsewhere, the master shall report the case to the Indian consular officer at such port and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

(2) The Indian consular officer may, if he thinks it expedient, require the property of the seaman or apprentice to be delivered and paid to him and shall thereupon give to the master a receipt therefor and endorse under his hand upon the agreement with the crew such particulars with respect thereto as the Central Government may require.

(3) The receipt shall be produced by the master to the shipping master within forty-eight hours after his arrival at his port of destination in India.

(4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in India without touching and remaining as aforesaid at a port elsewhere or the Indian consular officer does not require the delivery and payment of the property as aforesaid, the master shall within forty-eight hours after his arrival at his port of destination in India, pay and deliver the property to the shipping master at that port.

(5) A deduction claimed by the master in such account shall not be allowed unless vertified by an entry in the Official log book, and also by such other vouchers, if any, as may be reasonably required by the shipping master.

(6) A shipping master in India shall grant to a master upon due compliance with such provisions of this section as relate to acts to be done at the port of destination a certificate to that effect.

**154. Master to pay and deliver property of deceased seamen**.—(*1*) If the master of a ship fails to comply with the provisions of this Act with respect to taking charge of the property of the deceased seaman or apprentice, or to making in the official log book the proper entries relating thereto, or to the payment or delivery of such property, he shall be accountable for such property to the shipping master as aforesaid, and shall pay and deliver the same accordingly.

(*2*) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

**155. Property of deceased seaman left abroad but not on board ship.—**If any seaman or apprentice on an Indian ship, or engaged in India on any other ship, the voyage of which is to terminate in India, dies at any place outside India leaving any money or effects not on board the ship, the Indian consular officer at or near the place shall claim and take charge of such money and other effects (hereinafter referred to as the property of a deceased seaman or apprentice).

**156. Dealing with property of deceased seamen**.—(*1*) An Indian consular officer or a shipping master to whom the effects of a deceased seaman or apprentice are delivered or who takes charge of such effects under this Act may, if he thinks fit, sell the effects, and the proceeds of any such sale shall be deemed to form part, of the property of the deceased seaman or apprentice.

(2) Before selling any valuables comprised in the said effects, such officer of shipping master shall endeavour to ascertain the wishes of the next-of-kin of the deceased seaman or apprentice as to the disposal of such valuables and shall, if practicable and lawful, comply with such wishes.

(3) An Indian consular officer to whom any property of a deceased seaman or apprentice is delivered or who takes charge of any such property under this Act shall remit the property to the shipping master at the port of engagement of the deceased seaman or apprentice in such manner and shall render such accounts in respect thereof as may be prescribed.

**157. Recovery of wages, etc., of seamen lost with their ship.**—(*1*) Where a seaman or apprentice is lost with the ship to which he belongs, the Central Government or such officer as the Central Government may appoint in this behalf may recover the wages and the compensation due to him from the owner, master or agent of the ship in the same Court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages and compensation due to other deceased seamen or apprentices under this Act.

(*2*) In any proceedings for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within twelve months after the departure be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court hearing the case may think probable.

**158. Property of seamen dying in India.**—If a seaman or apprentice dies in India and is at the time of his death entitled to claim from the master or owner of the ship in which he has served any effects or unpaid wages, the master, owner or agent shall pay and deliver or account for such property to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged or to such other officer as the Central Government may direct.

**159. Payment over of property of deceased seamen by shipping master.**—Where any property of a deceased seaman or apprentice is paid or delivered to a shipping master, the shipping master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property [1][such sums as he thinks proper to allow, shall pay and deliver the residue to the person nominated by the seaman or apprentice in this behalf under section 159A and if he has not made any such nomination or the nomination made by him is or has become void, the shipping master may—]

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping master to be entitled thereto, and the said shipping master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Indian Succession Act, 1925 (39 of 1925) [2][or a certificate under section 29 of the Administrators-General Act, 1963 (45 of 1963)], to be taken out, and thereupon pay and deliver the residue to the legal representatives of the deceased.

[3]**[159A. Nomination.**—(*1*) A seaman may, for the purposes of sub-section (*3*) of section 141 and clause (*b*) of section 159 and an apprentice may, for the purposes of clause (*b*) of section 159, nominate any person or persons:

Provided that if the seaman or the apprentice has a family, he may nominate for the purposes aforesaid any one or more members of his family only and if a seaman or an apprentice acquires a family after he has made any such nomination, the nomination shall become void.

(*2*) The form in which any nomination may be made under sub-section (*1*), the cancellation or variation of any such nomination (including the making of a fresh nomination) and all other matters connected with such nominations shall be such as may be prescribed.]

**160. Disposal of unclaimed property of deceased seamen.**—(*1*) Where no claim to the property of a deceased seamen or apprentice received by a shipping master is substantiated within one year

1. Subs. by Act 41 of 1984, s.12, for "such sums as he thinks proper to allow, may—" (w.e.f.15-7-1985).

2. Ins. by s. 12, *ibid*. (w.e.f. 15-7-1985).

3. Ins. by s. 13, *ibid*. (w.e.f. 15-7-1985).

from the receipt thereof by such shipping master, the shipping master shall cause such property to be sold and pay the proceeds of the sale into the public account of India.

(*2*) If, after the proceeds of the sale having been so paid, any claim is made thereto, then, if the claim is established to the satisfaction of the shipping master, the amount or so much thereof as shall appear to him to be due to the claimant, shall be paid to him, and if the claim is not so established, the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping master, no claim to such property shall be entertained without the sanction of the Central Government.

[1][Provided further that if, before the expiration of six years after the proceeds of the sale have been so paid, no claim is made thereto the amount or any part thereof may be utilised for the welfare of seamen in such manner as the Central Government may direct.]

*Distressed seamen*

**161. Relief and maintenance of distressed seamen**.—(*1*) The Indian consular officer at or near the place where a seaman is in distress shall, on application being made to him by the distressed seaman, provide in accordance with the rules made under this Act for the return of that seaman to a proper return port, and also for the said seaman's necessary clothing and maintenance until his arrival at such port.

(2) A distressed seaman shall not have any right to be maintained or sent to a proper return port except to the extent and on the conditions provided for in the rules.

(3) All repatriation expenses, other than excepted expenses, incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the owner or agent of the ship to which the seaman in respect of whom they were incurred belonged at the time of his discharge or other event which resulted in his becoming distressed seaman shall be liable; and the owner or agent shall not be entitled to recover from the seaman any amount paid by him to the Central Government in settlement or part settlement of such debt.

(4) All excepted expenses incurred by or on behalf of the Central Government in accordance with the provisions of this Act shall constitute a debt due to the Central Government for which the seaman in respect of whom they were incurred and the owner or agent or the ship to which that seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be jointly and severally liable; and the owner or agent shall be entitled to recover from the seaman any amount paid by him to the Central Government in settlement or part settlement of such debt, and may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman.

(5) All excepted expenses incurred in accordance with the provisions of this Act in respect of any distressed seaman by the owner or agent of the ship to which he belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall constitute a debt due to the owner or agent for which the seaman shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman; but he shall not be entitled to recover from the seaman any repatriation expenses other than excepted expenses.

(6) In any proceedings for the recovery of any expenses which in terms of sub-section (*3*) or sub-section (*4*) are a debt due to the Central Government, the production of any account of the expenses and proof of payment thereof by or on behalf of or under the direction of the Central Government shall be *prima facie* evidence that the expenses were incurred in accordance with the provisions of this Act by or on behalf of the Central Government.

---

1. Ins. by Act 41 of 1984, s. 14 (w.e.f. 15-7-1985).

(7) Any debt which may be due to the Central Government under this section may be recovered by any officer authorised by it in writing in this behalf from the person concerned in the same manner as wages arc recoverable under section 145.

**162. Mode of providing for return of seamen to proper return port**.—(*1*) A seaman may be sent to a proper return port by any reasonable route either by sea or land or if necessary by air or partly by any one and partly by any other of these modes.

(2) Provisions shall be made for the return of the seaman as to the whole of the route if it is by sea or as to any part of the route which is by sea by placing the seaman on board an Indian ship which is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, Indian or foreign, or with the money for his passage and, as to any part of the route which is by land or air, by paying the expenses of his journey and of his maintenance during the journey or providing him with means to pay those expenses.

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

**163. Receiving distressed seamen on ships**.—(*1*) The master of an Indian ship shall receive on board his ship and afford passage and maintenance to all distressed seamen whom he is required by the Indian consular officer to take on board his ship, and shall during the passage provide every such distressed seaman with accommodation equal to that normally provided for the crew of the ship and subsistence, proper to the rank or rating of the said distressed seaman.

(*2*) The master of a ship shall not be required to receive on board his ship a distressed seaman in terms of this section, if the Indian consular officer is satisfied that accommodation is not and cannot be made available for such seaman.

**164. Provisions as to taking distressed seamen on ships**.—(*1*) Where a distressed seaman is for the purpose of his return to a proper return port placed on board an Indian ship, the Indian consular officer by whom the seaman is so placed shall endorse on the agreement with the crew of the ship particulars of the seaman so placed on board.

(*2*) On the production of a certificate signed by the Indian consular officer by whose directions any such distressed seamen were received on board, specifying the number and names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master stating the number of days during which each distressed seaman has received subsistence and stating the full complement of his crew and the actual number of seamen employed on board his ship and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid in respect of the subsistence and passage of every seaman so conveyed and provided for by him, exceeding the number, if any, wanted to make up the complement of his crew, such sum for each day as the Central Government may by rules made in this behalf allow.

**165. What shall be evidence of distress**.—In any proceeding under this Part a certificate of the Central Government or of such officer as the Central Government may specify in this behalf to the effect that any seaman named therein is distressed shall be conclusive evidence that such seaman is distressed within the meaning of this Act.

**166. Indian consular officer to decide return port to which or route by which seaman is to be sent**.—If any question arises as to what return port a seaman is to be sent in any case or as to the route by which he should be sent, that question shall be decided by the Indian consular officer concerned, and in deciding any question under this provision the Indian consular officer shall have regard both to the convenience of the seaman and to the expense involved, and also, where that is the case, to the fact that an Indian ship which is in want of men to make up its complement is about to proceed to a proper return port.

**167. Power to make rules with respect to distressed seamen**.—The Central Government may make rules with respect to the relief, maintenance and return to a proper return port of seamen found in distress in any place out of India and with respect to the circumstances in which and the conditions subject to which, seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part relating to distressed seamen.

*Provisions, health and accommodation*

**168. Ships to have sufficient provisions and water**.—(*1*) All Indian ships and all ships upon which seamen have been engaged shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.

(2) If any person making an inspection under section 176 finds the provisions or water to be of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

(3) The master shall not use any provisions or water so signified to be of bad quality and shall in lieu of such provisions or water, provide other proper provisions or water and he shall, if the provisions or water be signified to be deficient in quantity, procure the requisite quantity of any provisions or water to cover the deficiency.

(4) The person making the inspection shall enter a statement of the result of the inspection in the official log book, and shall, if he is not the shipping master, send a report thereof to the shipping master and that report shall be admissible in evidence in any legal proceeding.

(5) If the inspection was made in pursuance of a request by the members of the crew and the person making the inspection certifies in the statement of the result of the inspection that the complaint was false and either frivolous or vexatious, every member of the crew who made the request shall be liable to forfeit to the owner out of his wages a sum not exceeding one week"s wages.

(6) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the person making the inspection every reasonable facility for the purpose.

[1][(*7*) The master of the ship or any person having charge over the ship shall maintain such standards, in accordance with the provisions of the Maritime Labour Convention, for the quantity and quality of food and drinking water, and the catering standards applicable to food provided to the seamen on ships, as may be prescribed.

(*8*) The master of the ship or any person having charge over the ship shall undertake educational activities to promote awareness and implementation of the standards referred to in sub-section (*7*).]

**169. Allowances for short or bad provisions**.—(*1*) In either of the following cases, that is to say,—

(a) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, or

(b) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use,

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance, sums in accordance with such scale as may be prescribed, to be paid to him in addition to, and to be recoverable as, wages.

(*2*) If it is shown to the satisfaction of the court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and

1. Ins. by Act 32 of 2014, s. 13 (w.e.f. 1-4-2015).

that proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into consideration in making an order.

**170. Foreign going Indian ship to carry duly certificated cook**.—(*1*) With effect from such date as the Central Government may, by notification in the official Gazette, specify, every foreign-going Indian ship of such tonnage as may be prescribed shall be provided with, and shall carry, a cook duly certificated under this Act.

(*2*) The Central Government may make rules specifying the qualifications, experience or sea service which may be required from persons who wish to obtain certificates of competency as cooks under this Act, and the conditions under which any such certificate may be granted, cancelled or suspended.

**171. Weights and measures on board**.—The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities.

**172. Beddings, towels, medicines, medical stores, etc., to be provided and kept on board certain ships**.—(*1*) The owner of every ship of over five hundred tons gross shall supply or cause, to be supplied to every seaman for his personal use, bedding, towels, mess utensils and other articles according, to such scale as may be prescribed; and different scales may be prescribed in respect of different classes of ships.

(2) All foreign-going Indian ships and all home-trade ships of two hundred tons gross or more shall have always on board a sufficient supply of medicines, medical stores, appliances and first aid equipment suitable for diseases and accidents likely to occur on voyages according to such scale as may be prescribed.

(3) It shall be the duty of the port health officer or such other person as the Central Government may appoint in this behalf to inspect the medicines, medical stores and appliances with which a ship is required to be provided.

**173. Certain ships to carry medical officer**.—[1][(*1*) Every foreign-going ship carrying—

(a) more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications; and

(b) less than the prescribed number of persons shall have such medical facilities,

as may be prescribed, in accordance with the provisions of the Maritime Labour Convention.]

(*2*) Nothing in this section shall apply to [2][a special trade passenger ship] or a pilgrim ship.

**174. Expenses of medical attendance in case of illness**.—(*1*) If the master of an Indian ship, or a seaman or apprentice, receives any hurt or injury or suffers from any illness (not being a hurt, injury or illness due to his own wilful act or default or to his own misbehaviour), resulting in his being discharged or left behind at a place other than his proper return port, the expenses of providing the necessary surgical kind medical advice, attendance and treatment and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is brought back to the port from which he was shipped or other port agreed upon after receiving the necessary medical treatment and of his conveyance to that port, and, in case of death, the expenses, if any, of his burial or, cremation shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) If the master, seaman or apprentice is on account of any illness or injury temporarily removed from his ship, at a port other than his proper return, port, for the purpose of preventing infection, or

---

1. Subs. by Act 32 of 2014, s. 14, for sub-section (*1*) (w.e.f. 1-4-2015).

2. Subs. by Act 69 of 1976, s. 2, for "an unberthed passenger ship" (w.e.f. 1-12-1976).

otherwise for the convenience of the ship, and subsequently returns to his duty, the expenses of removal and of providing the necessary surgical and medical advice, attendance and treatment and medicine and of his maintenance while away from the ship, shall be defrayed in like manner.

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

(4) In all other cases any reasonable expenses duly incurred by the owner for any master, seaman or apprentice in respect of illness, shall, if proved to the satisfaction of the Indian consular officer or a shipping master, be deducted from the wages of the master, seaman or apprentice.

(5) Where any expenses referred to in this section have been paid by the master, seaman or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are, paid by the Government, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Central Government.

**175. Accommodation for seaman**.—(*1*) The Central Government may, subject to the condition of previous publication, make rules with respect to the crew accommodation to be provided in ships of any class specified in the rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the minimum space for each person which must be provided in any ship to which the rules apply by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;

(b) the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) the submission to such authority as may be specified in this behalf of plans and specifications of any works proposed to be carried out for the provision or alteration of any such accommodation and the authorisation of that authority to inspect any such works.

(d) the maintenance and repair of any such accommodation and the prohibition or restriction of the use of any such accommodation for purposes other than those for which it is designed;

(e) the manner as to how ships registered or under construction at the commencement of any rules made under this section may be dealt with after such commencement;

[1][(*f*) the fees that may be levied for the survey or inspection of crew spaces and for scrutiny of plans of crew accommodation spaces and the manner in which such fees may be collected.]

and such rules may make different provisions in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(3) If any person making an inspection under section 176 finds that the crew accommodation is in sanitary or is not in accordance with the provisions of this Act, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

*Explanation*.—In this section, the expression "crew accommodation" includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen and apprentices, not being accommodation which is also used by, or provided for the use of passengers.

**176. Inspection by shipping master, etc., of provisions, water, weights and measures and accommodation.**—A shipping master, surveyor, seamen's welfare officer, port health officer, Indian

1. Ins. by Act 12 of 1983, s. 7 (w.e.f.18-5-1983).

consular officer or any other officer at any port duly authorised in this behalf by the Central Government—

(a) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

(b) in the case of any Indian ship, may at any time, and if the master or three or more of the crew so request, shall,

enter on board the ship and inspect—

(i) the provisions and water,

(ii) the weights and measures,

(iii) the accommodation for seamen,

with which the ship is required to be provided by or under this Act and also the space and equipment used for the storage and handling of food and water and the galley and other equipment used for the preparation and service of meals.

[1][**176A. Ships to possess Maritime Labour Certificate and Declaration of Maritime Labour Compliance.—**(*1*) All ships of five hundred tons gross or more and engaged in international voyage or operating from a port, or between ports, in another country, shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance.

(2) Ships not covered under sub-section (*1*) shall, unless, exempted by the Central Government, possess such certificate in such manner and form, as may be prescribed.

(3) The shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer, or any other officer at any port duly authorised in this behalf by the Central Government, may inspect any ship, in such manner as may be prescribed, and the master of the ship or any person having charge over the ship shall make available to such inspecting officer, the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance.]

**177. Inspection by master of provisions, water and accommodation at sea**.—The master of an Indian ship which is at sea shall, at least once in every ten days, cause an inspection to be made of the provisions and water provided for the use of the seamen and apprentices and the crew accomodation, for the purpose of ascertaining whether the same are being maintained in accordance with the requirements of this Act, and the person making the inspection shall enter a statement of the result of the inspection in a book specially kept for the purpose.

[2][**177A. Power to make rules to prevent accidents, etc**.—(*1*) The Central Government may, having regard to the provisions of the Convention concerning the Prevention of Occupational Accidents to Seafarers adopted by the General Conference of the International Labour Organisation on the 30th day of October, 1970, make rules so as to ensure safe working conditions for Indian ships and for preventing accidents and different rules may be made for different classes of ships and for ships of the same class in different circumstances.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which any equipment or gear may be maintained, inspected or tested and conditions as to such maintenance, inspection and testing;

---

1. Ins. by Act 32 of 2014, s. 15 (w.e.f. 1-4-2015).

2. Ins. by Act 41 of 1984, s. 15 (w.e.f. 15-7-1985).

(b) the manner in which the use of any material or process shall be regulated for the manufacture of any such equipment or gear;

(c) the provision of safe means of access to such equipment or gear for the use of seamen and provision of protective clothing for seamen where necessary;

(d) restriction on the hours of employment of seamen in any specified operation or under any specified circumstances; and

(e) the manner and form in which and the persons to whom any accident occurring on board a ship shall be reported.]

*Special provisions for the protection of seamen in respect of litigation*

**178. Meaning of serving seaman**.—A seaman shall, for the purposes of these provisions, be deemed to be a serving seaman during any period commencing on the date of the agreement with the crew and ending thirty days after the date on which the seaman is finally discharged from such agreement.

**179. Particulars to be furnished in plaints, etc**.—(*1*) If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is a serving seaman, he shall make a statement accordingly in the plaint, application or appeal.

(*2*) If any collector has reason to believe that any seaman who ordinarily resides or has property in his district and who is a party to any proceedings pending before any Court is unable to appear therein or is a serving seaman, the collector may certify the facts to the Court.

**180. Notice to be given in case of unrepresented seaman.—**(*1*) If a collector has certified under sub-section (*2*) of section 179, or if a Court has reason to believe that a seaman who is a party to any proceeding before the Court, is unable to appear therein or is a serving seaman, the Court shall suspend the proceeding and shall give notice thereof to the shipping master:

Provided that the Court may refrain from suspending the proceeding and giving the notice—

(a) if the proceeding is one instituted or made by the seaman, alone or conjointly with others, with the object of enforcing a right of pre-emption, or

(b) if the interests of the seaman in the proceeding are, in the opinion of the Court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(2) If it appears to the Court before which any proceeding is pending that a seaman though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof to the shipping master.

(3) If on receipt of a notice under sub-section (*1*) or sub-section (*2*), the shipping master certifies to the Court, that the seaman is a serving seaman, the Court shall thereupon postpone the proceeding in respect of the seaman for such period as it thinks fit:

Provided that if by reason of the continued absence of the seaman the question of any further postponement of the proceeding in respect of the seaman arises, the court shall in deciding the question have regard to the purposes of the provisions of this Act conferring special protection on seaman in respect of litigation.

(4) If the shipping master either certifies that the seaman is not for the time being a serving seaman or fails within two months from the date of the receipt of the notice under sub-section (*1*) or sub-section (*2*) as the case may be, to certify that the seaman is a serving seaman, the Court may, if it thinks fit, continue the proceeding.

**181. Power to set aside decrees and orders passed against serving seaman**.—(*1*) Where in any proceeding before a court, a decree or order has been passed against any seaman while he was a serving seaman, the seaman, or if he dies while he is a serving seaman, his legal representative, may apply to the said court to have the decree or order set aside, and if the court after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the seaman, the court, shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may, if it appears that any opposite party in the proceeding has failed to comply with the provisions of sub-section (*1*) of section 179, award, subject to such conditions as it thinks fit to impose, damages against such opposite party.

(2) The period of limitation for an application under sub-section (*1*) shall be sixty days from the date on which the seaman first ceases to be a serving seaman after the passing of the decree or order, or where the summons or notice was not duly served on the seaman in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order, whichever is later; and the provisions of section 5 of the Indian Limitation Act, 1908 (9 of 1908), shall apply to such applications.

(3) Where the decree or order in respect of which an application under sub-section (*1*) is made is of such a nature that it cannot be set aside as against the seaman only, it may be set aside as against all or any of the parties against whom it was made.

(4) Where a court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

**182. Modification of law of limitation where seaman is a party**.—In computing the period of limitation provided in the foregoing provisions or in the Indian Limitation Act, 1908 (9 of 1908), or in any other law for the time being in force, for any suit, appeal or application to a court to which a seaman is a party, the period or periods during which the seaman has been a serving seaman, and if the seaman has died while he was a serving seaman, the period from the date of his death to the date on which his next-of-kin was first informed, by the shipping master or otherwise, of his death, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption except in such areas and in such circumstances as the Central Government may, by notification in the Official Gazette, specify in this behalf.

**183. Reference in matters of doubt to shipping masters.—**If any court is in doubt whether, for the purposes of section 180 or section 181, a seaman is or was at any particular time or during any particular period a serving seaman, it may refer the question to the shipping master, and the certificate of the shipping master shall be conclusive evidence on the question.

*Provisions for the protection of seamen in respect of other matters*

**184. Facilities for making complaints**.—If a seaman or apprentice states to the master that he desires to make a complaint to [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be] or other proper officer against the master or any of the crew, the master shall,—

(a) if the ship is then at a place where there is [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be,] or other proper officer, as soon after such statement as the service of the ship will permit, and

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "a magistrate" (w.e.f. 18-5-1983).

(b) if the ship is not then at such place, as soon after her first arrival at such place as the service of the ship will permit.

allow the complainant to go ashore or send him ashore under proper protection so that he may be enabled to make the complaint.

**185. Assignment or sale of salvage invalid**.—Subject to the provisions of this Act, an assignment of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

**186. No debt recoverable till end of voyage**.—A debt incurred by any seaman after he has to serve shall not be recoverable until the service agreed for is concluded.

**187. Seamen's property not to be detained**.—(*1*) Any person who receives or takes into his possession or under his control any money or other property of a seaman or apprentice shall return the same or pay the value thereof when required by the seaman or apprentice subject to deduction of such amounts as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise.

(*2*) Where [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate as the case may be,] imposes a fine for a contravention of this section, he may direct the amount of such money or the value of the property subject to such deduction as aforesaid, if any, or the property itself to be forthwith paid or delivered to the seaman or apprentice.

**188. Prohibition against solicitation by lodging house keepers**.—No person shall, while a ship is at any port or place in India—

(a) solicit a seaman or apprentice to become a lodger at the house of any person letting lodgings for hire; or

(b) take out of the ship any property of the seaman or apprentice except under the direction of the seaman or apprentice and with the permission of the master.

**189. Ship not to be boarded without permission before seamen leave**.—Where a ship has arrived at a port or place in India at the end of a voyage and any person, not being in the service of the Government or not being duly authorised by law for the purpose, goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before [1][a Judicial Magistrate of the first class or a Metropolitan Magistrate as the case may be,] to be dealt with according to the provisions of this Act.

*Provisions as to discipline*

**190. Misconduct endangering life or ship.**—No master, seaman, or apprentice belonging to an Indian ship, wherever it may be, or to any other ship, while in India, shall knowingly—

(a) do anything tending to the immediate loss or destruction of, or serious damage to, the ship, or tending immediately to endanger the life of, or to cause injury to any person belonging to or on board the ship; or

(b) refuse or omit to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from danger to life or from injury.

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "a magistrate" (w.e.f. 18-5-1983).

**191. Desertion and absence without leave.—**(*1*) No seaman lawfully engaged and no apprentice—

(a) shall desert his ship; or

(b) shall neglect or refuse, without reasonable cause, to join the ship or to proceed to sea in his ship or be absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or be absent at any time without leave and without sufficient reason from his ship or from his duty.

(*2*) For the purposes of sub-section (*1*), the fact that the ship, on which the seaman or apprentice is engaged or to which he belongs is unseaworthy shall be deemed to be a reasonable cause:

Provided that the seaman or apprentice has, before failing or refusing to join his ship or to proceed to sea in his ship or before absenting himself or being absent from the ship, as the case may be, complained to the master or a shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer or any other officer at any port duly authorised in this behalf by the Central Government, that the ship is unseaworthy.

**192. Power to suspend deserter's certificate of discharge.—**If it is shown to the satisfaction of a proper officer that a seaman has deserted his ship or has absented himself without leave and without sufficient reason from his ship or from his duty, the proper officers hall forthwith make a report to that effect to the Director-General who may thereupon direct that the seaman's certificate of discharge or continuous certificate of discharge shall be with held for such period as may be specified in the direction.

**193. Conveyance of deserter or imprisoned seaman on board ship.—**(*1*) If a seaman or apprentice deserts his ship or is absent without leave and without sufficient reason from his ship or from his duty, the master, any mate, the owner or agent of the owner of the ship may, without prejudice to any other action that may be taken against the seaman or apprentice under this Act, convey him on board his ship and may for that purpose cause to be used such force as may be reasonable in the circumstances of the case.

(2) If, either at the commencement or during the progress of any voyage, a seaman or apprentice engaged in an Indian ship commits outside India, the offence of desertion or absence without leave or any offence against discipline, the master, any mate, the owner or agent of the owner may, if and so far as the laws in force in the place will permit, arrest him without first procuring a warrant.

(3) No person shall convey on board or arrest a seaman or apprentice on improper or insufficient grounds.

(4) Where a seaman or apprentice is brought before a court on the ground of desertion or of absence without leave or of any offence against discipline, and the master or the owner, or his agent, so requires, the court, may, in lieu of committing and sentencing him for the offence, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on be half of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagements may afterwards be earned.

**194. General offences against discipline.—**A seaman lawfully engaged or an apprentice shall be guilty of an offence against discipline if he commits any of the following acts, namely:—

(a) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security;

(b) if he is guilty of wilful disobedience to any lawful command or neglect of duty;

(c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty;

(d) if he assaults the master or any other [1][officer of or a seaman or an apprentice belonging to, the ship];

(e) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or retard the progress of the voyage;

(f) if he willfully damages his ship or commits criminal misappropriation or breach of trust in respect of, or willfully damages any of, her stores or cargo.

**195. Smuggling of goods by seamen or apprentices**.—(*1*) If a seaman lawfully engaged or an apprentice is convicted of an offence of smuggling any goods whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to reimburse the loss or damage and the whole or a part of his wages may he retained in satisfaction on account of that liability without prejudice to any other remedy.

(*2*) If a seaman lawfully engaged is convicted of an offence of smuggling opium, hemp or any other narcotic drug or narcotic, the Director-General may direct that the seaman's certificate of discharge or continuous certificate of discharge shall be cancelled or shall be suspended for such period as may be specified in the direction.

**196. Entry of offences in official logs**.—If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine, and it is intended to enforce the fine,—

(a) an entry of the offence or act shall be made in the official log book and signed by the master, the mate and one of the crew; and

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any, port, or, if she is at the time in port, before her departure therefrom, be furnished with a copy of the entry and have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and

(c) a statement of a copy of the entry having been so furnished and the entry having been so read over and the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of such production or proof, the court hearing the case may in its discretion, refuse to receive evidence of the offence or act of misconduct.

**197. Report of desertions and absence without leave**.—Whenever any seaman engaged outside India on an Indian ship deserts or otherwise absents himself in India without leave, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping master or to such other officer as the Central Government specifies in this behalf, unless in the meantime, the deserter or absentee returns.

**198. Entries and certificates of desertion abroad**.—(*1*) In every case of desertion from an Indian ship whilst such ship is at any place out of India, the master shall produce the entry of desertion in the official log book to the Indian consular officer at the place, and that officer shall thereupon, make and certify a copy of the entry.

(2) The master shall forthwith transmit such copy to the shipping master at the port at which the seaman or apprentice was shipped, and the shipping master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

---

1. Subs. by Act 41 of 1984, s. 16, for "officers of the ship" (w.e.f. 15-7-1985).

**199. Facilities for proving desertion in proceedings for forfeiture of wages**.—(*1*) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log book.

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

**200. Application of forfeiture**.—(*1*) Where any wages or other property are under this Act forfeited for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship, and subject to that reimbursement, shall be paid to the Central Government.

(*2*) For the purposes of such reimbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the court in any legal proceeding relating to such wages may order them to be paid accordingly.

**201. Decision of questions of forfeiture and deduction in suits for wages**.—Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

**202. Payment of fines imposed under agreement to shipping master**.—(*1*) Every fine imposed on a seaman for any act of misconduct under this agreement shall be deducted and paid over as follows, namely:—

(a) if the offender is discharged at any port or place in India and the offence and such entries in respect thereof as aforesaid are proved to the satisfaction of the shipping master before whom the offender is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master; and

(b) if the seaman is discharged at any port or place outside India and the offence and such entries as aforesaid are proved to the satisfaction of the Indian consular officer, by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book, if any, and signed by such officer and on the return of the ship to India, the master or owner shall pay over such fine to the shipping master before whom the crew is discharged.

(2) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punishable under the provisions of this Act.

(3) The proceeds of all fines received by a shiping master under this section shall be utilised for the welfare of seamen in such manner as the Central Government may direct.

**203. Seaman or apprentice not to be enticed to desert**.—No person shall by any means whatever persuade or attempt to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty.

**204. Deserters not to be harboured**.—No person shall harbour or secrete a seaman or, apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done.

[1][Provided that the provisions of this section shall not extend to the case in which the harbour or secreting is by the spouse of the seaman or apprentice.]

**205. Stowaways and seamen carried under compulsion**.—(*1*) No person shall secrete himself and go to sea in a ship without the consent of either the owner, agent or master or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent.

(2) Every seafaring person to whom the master of a ship, is under the authority of this Act or any other law compelled to take on board and convey and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and has signed the agreement with, the crew.

(3) The master of any Indian ship arriving at any port or place in or outside India and the master of any ship other than an Indian ship arriving at any port or place in India shall, if any person has gone to sea on that ship without the consent referred to in sub-section (*1*), report the fact in writing to the proper officer as soon as may be after the arrival of the ship.

**206. Procedure where seaman not shipped in India is imprisoned on complaint of master or owner**.—If any seaman engaged outside India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Central Government or of such officer as it may specify in this behalf, engage in India any person to serve as a substitute for such seaman on board the ship; and

(b) the Central Government or such officer as it may specify in this behalf may tender such seaman to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Central Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman and his money and other property, and

(ii) such sum as may, in the opinion of the Central Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

**207. Power to send on board seaman not shipped in India who is undergoing imprisonment**.—If any seaman engaged outside India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding three months, and if, during such imprisonment and before his engagement is at an end, his services are required on board his ship, any magistrate may, at the request of the master or owner or his agent, cause the seaman to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

**208. On change of master, documents to be handed over to successor**.—(*1*) If during the progress of a voyage the master of any Indian ship is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody.

---

1. Ins. by Act 41 of 1984, s. 17 (w.e.f. 15-7-1985).

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

**209. Transmission of documents on transfer of seaman from one ship to another**.—Where a seaman is transferred under his agreement from one ship to another, the master of the ship from which the seaman is transferred shall, as soon as practicable, transmit to the master of the other ship all documents in his possession relating to the seaman.

**210. Leaving behind in India of seaman or apprentice engaged abroad**.—(*1*) The master of a ship shall not discharge at any place in India, a seaman or apprentice engaged outside India unless he previously obtains the sanction in writing of such officer as the Central Government appoints in this behalf; but such sanction shall not be refused when the seaman or apprentice is discharged on the termination of his service.

(*2*) Subject to the provisions contained in sub-section (*1*), the sanction under that sub-section shall be given or withheld at the discretion of the officer so appointed, but whenever it is withheld, the reasons for so withholding it shall be recorded by him.

**211. Deserters from foreign ships**.—(*1*) Where it appears to the Central Government that due facilities are or will be given by the Government of any country outside India for recovering and apprehending seamen who desert from Indian ships in that country, the Central Government may, by notification in the Official Gazette, stating that such facilities are or will be given, declare that this section shall apply to seamen belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification.

(*2*) Where this section applies to seamen belonging to ships of any country and a seaman deserts from any such ship, when within India, any court that would have had cognizance of the matter if the seaman or apprentice had deserted from an Indian ship shall, on the application of a consular officer of that country, aid in apprehending the deserter and for that purpose may, on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed on board his ship of delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly.

*Official logs*

**212. Official logs to be kept and to be dated**.—(*1*) An official log shall be kept in the prescribed form in every Indian ship except a home-trade ship of less than two hundred tons gross.

(*2*) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship"s log so that in all cases the spaces in the official long book be duly filled up.

**213. Entries in official log books how and when to be made**.—(*1*) An entry required by this Act in the official log book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(2) Save as otherwise provided in this Act, every entry in the official log book shall be signed by the master and by the mate or some other member of the crew and also—

(a) if it is an entry of injury or death, shall be signed by the medical officer on board, if any;

(b) if it is an entry of wages due to or the property of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master.

(3) Every entry made in an official log books, in the manner provided by this Act shall be admissible in evidenced.

**214. Entries required to be made in official log books**.—(*1*) The master of a ship for which an official log is required shall enter or cause to be entered in the official log book the following matters namely:—

(a) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine, together with such statement concerning the reading over of that entry and concerning the reply (if any) made to the charge as is by this Act required;

(c) every offence for which punishment is inflicted on board and the punishment inflicted;

(d) a report on the quality of work of each member of his crew, or a statement that the master declines to give an opinion thereon with statement of his reasons for so declining;

(e) every case of illness, hurt or injury happening to a member of the crew with the nature thereof and the medical treatment adopted (if any);

(f) every case of death happening on board and the cause thereof, together with such particulars; as may be prescribed;

(g) every birth happening on board, with the sex of the infant, the names of the parents and such other particulars as may be prescribed;

(h) every marriage faking place on board with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;

(j) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(k) the money or other property taken over of any seaman or apprentice who dies during the voyage;

(l) any other matter which is to be or may be prescribed for entry in the official log.

(2) The master of every such ship, upon its arrival at any port in India or at such other time and place as the Central Government may with respect to any ship or class of ships direct, shall deliver or transmit, in such form as the Director-General may specify, a return of the facts recorded by him in respect of the birth of a child, or the death of a person on board the ship to the Director-General.

(3) (*a*) The Director-General shall send a certified copy of such of the returns received by him under sub-section (*2*) as relate to citizens of India, to such officer as may be specified in this behalf by the Central Government; and such officer shall cause the same to be preserved in such manner as may be specified in this behalf by the Central Government. .

(*b*) Every such copy shall be deemed to be a certified copy of the entry with respect to the person concerned, registered under any law in force for the time being relating to the registration of births and deaths.

**215. Offences in respect of official logs**.—(*1*) An official log book shall be kept in the manner required by this Act, and an entry directed by this Act to be made therein shall be made at the time and in the manner directed by this Act.

(*2*) No person shall make or procure to be made or assist in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival.

**216. Delivery of official logs to shipping masters**.—The master of every ship for which an official log book is required to be kept under this Act shall, within forty-eight hours after the ships's arrival at her final port of destination in India or upon the discharge of the crew, whichever first happens, deliver the official log book of the voyage to the shipping master before whom the crew is discharged.

**217. Official logs to be sent to shipping master in case of transfer of ship or loss**.—(*1*) If for any reason the official log ceases to be required in respect of an Indian ship, the master or owner of the ship shall, if the ship is then in India within one month, and if she is elsewhere within six months, after the cessation, deliver or transmit to the shipping master at the port to which the ship belonged the official log book duly completed up to the time of cessation.

(*2*) If a ship is lost or abandoned, the master or owner thereof shall, if practicable and as soon as possible, deliver or transmit to the shipping master at her port of registry the official log book, duly completed up to the time of the loss or abandonment.

*National Welfare Board for Seafarers*

**218. Functions of National Welfare Board for Seafarers**.—(*1*) The Central Government may, by notification in the Official Gazette, constitute an advisory board to be called the National Welfare Board for Seafarers (hereinafter referred to as the Board) for the purpose of advising the Central Government on the measures to be taken for promoting the welfare of seamen (whether ashore or on boardship) generally and in particular the following:—

(a) the establishment of hostels or boarding and lodging houses for seamen;

(b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen;

(c) the establishment of hospitals for seamen or the provision of medical treatment, for seamen;

(d) the provision of educational and other facilities for seamen.

(2) The Central Government may make rules providing for—

(a) the composition of the Board and the term of office of members thereof;

(b) the procedure to be followed in the conduct of business by the Board

(c) the travelling and other allowances payable to members of the Board;

(d) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen;

(e) the procedure by which any such fees may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilised for the purpose specified in clause (*d*).

[1]**[218A. Power to make rules for purposes of Maritime Labour Convention.—**(*1*) The Central Government may, having regard to the provisions of the Maritime Labour Convention, and in consultation with such organisations in India as the Central Government may, by order, notify to be the most representative of the employers of seamen and of seamen, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the hours of work and rest in a week under clause (*cc*) of sub-section (*2*) of section 101;

---

1. Ins. by Act 32 of 2014, s. 16 (w.e.f. 1-4-2015).

(ii) the entitlement for leave under clause (*ff*) of sub-section (*2*) of section 101;

(iii) the period of night work under clause (*b*) of sub-section (*2*) of section 109;

(iv) standards for the quantity and quality of food and drinking water, including the catering standards that apply to food provided to the seamen on ships, under sub-section (*7*) of section 168;

(v) the qualifications of medical officer under clause (*a*) and the medical facilities under clause (*b*) of sub-section (*1*) of section 173;

(vi) the manner and form of certificate to be provided to ships under sub-section (*2*) of section 176A;

(vii) the manner of conducting inspection in a ship to verify possession of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance under sub-section (*3*) of section 176A;

(viii) any other matter which may be or is to be prescribed relating to the Maritime Labour Convention.]

## PART VIII

### PASSENGER SHIPS

*Survey of passenger ships*

**219. Application of Part**.—This Part applies only to sea-going passenger ships fitted with mechanical means of propulsion, but the provisions of this Part relating to [1][special trade passenger ships] shall not apply —

(a) to any such ship not carrying more than thirty [2][special trade passengers]; or

(b) to any such ship not intended to carry [2][special trade passengers] to or from any port or place in India.

**220. No ship to carry passengers without a certificate of survey**.—(*1*) No ship shall carry more than twelve passengers between ports or places in India or to or from any port or place in India from or to any port or place outside India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed:

Provided that nothing in this section shall apply to any ship which has been granted a certificate under section 235, unless it appears from the certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient.

(2) No Customs Collector shall grant a port clearance, nor shall any pilot be assigned, to any ship for which a certificate of survey is required by this Part until after the production by the owner, agent or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(3) If any ship for which a certificate of survey is required by this Part, leaves or attempts to leave any port of survey without a certificate, any Customs Collector or any pilot on board the ship may detain her until she obtains a certificate.

---

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passenger ships"(w.e.f. 1-12-1976).

2. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).

**221. Power of surveyor**.—(*1*) The owner or agent of every passenger ship for which a certificate of survey is required under this Part shall cause it to be surveyed in the prescribed manner.

(2) For the purposes of a survey under this Part, a surveyor may, at any reasonable time, go on board a ship, and may inspect the Ship and any part thereof, and the machinery, equipment or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the ship, or unnecessarily detain or delay her from proceeding on any voyage.

(3) The owner, agent, master and every officer of the ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the ship and her machinery and equipment, or any part thereof, respectively, as the surveyor reasonably requires.

**222. Fees in respect of survey**.—Before a survey under this part is commenced, the owner, agent or master of the ship to be surveyed shall pay to such officer as, the Central Government may appoint in this behalf—

(a) a fee calculated on the tonnage of the ship according to the prescribed rates;

(b) when the survey is to be made in any port of survey other than Bombay, Calcutta or Madras, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Central Government may by order direct.

**223. Declaration of survey.—**When a survey under this Part is completed, the survey or making it shall forthwith, if satisfied that he can with propriety do so, deliver to the owner, agent or master of the ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

(a) that the hull and machinery of the ship are sufficient for the service intended and in good condition;

(b) that the equipment of the ship is in such condition and that the certificates of the master, mates, engineers or engine-drivers and of the radio telegraphy operators, are such, as are required by this Act or any other law for the time being in force and applicable to the ship;

(c) the time (if less than one year) for which the hull, machinery and equipment of the ship will be sufficient;

(d) the voyages or class of voyages, on which, as regards construction, machinery and equipment, the ship is the surveyor‟s opinion fit to ply;

(e) the number of passengers which the ship is in the opinion of the survey, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

**224. Sending of declaration by owner, agent or master to Central Government**.—(*1*) The owner, agent or master to whom a declaration of survey is given shall, within fourteen days after the dale of the receipt thereof, send the declaration to such officer as the Central Government may appoint in this behalf.

(*2*) If the owner, agent or master fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed and shall pay any sum so forfeited on the delivery of the certificate of survey.

**225. Grant of certificate of survey by Central Government.**—(*1*) Upon receipt of a declaration of survey, the Central Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the ship was surveyed as the Central Government may appoint in this behalf, to the owner, agent or master of the ship surveyed, on his applying and paying the sums (if any) mentioned in section 224 as payable on the delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall also set forth.

(a) the particulars concerning the ship which clauses (*c*), (*d*) and (*e*) of section 223 require the declaration of survey to contain; and

(b) any other prescribed particulars.

**226. Power of Central Government to order a second survey**.—(*1*) If a surveyor making a survey under this part refuses to give a declaration of survey under section 223 with regard to any ship or gives a declaration with which the owner or agent or master of the ship surveyed is dissatisfied, the Central Government may, on the application of the owner, agent or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Central Government may require, direct any other surveyor to survey the ship.

(*2*) The surveyor so directed shall forthwith survey the ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to him proper, and his decision shall, save as otherwise provided in this Act, be final.

**227. Duration of certificates of survey**.—(*1*) A certificate of survey granted under this Part shall not be in force—

(a) after the expiration of one year from the date of issue; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipment have been stated in the certificate to be sufficient; or

(c) after notice, has been given by the Central Government to the owner, agent or master of the ship to which the certificate relates that the Central Government has cancelled or suspended it.

(*2*) If a passenger ship is absent from India at the time when her certificate expires the provisions of this Part relating to certificate of survey shall not be deemed to be contravened unless she first begins to ply with passengers after her next return to India.

**228. Cancellation or suspension of certificate of survey by Central Government**.—(*1*) Any certificate of survey granted under this Part may be cancelled or suspended by the Central Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency of the hull, boilers, engines or any of the equipment of the ship has been fraudulently or erroneously made; or

(b) that the certificate has otherwise been issued upon false of erroneous information.

(*2*) Before any certificate of survey is cancelled or suspended under sub-section (*1*), the holder of the certificate shall be given a reasonable opportunity of showing cause why the certificate should not be cancelled or suspended, as the case may be:

Provided that this sub-section shall not apply where the Central Government is satisfied that for some reason to be recorded in writing it is not reasonably practicable to give to the holder of the certificate an opportunity of showing cause.

**229. Alterations in ships subsequent to grant of certificate of survey, and additional surveys**.—(*1*) The owner, agent or master of a ship in respect of which a certificate of survey granted under this Part is in force, shall, as soon as possible after any alteration is made in the ship‟s hull,

equipment or machinery which affects the efficiency thereof or the seaworthiness of the ship, give written notice to such person as the Central Government may direct containing full particulars of the alteration.

(2) If the Central Government has reason to believe that since the making of the last declaration of survey in respect of a ship —

(a) any such alteration as aforesaid has been made in the hull, equipment or machinery of the ship; or

(b) the hull, equipment or machinery of the ship have sustained any injury or are otherwise insufficient;

the Central Government may require the ship to be again surveyed to such extent as it may think fit, and, if such requirement is not complied with, may cancel any certificate of survey issued under this Part in respect of the said ship.

**230. Power to require delivery of expired or cancelled certificate of survey**.—Every certificate of survey granted under this Part which has expired, or has been cancelled or suspended, shall be delivered to such person as the Central Government may direct.

**231. Certificate of survey to be affixed in conspicuous part of ship.—**The owner or master of every ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the ship is in use on some conspicuous part of the ship where it may be easily read by all persons on board thereof.

**232. Ship not to carry passengers in contravention of Act**.—(*1*) No ship on any voyage shall carry or attempt to carry passengers in contravention of section 220 or shall have on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the ship or the part thereof is fit to carry on that voyage.

(*2*) If the master or any other officer of any ship which carries or attempts to carry passengers in contravention of section 220 is a licensed pilot, he shall be liable to have his licence as a pilot cancelled or suspended for such period as the Central Government may, by order, specify.

*Keeping Order in Passenger ships*

**233. Offences in connection with passenger ships**.—(*1*) If, in the case of a ship for which a certificate of survey has been granted under this Part,—

(a) any person being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employ and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

(b) any person being drunk or disorderly on board the ship is requested by the owner or any person in his employ to leave the ship at any place in India at which he can conveniently do so, and after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

(c) any person on board the ship after warning by the master or other officer thereof, molests or continues to molest any passenger;

(d) any person having gone on board the ship at any place and being requested, on account of the ship being full, by the owner or any person in his employ to leave the ship, before it has departed from that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

(e) any person travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;

(f) any person on arriving in the ship at the place for which he has paid his fare knowingly and wilfully refuses or neglects to quit the ship;

(g) any person on board the ship fails when requested by the master or other officer thereof either to pay his fare or to exhibit such ticket or other receipt, if any, showing the payment of his fare as is usually given to persons travelling by and paying fare for the ship;

he shall be guilty of an offence under this sub-section.

(2) No person on board any such ship shall wilfully do or cause to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any such ship and all persons called by him to his assistance may, without warrant, detain any person who commits any offence under this section and whose name and address are unknown to the master or officer and convey the offender with all convenient dispatch before the [1][nearest Judicial Magistrate of the first class or the Metropolitan Magistrate as the case may be,] to be dealt with according to law.

**234. Power to exclude drunken passengers from passenger ships**.—The master of any passenger ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid

**235. Ships with certificates of survey or certificates of partial survey granted outside India**.—(*1*) When a ship requires to be furnished with a certificate of survey under this Part and the Central Government is satisfied—

(a) by the production of a certificate of survey that the ship has been officially surveyed at a port in a country outside India;

(b) that the requirements of this Act are proved by that survey to have been substantially complied with; and

(c) that certificates of survey granted under this Part are accepted in such country in lieu of the corresponding certificates required under the laws in force in that country;

the Central Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part.

(2) When the Central Government has, by notification in the Official Gazette, declared that it is satisfied that an official survey at a port in a country outside India specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person authorised by the Central Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Central Government by sub-section (1) in the case of any ship furnished with a valid certificate of survey granted at such port.

(3) The provisions of sub-section (*1*) shall be applicable in the case of ships furnished with valid certificates of partial survey including docking certificates, as if they were ships furnished with like certificates granted at ports in countries outside India subject to the modification that the powers of the Central Government under the said sub-section may be exercised by any person authorised by the Central Government in this behalf.

**236. Power to make rules as to surveys**.—(*1*) The Central Government may, subject to the condition of previous publication, make rules to regulate the making of surveys under this Part and the provisions to be made for the safety of life at sea.

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "nearest magistrate"(w.e.f.18-5-1983).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the times and places at which, and the manner in which, surveys are to be made;

(b) the requirements as to construction, machinery, equipment and marking of sub-division load lines, which are to be fulfilled by ships generally or by any class of ships in particular before a declaration of survey may be granted;

(c) the survey of ships by two or more surveyors;

(d) the duties of the surveyor making a survey and, where two or more surveyors are employed, the respective duties of each of the surveyors employed;

(e) the form in which declarations of survey and certificates of survey under this Part are to be made and the nature of the particulars to be stated therein respectively;

(f) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey;

(g) the closing of, and keeping closed, the openings in ships" hulls and in water-tight bulk-heads;

(h) the securing of, and keeping in place and the inspection of contrivances for closing any such openings as aforesaid;

(i) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and

(j) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid.

[1][*Special trade passenger ships*] *and pilgrim ships*

**237. Ports or places where special trade passengers or pilgrims may embark or be discharged.**—(*1*) Neither [2][a special trade passenger ship] nor a pilgrim ship shall depart or proceed from on discharge [3][special trade passengers] or pilgrims, as the case may be, at any port or place within India other than a port or place appointed in this behalf by the Central Government for [1][special trade passenger ships] or pilgrim ships, as the case may be.

(*2*) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as [4][a special trade passenger] or pilgrim, as the case may be, except at some other port or place so appointed.

**238. Notice to be given of day of sailing.**—(*1*) The master, owner or agent of [2][a special trade passenger ship] or a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Central Government that the ship is to carry [3][special trade passengers] or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of [2][a special trade passenger ship], not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure, if in India, and in any other case at the first port at which she touches in India, not less than three days, and at all other ports not less than twenty-four hours, before that time.

---

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passenger ships" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid*., for "an unbertherd passengers" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid.,* for "unbertherd passengers" (w.e.f. 1-12-1976).
4. Subs. by s. 2, *ibid*., for "an unbertherd passenger" (w.e.f. 1-12-1976).

**239. Power to enter on and inspect ship**.—After receiving the notice under section 238 the officer appointed under that section or a person authorised by him in this behalf shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

**240. Ship not to sail without certificates A and B.**—[1][(*1*) A ship intended to carry special trade passengers between ports or places in India shall not commence a voyage from any port or place appointed under sub-section (*1*) of section 237, unless the master holds certificates to the effect mentioned in sections 241 and 242.

(*1A*) A ship intended to carry special trade passengers from or to a port or place in India to or from a port or place outside India shall not commence a voyage from any port or place appointed under sub-section (*1*) of section 237, unless the master holds—

(i) a passenger ship safety certificate;

(ii) an exemption certificate;

(iii) a special trade passenger ship safety certificate;

(iv) a special trade passenger ship space certificate; and

(v) a certificate referred to in section 242.]

(*2*) The customs Collector whose duty it is to grant a port clearance for the ship shall not grant it [2][unless the master holds the appropriate certificate for the voyage specified in sub-section (*1*), or as the case may be in sub-section (*1A*).]

[3]**[241. Contents of certificate A**.—(*1*) The first of the certificates referred to in sub-section (*1*) of section 240 (hereinafter called certificate A) shall be in the prescribed form and contain such particulars as may be prescribed.

(2) In particular and without prejudice to the generality of the foregoing power, certificate A shall contain the following statements and particulars, namely:—

(i) that the ship is seaworthy;

(ii) that the ship is properly equipped, fitted and ventilated;

(iii) the number of special trade passengers the ship is certified to carry; and

(iv) such other particulars as may be prescribed.

(3) Certificate A shall remain in force for a period of one year from the date of issue or for such shorter period as may be specified therein.]

**242. Contents of certificate B**.—The second of the certificates (hereinafter called certificate B) shall be in the prescribed form and shall state—

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(b) that she has the proper complement of officers and seamen;

[4][(*c*) that the master holds—

(i) a certificate of survey and certificate A; or

(ii) a passenger ship safety certificate accompanied by an exemption certificate, a special trade passenger ship safety certificate and a special trade passenger ship space certificate; or

(iii) a nuclear passenger ship safety certificate;]

---

1. Subs. Act 69 of 1976, by s. 4, for sub-section (*1*) (w.e.f. 1-12-1976).
2. Subs. by, s. 4, *ibid.*, for "unless the master holds the aforesaid certificates" (w.e.f.1-12-1976).
3. Subs. by s. 5, *ibid*., for section 241 (w.e.f. 1-2-1976).
4. Subs. by s. 6, *ibid*., for clause (*c*) (w.e.f. 1-12-1976).

(d) that she has on board such number of medical officers licensed in the prescribed manner and such number of attendants, if any, as may be prescribed;

(e) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for [1][special trade passenger ships] or pilgrim ships, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the [2][special trade passengers] or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(f) in the case of [3][a special trade passenger ship], if the ship is to make a voyage in season of foul weather specified as such in the rules made under section 262, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(g) in the case of [3][a special trade passenger ship], the number of cabin and [2][a special trade passengers] embarked at the port of embarkation;

(h) such other particulars, if any, as may be prescribed for [1][special trade passenger ships] or pilgrim ships, as the case may be.

**243. Officers entitled to grant certificates**.—The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 238 who is hereinafter referred to as the certifying officer.

**244. Survey of ship**.—After receiving the notice required by section 238, the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by a surveyor, who shall report to him whether the ship is, in his opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

[4][Provided that he shall not cause a ship holding a valid certificate referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) of clause (*c*) of section 242 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable grounds, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.]

**245. Discretion as to grant of certificate B**.—(*1*) The certifying officer shall not grant a certificate B if he has reason to believe that the leather conditions are likely to be adverse or that the ship has on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the [5][special trade passenger] or pilgrims.

(2) Save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the certifying officer to grant or withhold the certificate, and when he withholds the certificate, the reasons for so doing shall be communicated to the person concerned.

(3) In the exercise of that discretion that officer shall be subject to the control of the Central Government or of such authority as the Central Government may appoint in this behalf.

**246. Copy of certificate A to be exhibited**.—The master or owner shall post up in a conspicuous part of the ship, so as to be visible to the persons on board thereof, a copy of certificate A granted under this Part in respect of the ship and shall keep that copy so posted up as long as it is in force.

---

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passenger ships" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid*., for "un unberthed passenger ship" (w.e.f. 1-12-1976).
4. The proviso subs. by s. 7, *ibid*. (w.e.f. 1-12-1976).
5. Subs. by s. 2, *ibid*., for "unberthed passenger" (w.e.f. 1-12-1976).

**247. Special trade passengers or pilgrims to be supplied with prescribed provisions**.—(*1*) The master of [1][a special trade passenger ship] or any contractor employed by him for the purpose shall not, without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any [2][special trade passenger] the prescribed allowance of food, fuel and water, and the master of a pilgrim ship, or any contractor employed by him for the purpose shall not, without reasonable excuse, the burden of proving which shall lie upon him, omit to supply to any pilgrim the prescribed allowances of food and of water as required by the provisions of this Part.

(*2*) Where, under the terms of the ticket issued to [3][a special trade passenger] he is not entitled to the supply of food by the master or owner or agent of the ship, sub-section (*1*) shall, in the case of such passenger, have effect as if the reference to "food" in that sub-section were omitted.

**248. Number of passengers on board not to exceed that allowed by or under this Part**.—(*1*) [1][a special trade passenger ship] or a pilgrim ship shall not carry a number of [4][special trade passengers] or pilgrims, which is greater than the number allowed for the ship by or under this Part.

(*2*) Any officer authorised in this behalf by the Central Government may cause all [4][special trade passengers] or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master, owner or agent of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

**249. Special trade passenger or pilgrim not to be landed at a place other than that at which he has contracted to land**.—No master, owner or agent of [1][a special trade passenger ship] or a pilgrim ship shall land any [2][special trade passenger] or pilgrim at any port or place other than the port or place at which the [2][special trade passenger] or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident.

**250. forwarding of passengers by Indian consular officers**.—(*1*) If any [2][special trade passenger] from a ship which is on a voyage from any port or place in India finds himself without any neglect or default of his own at any port or place outside India other than the port or place for which the ship was originally bound or at which he has contracted that he should land; the Indian consular officer at or near that port or place may forward the passenger to his intended destination, unless the master, owner or agent of the ship within forty-eight hours of the arrival of the passenger gives to that officer a written undertaking to forward the passenger within six weeks thereafter to his original destination and forwards him accordingly within that period.

(*2*) A passenger so forwarded by or by the authority of an Indian consular officer shall not be entitled to the return of his passage money or to any compensation for loss of passage.

**251. Recovery of expenses incurred in forwarding passengers**.—(*1*) All expenses incurred under section 250 by an Indian consular officer in respect of the forwarding of a passenger to his destination including the cost of maintaining the passenger until forwarded to his destination shall be a debt due to the Central Government jointly and severally from the owner, charter, agent and master of the ship on board which the passenger had embarked.

(*2*) In any proceeding for the recovery of that debt a certificate purporting to be under the hand of the Indian consular officer and stating the circumstances of the case and the total amount of the expenses shall be *prima facie* evidence of the amount of the expenses and of the facts that the same were duly incurred.

**252. Ship not to make voyage in contravention of contract**.—The master, owner or agent of [1][a special trade passenger ship] or a pilgrim ship shall not, otherwise than by reason of perils of the sea

1. Subs. by Act 69 of 1976, s. 2, for "an unberthed passenger ship" (w.e.f.1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passenger" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid.*, for "an unberthed passenger" (w.e.f. 1-12-1976).
4. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).

or other unavoidable accident, allow the ship to touch at any port or place in contravention of any express or implied contract or engagement with the [1][special trade passengers] or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise.

**253. Information to be sent to ports of embarkation and discharge.—**(*1*) The officer appointed by the Central Government in this behalf at any port or place within India at which [2][a special trade passenger ship] or a pilgrim ship touches or arrives, shall send any particulars which he may deem important respecting the [3][special trade passenger ship] or pilgrim ship, and the [1][special trade passengers] or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within India where the [1][special trade passengers] or pilgrims or any of them embarked or are to be discharged.

(*2*) The officer aforesaid may go on board any ship referred to in sub-section (*1*) and inspect her in order to ascertain whether the provisions of this Act as to the number of [1][special trade passengers] or pilgrims and other matters have been complied with.

**254. Reports, etc., under section 253 to be admissible in evidence.—**In any proceeding for the adjudication of any penalty incurred under this Part, any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of section 253, or a copy of the proceedings of any court of justice duly authenticated, and also any like document purporting to be made and signed by an Indian consular officer shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

[4]* * * * *

**255. Destination of ship, time of sailing, etc., to be advertised.—**(*1*) The master, owner or agent of a [2][a special trade passenger ship] departing or proceeding from any port or place in India appointed in this behalf by the Central Government under sub-section (*1*) of section 237 shall issue at such port or place in the prescribed manner an advertisement, containing the particulars required to be stated in the notice under sub-section (*1*) of section 238; and such advertisement shall be issued before such reasonable and sufficient interval as may be prescribed before the date of sailing of any such ship from such port or place.

(*2*) The Central Government may, by order in writing, exempt any class of ships from the operation of sub-section (*1*).

[5][(*3*) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or promising or permitting any person to sell a passenger ticket to any pilgrim for conveyance by such ship, supply to the officer appointed in this behalf (hereinafter referred to as the pilgrim officer) at the port or place from which the ship is to commence the voyage, and at each port or place in India at which she is to touch for the purpose of embarking pilgrims, full particulars as to the name, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of passage tickets, the probable date on which the ship is to sail from that port or place, the ports, if any, at which she is to touch, the place of her destination, and the probable date of her arrival thereat.

(4) The master, owner or agent of the ship shall supply to the pilgrim officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (*3*) as that officer may in writing demand from him.

---

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passengers" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid.*, for "an unberthed passenger ship" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid.*, for "unberthed passenger ship" (w.e.f. 1-12-1976).
4. The heading "*special provisions relating to unberthed passenger ships*" omitted by s. 8, *ibid*. (w.e.f.1-12-1976).
5. Ins. by s. 9, *ibid*. (w.e.f. 1-12-1976).

(5) (*a*) The master, owner or agent of the ship shall advertise at such port or place and in such manner as may be prescribed—

(i) the place of destination of the ship,

(ii) the price of each class of passage tickets which shall not be in excess of the price communicated to the pilgrim officer under sub-section (*3*), and

(iii) the provisional date of sailing from that port or place.

(*b*) The master, owner or agent of the ship shall also advertise the final date of sailing not less than fifteen days before such date.

(6) No master, owner or agent shall—

(a) without reasonable cause, the burden of proving which shall lie upon him, fail or refuse to supply any particulars or information which he is by or under this section required to supply or supply false particulars or information; or

(b) advertise any ship for the conveyance of pilgrims, or offer to convey pilgrims by any ship, or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (*3*) and in accordance with the provisions of that sub-section (*3*); or

(c) advertise a price for passage tickets at the port or place in excess of the price communicated to the pilgrim officer under sub-section (*3*); or

(d) offer to convey pilgrims by any ship from any port or place in India or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having advertised as required by clause (*a*) of sub-section (*5*), the matters specified in that clause; or

(e) sell or permit any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the pilgrim officer under sub-section (*3*).]

**256. Ship taking additional passengers at intermediate place**.—[1][(*1*) If any [2][special trade passenger ship] performing a voyage between ports or places in India takes additional [3][special trade passengers] on board at an intermediate port or place, the master shall obtain from the certifying officer [4][or such other officer as the Central Government may appoint in this behalf] at the port or place a supplementary certificate stating—

(a) the number of [3][special trade passengers] so taken on board; and

(b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the [3][special trade passengers] on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed, properly packed and efficient to supply the full number of [3][special trade passengers] which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate, but shall obtain from the certifying officer an endorsement on the certificate B showing the number of passengers taken on board, and the number of passengers discharged, at that port or place.

[3][(*2*) In either of the following cases, namely:—

(a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within India appointed under this Part for the embarkation of pilgrims, or

---

1. Section 256 renumbered as sub-section (*1*) thereof by Act 69 of 1976, s.10 (w.e.f.1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passenger ship" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).
4. Ins. by s. 10, *ibid*. (w.e.f. 1-12-1976).

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any port or place outside India,

the master shall obtain a fresh certificate B from the certifying officer or such other officer as the Central Government may appoint in this behalf at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional pilgrims.]

**257. Statements concerning passengers**.—(*1*) The master of [1][a special trade passenger ship] departing or proceeding on a voyage from a port or place in India to a port or place outside India shall sign a statement in duplicate, specifying the number and the respective sexes of all the [2][special trade passengers], and the number of the crew, and shall deliver both copies to the certifying officer, [3][or such other officer as the Central Government may appoint in this behalf] who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

(2) In either of the following cases, namely:—

(a) if after the ship has departed or proceeded on such a voyage any additional [2][special trade passengers] are taken on board at a port or place within India appointed under this Part for the embarkation of [2][special trade passengers;] or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional [2][special trade passengers] at any port or place outside India;

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer [4][or such other officer as the Central Government may appoint in this behalf] at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional passengers.

[4][(*3*) The master of every pilgrim ship departing or proceeding from any port or place in India shall sign a statement in duplicate in the prescribed form specifying the total number of all the pilgrims embarked and the number of pilgrims of each sex embarked and the number of the crew and such other particulars as may be prescribed and shall deliver both copies to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place and such officer shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

(*4*) The master of every pilgrim ship arriving at any port or place in India at which it may be intended to discharge pilgrims, shall, before any pilgrims disembark, deliver a statement signed by him specifying the total number of all the pilgrims on board and the number of pilgrims of each sex and the number of the crew, and such other particulars as may be prescribed to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place.]

**258. Death of [2][special trade passengers] on voyage.**—(*1*) The master of any [5][special trade passenger ship] performing a voyage between ports or places in India, shall, on arrival at her port of destination, notify to the certifying officer or such other officer as the Central Government may appoint in this behalf, the date and supposed cause of death of every [6][special trade passenger] who may die on the voyage.

(*2*) The master of any [2][special trade passenger ship] performing a voyage between a port or place in India and a port or place outside India, shall note in writing on the statement or the additional statement referred to in section 257 the date and supposed cause of death of any [6][special trade passengers] who may die on the voyage, and shall, when the ship arrives at her port or place of

1. Subs. by Act 69 of 1976, s. 2, for "an unberthed passenger ship" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passenegers" (w.e.f. 1-12-1976).
3. Ins. by s. 11, *ibid*. (w.e.f. 1-12-1976).
4. Ins. by s. 11, *ibid.* (w.e.f. 1-12-1976).
5. Subs. by s. 2, *ibid*., for "unberthed passenger ship" (w.e.f. 1-12-1976).
6. Subs. by s. 2, *ibid*., for "unberthed passenger" (w.e.f. 1-12-1976).

destination or at any port or place where it may be intended to land [1][special trade passengers], and before, any passenger leaves the ship, produce the statement with any additions made thereto—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.

[2][(*3*) The master of every pilgrim ship shall note in writing on the copy of the additional statement referred to in sub-section (*2*) of section 256 or of the statement referred to in sub-sections (*3*) and (*4*) of section 257, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place where it may be intended to discharge pilgrims, and before any pilgrims disembark, produce the statement, with any additions made thereto,—

(a) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(b) where such port or place is outside India, to the Indian consular officer.]

**259. Certain ships to carry medical officer and attendants.—**(*1*) Every ship carrying [1][special trade passengers] and crew not exceeding one thousand in number, shall have on board as part of her complement at least one medical officer possessing such qualification as may be prescribed.

(2) Every ship carrying [1][special trade passengers] and crew exceeding one thousand in number shall, in addition to a medical officer, have on board as part of her complement such number of medical attendants as may be prescribed.

(3) Every ship carrying [1][special trade passengers] shall be provided with a hospital with such medical stores and equipment as may be prescribed.

[2][(*4*)(*a*) Every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number shall have on board a medical officer possessing such qualifications as may be prescribed, and, if the number of pilgrims and crew carried exceeds one thousand, a second medical officer similarly qualified and also in all cases such medical attendants as may be prescribed.

(b) A medical officer of every pilgrim ship shall perform such duties and functions, keep such diaries and submit such reports or other returns as may be prescribed.

(c) No medical officer or attendant on a pilgrim ship shall charge any pilgrim on such ship for his services.]

**260. Bringing passengers from foreign port in excess of authorised number prohibited**.—No owner, agent or master of [3][special trade passenger ship] shall carry or cause to be carried from any port or place outside India to any port or place in India a number of passengers greater than—

(a) the number allowed for the ship by or under this Part, or

(b) the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, whichever number is less.

**261.** [*Passenger welfare cess*.] *Rep. by the Finance Act,* 2016 (28 *of* 2016), *s.* 239 *and the Fifteenth Schedule* (*w.e.f.* 14-5-2016).

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passengers" (w.e.f. 1-12-1976).
2. Ins. by s. 13, *ibid.* (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid*., for "an unberthed passenger ship" (w.e.f. 1-12-1976).

[1][**261A. Bunks to be provided for passengers.—**Every special trade passenger ship making a voyage the duration of which, in ordinary circumstances, may extend to seventy-two hours or more shall provide for each passenger on board a bunk of the prescribed size and particulars.

**261B. Space to be provided for passengers when bunks are not provided.—**Every special trade passenger ship making a voyage the duration of which in ordinary circumstances may not extend to seventy-two hours shall provide space for each passenger at the prescribed scale.

**261C. Airing space to be provided for passengers.—**Every special trade passenger ship shall have reserved as airing space for the use of passengers on board, gratuitously by day and by night, so much of the upper deck as is not required for the airing space of the crew or for permanent structure:

Provided that the upper deck space so provided for passengers shall in no case be less than 0.37 square meter for each passenger.]

**262. Power to make rules as to [2][special trade passenger ships]**.—The Central Government may, subject to the condition of previous publication, make rules to regulate, in the case of a [2][special trade passenger ships] or any class of such ships, all or any of the following matters, namely:—

(a) the classification of voyages with reference to the distance between the port of departure and the port of destination, the duration of the voyage, or any other consideration which the Central Government may think fit to take into account for the purpose;

(b) the seasons of fair weather and seasons of foul weather for purposes of any voyage;

(c) the space to be allowed for [3][special trade passengers] in respect of different classes of voyages and for seasons of fair and foul weather;

(d) the disallowance of any space considered unsuitable by the surveyor for the carriage of [3][special trade passengers;]

(e) the space to be set apart for alleyways, passages and the like;

(f) the provision of airing space for [3][special trade passengers;]

(g) the scale according to which dining rooms, latrines, wash places, baths, dressing rooms and other amenities are to be provided;

(h) the provision of separate accommodation for women and children;

(i) the prohibition or regulation of the carriage of cargo in any space reserved for passengers;

(j) where the deck on which [3][special trade passengers] are accommodated is not covered with wood, the nature of the sheathing to be provided in the space reserved for passengers;

(k) the disposal of baggage of passengers on board ship and the provisions of separate space in between-decks for the storage of light baggage;

(l) the conditions under which passengers may be allowed to be carried in the upper deck in seasons of foul weather;

(m) the provision of bunks for [3][special trade passengers] or for any proportion of such passengers on any specified classes of voyages, and the size and other particulars relating to the bunks to be so provided;

(n) the scale on which food, fuel and water are to be supplied to passengers or to any class of passengers, and the quality of the food, fuel and water;

(o) the nature and extent of hospital accommodation and the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

---

1. Ins. by Act 69 of 1976, s. 14 (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passenger ships" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).

(p) the licensing and appointment of medical officers and attendants in cases where they are required by this Part to be carried;

(q) the boats, anchors and cables to be provided on board;

(r) the instruments for purposes of navigation to be supplied;

(s) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(t) the access of between-decks passengers to the upper deck;

(u) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf;

(v) the time within which any ship of a specified class is to depart or proceed on her voyage after commencing to take passengers on board;

(w) the conditions under which live-stock may be allowed to be carried;

(x) the licensing, supervision and control of persons engaged in assisting persons to obtain [1][special trade passenger] accommodation in ships departing or proceeding from any port or place in India and the prohibition of unlicensed persons from being so engaged;

[2]* * * * *

(*z*) generally to carry out the purposes of this Part relating to [special trade passenger ships.]

[3]***

**263**. [*Banks to be provided for pilgrims.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 15 (w.e.f. 1-12-1976).*

[4][**264. Hospital accommodation.—**Every special trade passenger ship certified to carry more than one hundred passengers on a voyage the duration of which, in ordinary circumstances, may extend to forty-eight hours or more, shall provide on board a hospital offering such conditions relating to security, space, health and sanitation and capable of accommodating such proportion of the maximum number of passengers the ship is certified to carry, as may be prescribed.]

***265.*** [*Statements concerning pilgrims to be delivered before ship departs.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 17 (w.e.f. 1-12-1976).*

***266.*** [*Pilgrim ships taking additional pilgrims at intermediate places.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 17 (w.e.f. 1-12-1976).*

***267.*** [*Particulars relating to deaths of pilgrims on voyage.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 17 (w.e.f. 1-12-1976).*

***268.*** [*Statement concerning pilgrims to be delivered before pilgrims disembark in India.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 17 (w.e.f. 1-12-1976).*

***269.*** [*Certain pilgrim ships to carry medical officers and attendants.] Omitted by the Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s. 17 (w.e.f. 1-12-1976).*

**270. Bond where pilgrim ship proceeds on outward voyage.—**(*1*) Port clearance shall not be granted from any port in India to any pilgrim ship unless the master, owner or agent and two sureties resident in India have executed, in favour of the Central Government, a joint and several bond for the

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passenger" (w.e.f. 1-12-1976).
2. Clause (*y*) repealed Act 28 of 2016, s. 239 and the Fifteenth Schedule (w.e.f. 14-5-2016).
3. The heading "*Special provisions regarding pilgrim ships*" omitted by Act 69 of 1976, s. 15 (w.e.f. 1-12-1976).
4. Subs. by s. 16, *ibid*., for section 264 (w.e.f. 1-12-1976).

sum of ten thousand rupees or has given such other guarantee or security as may be acceptable to that Government covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

(a) the master and medical officer shall comply with the provisions of this Part and the rules made there under, and

(b) the master, owner or agent shall pay any sum claimed by the Central Government under sub-section (*2*) of section 277,

(*2*) A bond, guarantee or security may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such cases the amount of the bond, guarantee or security shall be ten thousand rupees for each ship covered.

**271. Medical inspection and permission required before embarkation of pilgrims**.—(*1*) No pilgrim shall be received on board any pilgrim ship at any port or place in India unless and until he has been medically inspected, at such time and place, and in such manner, as the Central Government may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) The medical inspection of female pilgrims shall, subject to any rules which may be made under this Act and as far as may be practicable, be carried out by women.

(3) No pilgrim shall be received on board any pilgrim ship unless he produces the medical certificate signed by a person who is duly qualified to grant such certificate, showing that such pilgrim—

(a) has been inoculated against cholera within such period before the inspection, as may be prescribed; and

(b) has been vaccinated against small-pox within such period before the inspection as may be prescribed:

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had small-pox.

(4) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(5) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Central Government for the purpose, in such manner as may be prescribed.

**272. Medical inspection after embarkation in certain cases**.—(*1*) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Central Government may direct.

(*2*) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

**273. Pilgrims to arrange return passages**.—No pilgrim shall be received on board any pilgrim ship at any port or place in India unless he—

(a) is in possession of a return ticket, or

(b) has deposited with the officer authorised in this behalf by the Central Government such sum for the purpose of defraying the cost of a return ticket as that Government may specify by notification in the Official Gazette:

Provided that the authorised officer may exempt any pilgrim from all or any of the aforesaid requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them.

**274. Issue or production of tickets**.—(*1*) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage money and fulfillment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner:

Provided that no pilgrim, who has not been exempted under the proviso to section 273, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(*2*) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quality prescribed and medicines free of further charge, throughout the voyage.

**275. Refund of passage money and deposits**.—(*1*) Every pilgrim prevented from embarking under section 271, or removed from the ship under section 272, or otherwise prevented from proceeding shall be entitled to the refund of any passage money which he may have paid, and of any deposit which he may have made under section 273.

(2) Any pilgrim who, within one year of his sailing from India, satisfies the Indian consular officer at Jeddah that he intends to return to India by a route other than the route by which he came from India, shall be entitled to a refund of any deposit made by him under section 273, or, if he is in possession of a return ticket, to a refund of half the passage money paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in the prescribed manner, or, if no person has been so nominated, the legal representative of the pilgrim, shall be entitled to a refund of any deposit made by the pilgrim under section 273, or, if the pilgrim was in possession of a return ticket, to a refund of half the passage money paid by him.

(4) Where any pilgrim fails to return to India from the Hedjaz within one year of his sailing from India, or returns to India by a route other than the route by which he came from India, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 273, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage money paid by such pilgrim, except where such deposit or passage money has already been refunded under this section.

(5) Refunds under this section of deposits shall be subject to such conditions and of passage money to such deductions and conditions as may be prescribed.

**276. Disposal of unclaimed passage money and deposit.—**If any pilgrim,—

(a) who is entitled to a refund of passage money under sub-section (*1*) of section 275 does not claim such refund within the prescribed period, or

(b) who has purchased a return ticket, does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under section 275, or

(c) who is entitled under section 275 to a refund of any deposit made under section 273 does not claim such refund within the prescribed period,

such passage money or value or deposit shall, subject to the exercise of the rights conferred by sub-section (*4*) of section 275, be made over to such authority administering any fund maintained for

the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

**277. Cost of return journey of pilgrims on ships other than those for which return ticket is available**.—(*1*) The master, owner or agent of every pilgrim ship shall make all arrangements for ensuring the return of all pilgrims in possession of a return ticket issued in India who are carried to the Hedjaz by such ship, within a period of ninety days after the Haj day in a year:

Provided that, for the purpose of computing the said period of ninety days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war, disturbance or any other clause not arising from any act or default of the master, owner or agent.

(2) Where any such pilgrim who has notified to the prescribed authority in the prescribed manner his desire to embark for the return voyage is, owing to his inability to obtain accommodation within the period of ninety days aforesaid in a ship for which the return ticket is available, detained at Jeddah beyond the said period, the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall pay to the Central Government in respect of such pilgrim such sum not exceeding double the sum received by the master, owner or agent in respect of the return ticket as the Central Government claims as the costs of repatriating the pilgrim, together with a sum of rupees five for each day after the expiry of the period aforesaid during which the pilgrim has been detained at Jeddah.

(3) A certificate of such detention purporting to be made and signed by the Indian consular officer at Jeddah shall be received in evidence in any court in India without proof of the signature or of the official character of the person who has signed the same.

**278.** [*Notice of sailing of pilgrim ship*.] *Omitted by Merchant Shipping (Amendment) Act, 1976 (69 of 1976), s.17 (w.e.f.1-12-1976).*]

**279. Compensation for delay in sailing**.—(*1*) If a pilgrim ship fails to proceed from any port or place on the date advertised under [1][clause (*b*) of sub-section (*5*) of section 255] as the final date of sailing there from, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of three rupees for each completed day during which the sailing of the ship is delayed after that date:

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent:

Provided further that where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure the master, owner or agent shall be bound forthwith to inform the pilgrim officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised final date of sailing.

(3) Any sum payable as compensation under sub-section (*1*) shall be paid on behalf of the pilgrims entitled thereto to the pilgrim officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention:

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the

1. Subs. by Act 69 of 1976, s. 18, for "clause (*b*) of sub-section (*3*) of section 278" (w.e.f. 1-12-1976).

balance thereof remaining after payment to the pilgrim entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided:

Provided further that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Central Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (*3*) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the pilgrim officer notice of his objection, together with a statement of the grounds thereof, and the pilgrim officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum-held in deposit under sub-section (*3*), or refer the objection for decision to a [1][Metropolitan Magistrate or a Judicial Magistrate of the first class] exercising jurisdiction at the port or place at which the ship is delayed, whose decision on such reference shall be final; and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under [2][clause (*b*) of sub-section (*5*) of section 255] as the date of final sailing there from, the pilgrim officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port clearance to ships thereat, and such officer shall refuse port clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the pilgrim officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

**280. Substitution of ships.—**Notwithstanding anything contained in section [3][255] or section 279; where any ship has been advertised under section [3][255] for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised final date of sailing, the owner or agent may, with the permission in writing of the pilgrim officer, substitute for it any other ship which is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

**281. Sanitary taxes payable by master of pilgrim ship**.—The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited and such amount shall be included in the cost of the tickets issued to the pilgrims.

**282. Powers to make rules relating to pilgrim ships**.—The Central Government may, subject to the condition of previous publication, make rules to regulate all or any of the following matters, namely:—

(a) the boats, anchors and cables to be provided on board pilgrim ships;

(b) the instruments to be supplied for purposes of navigation;

(c) the fittings and other appliances to be provided in the upper and between decks for the comfort and convenience of pilgrims;

(d) the scale on which, and the manner in which, cooked and uncooked food and water arc to be supplied to pilgrims, and the quality of such food and water;

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "Presidency magistrate or a magistrate of the first class" (w.e.f.18-5-1983).
2. Subs. by Act 69 of 1976, s. 18, for "clause (*b*) of sub-section (*3*) of section 278" (w.e.f. 1-12-1976).
3. Subs. by s. 19, *ibid.*, for "278" (w.e.f.1-12-1976).

(e) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the rules made under clause (*d*), and the charges which may be made for the same;

(f) the quality, quantity and storage of the cargo to be carried;

(g) the allotment of the upper deck space between the various classes of pilgrims;

(h) the distribution or disposal of the baggage of pilgrims on board ship;

(i) the nature and extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency;

(j) the form of the statements to be furnished by the master under [1][section 257] and the particulars to be entered therein;

(k) the appointment of medical officers, and other attendants in cases where they are required by the provisions of this Part relating to pilgrim ships to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers;

(l) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(m) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;

(n) the manner in which deposits shall be made for the purposes of section 273, and any matter in respect of which provision is, in the opinion of the Central Government, necessary or expedient for the purpose of giving effect to the provisions of that section;

(o) the manner in which provisional bookings may be made, the acceptance of deposits for such bookings and the forfeiture of any part of the deposit in cases in which any such bookings are cancelled;

(p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

(q) the refund of passage money and deposits under section 275 and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund;

(r) the period after which unclaimed passage money and deposits liable to be refunded shall be disposed of in the manner specified in section 276;

(s) the manner in which the dates of sailing shall be advertised under [2][section 255;] the appointment of pilgrim officers for the purposes of that section and sections 279 and 280; the manner in which payment shall be made under section 279 to pilgrims and to the pilgrim officer; and the procedure to be followed by masters, owners or agents and by pilgrim officers and [3][Metropolitan Magistrates or Judicial Magistrates of the first class, as the case may be] in proceedings under that section;

(t) the functions of the master, medical officer and other ship's officers during the voyage;

(u) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf;

(v) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board;

---

1. Subs. by Act 69 of 1976, s. 20, for "sections 265 and 268" (w.e.f.1-12-1976).
2. Subs. by s. 20, *ibid.*, for "section 278" (w.e.f.1-12-1976).
3. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "magistrates" (w.e.f. 18-5-1983).

(w) providing that a pilgrim shall not be received on board any pilgrim ship, unless he is in possession of a passport or a pilgrim's pass regulating the issue of pilgrims passes and prescribing the form of and fees which may be charged for such passes; [1]***

[2][(*ww*) the fees that may be levied for the survey or inspection of pilgrim ships with respect to sanitary conditions, provision of stores, medical facilities available on such ships and such other purposes that may be relevant for compliance with the provisions of this Part relating to pilgrim ships and the manner in which such fees may be collected;]

(x) generally, to carry out the provisions of this Part relating to pilgrim ships.

## PART IX

## SAFETY

**283. Countries to which Load Line Convention or Safety Convention applies.—**[3]***The Central Government, if satisfied,—

(a) that the Government of any country has accepted or denounced the Load Line Convention or, as the case may be, the Safety Convention; or

(b) that the Load Line Convention or, as the case may be, the Safety Convention extends, or has ceased to extend to any territory;

may, by notification in the Official Gazette, make a declaration to that effect.

[4]* * * * *

[5][**283A. Definitions.—**(*1*) In this Part, unless the context otherwise requires,—

(a) "existing ship" or "existing vessel" means a ship or vessel which is not a new ship or a new vessel,

(b) "new ship" or "new vessel" means a ship or vessel whose keel is laid or which is at a similar stage of construction on or after the material date as defined in sub-section (*2*).

(2) For the purposes of sub-section (*1*) "material date";—

(i) in relation to an Indian ship, means the 21st July, 1968;

(ii) in relation to a foreign ship belonging to a country to which the Load Line Convention applies, means the date as from which it is declared under section 283 that the Government of such country has accepted the Load Line Convention or, as the case may be, that the said Convention has been applied to such country.]

*Construction of ships*

**284. Construction rules**.— (*1*) The Central Government may make rules (in this Act called the construction rules), prescribing the requirements that the hull, equipment and machinery of Indian [6][passenger or cargo ships] shall comply with.

(2) The rules made under sub-section (*1*) shall include such requirements as appear to the Central Government to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of [1][passenger or cargo ships] shall comply with, except so far as those provisions are implemented by the rules for life saving appliances, the radio rules, the rules for direction finders or the collision regulations.

[7][Provided that different requirements may be specified for special trade passenger ships]

---

1. The word "and" omitted by Act 12 of 1983, s. 8 (w.e.f. 18-5-1983)
2. Ins. by s. 8, *ibid.* (w.e.f. 18-5-1983).
3. The brackets and figure "(*1*)" omitted by Act 25 of 1970, s. 3 (w.e.f.21-7-1968).
4. Omitted by s. 3, *ibid.* (w.e.f. 21-7-1968).
5. Ins. by s. 4, *ibid.* (w.e.f.21-7-1968).
6. Subs. by Act 21 of 1966, s. 7, for "passenger ships" (w.e.f. 28-5-1966).
7. Ins. by Act 69 of 1976, s. 21 (w.e.f. 1-12-1976).

(3) The powers conferred on the Central Government by this section shall be in addition to the powers conferred by any other provision enabling it to prescribe the requirements that [1][passenger or cargo ships] shall comply with.

*Prevention of collisions*

**285. Collision regulations**.—(*1*) The Central Government may make regulations for the prevention of collisions at sea and may thereby regulate the lights and shapes to be carried and exhibited, the fog and distress signals to be carried and used, and the steering and sailing rules to be observed by Indian ships and sailing vessels registered in India.

(*2*) The collision regulations, together with the provisions of this Part relating thereto or otherwise relating to collisions, shall be observed by all foreign ships and sailing vessels within Indian jurisdiction, and in any case arising in any Court in India concerning matters arising within Indian jurisdiction, such ships and sailing vessels shall, so far as respects the collision regulations and the said provisions of this Act, be treated as if they were Indian ships or sailing vessels registered in India, as the case may be.

**286. Observance of collision regulations**.—(*1*) The owner or master of every ship and the owner or tindal of every sailing vessel to which section 285 applies shall obey the collision regulations, and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than those required by the said regulations.

(*2*) If any damage to person or property arises from the non-observance by any such ship or sailing vessel of any of the collision regulations, the damage shall be deemed to have been occasioned by the willful default of the person in charge of the ship or the sailing vessel, as the case may be, at the time unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

**287. Inspectors of lights and shapes and fog and distress signals.**—(*1*) The Central Government may appoint persons to inspect in any port ships or sailing vessels to which the collision regulations apply, for the purpose of seeing that such ships or sailing vessels are properly provided with lights and shapes and with the means of making fog and distress signals, in pursuance of such regulations.

(2) If an inspector appointed under sub-section (*1*) finds that any ship or sailing vessel is not so provided, he shall give to the owner, master or tindal, notice in writing pointing out the deficiency, and also what, in his opinion, is requisite in order to remedy the same.

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector at any port from which such ship or sailing vessel may seek to clear; and no customs collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship or sailing vessel is properly provided with lights and shapes and with the means of making fog and distress signals in pursuance of the said regulations.

*Life saving appliances and fire appliances*

**288. Power to make rules as to life saving appliances**.—(*1*) The Central Government may, subject to the condition of previous publication, make rules prescribing the life saving appliances to be carried by every Indian ship going to sea from any port or place in India.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(a) the arranging of ships into classes, having regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried;

1. Subs. by Act 21 of 1966, s. 7, for "passenger ships" (w.e.f. 28-5-1966).

(b) the number, description and mode of construction of the boats, life-rafts, line throwing appliances, life-jackets and life-buoys to be carried by ships according to the classes in which the ships are arranged;

(c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life saving appliances into the water, including oil for use in stormy weather;

(d) the provision in ships of a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships either in addition to or in substitution for boats, life-rafts, life-jackets and life-buoys;

(f) the position and means of securing the boats, life-rafts, life-jackets, life-buoys and buoyant apparatus;

(g) the marking of boats, life-rafts, and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

(h) the meaning of life-boats and the qualifications and certificates of life-boatmen;

[1][(*hh*) the training of crew in launching and using life-rafts;]

(i) the provision to be made for mustering the persons on board and for embarking them in the [2][boats or rafts] (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);

(j) the provision of suitable means situated outside the engine room whereby any discharge of water into the [2][boats or rafts] can be prevented;

(k) the assignment of specific duties to each member of the crew in case of emergency;

(l) the manner in which a notice given under section 287 or section 290 shall be communicated to the customs collector;

(m) the practice in ships of boat drills, and fire drills;

(n) the provision in ships of means of making effective distress signals by day and by night;

(o) the provision in ships, engaged on voyages in which pilots are likely to be embarked, of suitable pilot ladders and of ropes, lights and other appliances designed to make the use of such ladders safe;

(p) the periodical examination of any appliances or equipment required by any rules made under this Act to be carried by ships; and

(q) the fees to be charged for the grant of any certificate under sub-section (*3*) of section 290.

**289. Rules relating to fire appliances**.—The Central Government may make rules prescribing the methods to be carried and the appliances to be carried by every Indian ship going to sea from any port or place in India for the prevention, detection and extinction of fire on the ship (hereinafter referred to as fire appliances).

**290. Inspection of life saving appliances and fire appliances**.—(*1*) A surveyor may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life saving and fire appliances in conformity with the rules made under this Act.

(2) If the said surveyor finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

---

1. Ins. by Act 21 of 1966, s. 8 (w.e.f. 28-5-1966).
2. Subs. by s. 8, *ibid*., for "boats" (w.e.f. 28-5-1966).

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life saving and fire appliances in conformity with the said rules.

*Installation of Radio Telegraphy, Radio Telephony and Direction Finders*

**291. Radio requirements**.—[1][(*1*) Every Indian passenger ship and every Indian cargo ship of three hundred tons gross tonnage or more, shall in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators as may be prescribed.]

(*2*) The radio installation required under the said rules to be provided for a passenger ship or for [2][any cargo ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a cargo ship of less than sixteen hundred tons gross] shall be either a radio telegraph installation or a radio-telephone installation at the option of the owners.

[3][(*3*) The Central Government may, having regard to the length of the voyage or voyages on which a ship or a class of ships is engaged and the maximum distance of such ship or class of ships will be from the shore during such voyage or voyages, exempt, by order in writing and subject to such conditions and restrictions as may be specified therein, any ship or class of ships from compliance with all or any of the obligations imposed by or under this section if that Government is satisfied that such compliance would be unreasonable or unnecessary:

Provided that an exemption from the obligation to provide with radio telegraph installation in respect of any passenger ship or in respect of any cargo ship of sixteen hundred tons gross tonnage or more shall be subject to the condition that she shall have on board a radiotelephone installation :

Provided further that no exemption shall be granted under this section, if it will have an adverse effect on the general efficiency of the distress service for the safety of ships.]

**292. Radio direction finding apparatus**.—[4][(*1*)] Every Indian ship of sixteen hundred tons gross or more shall be provided with a radio direction finder of the prescribed description.

[5][(*2*) The Central Government may, by order in writing and subject to such conditions and restrictions as may be specified therein, exempt any ship under five thousand tons gross tonnage from the obligation imposed by sub-section (*1*), if that Government is satisfied, having regard to the area or areas in which the ship is engaged on a voyage or voyages and the value of radio direction finder as a navigational instrument and as an aid to locating ships, aircraft or survival craft, that such compliance would be unreasonable or unnecessary.]

**293. Radio log**.—(*1*) Every ship compulsorily equipped under the provisions of section 291 with a radio telegraph or radio telephone installation shall maintain in the radio telegraph or radio telephone room a radio log in which shall be entered such particulars relating to the operation of the radio telegraph or radio telephone installation and as to the maintenance of the radio telegraph or radio telephone service as may be prescribed.

(*2*) The provisions of section 215 shall apply to the radio log kept under this section as if it were an official log.

**294. Powers of radio inspectors**.—(*1*) A radio inspector may inspect any ship for the purpose of seeing that she is properly provided with a radio telegraph or radio telephone installation and

1. Subs. by Act 21 of 1966, s. 9, for sub-section (*1*) (w.e.f. 28-5-1966).
2. Subs. by s. 9, *ibid*., for "any other ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross, other than a passenger ship" (w.e.f. 28-5-1966).
3. Ins. by s. 9, *ibid*. (w.e.f. 28-5-1966).
4. Section 292 renumbered as sub-section (*1*) of that section by s. 10, *ibid.* (w.e.f. 28-5-1966).
5. Ins. by s. 10, *ibid*. (w.e.f. 28-5-1966).

certificated operators in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to radio telegraphy or radio telephony and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators [1]*** on the ship :

Provided that if a valid safety convention certificate is produced in respect of any ship other than an Indian ship, the inspection shall be limited to seeing that the ship is provided with a radio telegraph or radio telephone installation and that the number of certified operators corresponds substantially with the particulars stated in the certificate.

(2) If a radio inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3) Every notice given under sub-section (*2*) shall be communicated in the prescribed manner to the customs collector of any port at which the ship may seek to obtain port clearance who shall order that the ship shall be detained until a certificate under the hand of a radio inspector is produced to the effect that the ship is properly provided with a radio telegraph or radio telephone installation and certified operators [1]*** in conformity with this Part.

**295. Application of this Part to ships other than Indian ships**.—The provisions of this Part relating to radio telegraphy, radio telephony and direction finders shall apply to ships other than Indian ships while they are within any port in India in like manner as they apply to Indian ships.

**296. Power to make rules**.—(*1*) The Central Government may make rules to carry out the purposes of this Part relating to radio telegraphy or radio telephony, [2][or radio direction finders.]

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the nature of the radio telegraph or radio telephone installation and radio direction finding apparatus to be provided and of the service to be maintained, the form of the radio log and the particulars to be entered therein, and the number, grades and qualifications of certified operators to be carried;

[2][(*aa*) the nature of radio telegraph installation to be provided on motor life-boats and survival craft.]

(b) the manner in which a notice given under section 294 shall be communicated to the customs collector.

(c) the charging of fees for the grant of the certificate referred to in sub-section (*3*) of section 294, the amount of such fees and the manner in which they shall be recoverable.

*Signalling lamps*

**297. Signalling lamps**.—Every Indian ship exceeding one hundred and fifty tons gross shall, when proceeding to sea from any port or place in India to any port or place outside India, be provided with a [3][signalling lamp which shall not be solely dependent upon the ship's main source of electrical power and which shall be of the type approved]by the Central Government.

1. The words "and watchers" omitted by Act 21 of 1966, S. 11 (w.e.f. 28-5-1966).
2. Ins. by s. 12, *ibid*. (w.e.f. 28-5-1966).
3. Subs. by s. 13, *ibid.*, for "signalling lamp of the type approved" (w.e.f. 28-5-1966).

*Stability Information*

**298. Information about ship's stability**.—(*1*) There shall be carried on board every Indian ship whose keel was laid after the 15th day of June, 1953, such information in writing [1][as is necessary to enable the master by rapid and simple processes to obtain accurate guidance as to the stability of the ship under varying conditions of service.]

[2][(*2*) The information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be suitably amended whenever any alterations are made to the ship so as to materially affect such information.

(*2A*) The information shall be based on the determination of the ship's stability by means of an inclining test of the ship and any amendment thereto shall be effected, if necessary, after re-inclining the ship:

Provided that the Central Government may, by a general or special order —

(a) in the case of any ship, allow the information or an amendment thereto to be based on a similar determination of the stability of a sister-ship;

(b) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with such tests if it is satisfied from the information available in respect of similar ship that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.]

(3) When any information [3][including any amendment thereto] under this section is provided for any ship, the owner shall send a copy thereof to the Director-General.

(4) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) information [3][including any amendment thereto] under this section shall be deemed to be a document relating to the navigation of the ship.

*Safety certificates, safety equipment certificates, safety radio certificates, exemption certificates, etc.*

**299. Safety certificates and qualified safety certificates for passenger ships**.—(*1*) Where, on receipt of a declaration of survey granted under Part VIII in respect of passenger ship, the Central Government is satisfied that the ship complies with the construction rules and with the provisions of this Act and the rules made there under relating to life saving and fire appliances and [4][radio installation] applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a [5][passenger ship safety certificate.]

(*2*) Where on receipt of a declaration of survey granted under Part VIII in respect of a passenger ship the Central Government is satisfied that there is in force in respect of the ship an exemption certificate granted under section 302 and that the ship complies with all the requirements referred to in sub-section (*1*) other than those from which the ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a [6][qualified passenger ship safety certificate].

---

1. Subs. by Act 21 of 1966, s. 14, for "about the ship"s stability as is necessary for the guidance of the master in loading and ballasting the ship" (w.e.f. 28-5-1966).
2. Subs. by s. 14, *ibid.*, for sub-section (*2*) (w.e.f. 28-5-1966).
3. Ins. by s. 14, *ibid*. (w.e.f. 28-5-1966).
4. Subs. by Act 63 of 2002, s. 8, for "radio telegraphy or radio telephony installation and radio direction finder" (w.e.f.1-2-2003).
5. Subs. by Act 21 of 1966, s. 15, for "safety certificate" (w.e.f. 28-5-1966).
6. Subs. by s. 15, *ibid.*, for "qualified safety certificate", (w.e.f. 28-5-1966).

[1][(*3*) Where on receipt of a declaration of survey granted under Part VIII in respect of a special trade passenger ship [2]***, the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made there under relating to construction, life saving appliances and space requirements, it may in addition to the certificates referred to in sub-sections (*1*) and (*2*), issue in respect of the ship a special trade passenger ship safety certificate and a special trade passenger ship space certificate.]

[3][(*4*) The certificates issued under sub-sections (*1*) and (*2*), sub-sections (*1*) and (*2*) of section 300 and section 301 shall be supplemented by a record of equipment in the prescribed form.]

[4][**299A. Safety construction certificates and construction certificates for cargo ships.—**(*1*) Where in respect of any Indian cargo ship [5]*** [6][the Central Government or any person authorised by by it in this behalf] is satisfied that the ship has been surveyed in the manner prescribed under section 299B and that she complies with the construction rules made under section 284, [6][that Government or the authorised person] may issue in respect of the ship—

(a) [7][if the ship is of five hundred tons gross or more and performs international voyages], a certificate in the prescribed form to be called a cargo ship safety construction certificate;

(b) in other cases, a certificate in the prescribed form, to be called a cargo ship construction certificate.

(*2*) Where in respect of any such ship as is referred to in sub-section (*1*) there is no force an exemption certificate granted under section 302 [8][and the Central Government or any person authorised by it in this behalf] is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the [6][that Government or the authorised person] may issue in respect of the ship a certificate in the prescribed form to be called a qualified cargo ship safety construction certificate or a qualified cargo ship construction certificate.

[9][(*3*) The owner of every ship in respect of which a certificate is issued under sub-section (*1*) or sub-section (*2*), sub-section (*1*) or sub-section (*2*) of section 300 or section 301 shall, so long as the certificate remains in force, cause the ship to be surveyed in the manner as specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be.]

**299B. Power to make rules.—**(*1*) The Central Government may, subject to the condition of previous publication, make rules to regulate the making of surveys of cargo ships under this part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the times and places at which, and the manner in which, surveys arc to be made;

(b) the requirements as to construction, machinery, equipment and marking of sub-division load-lines which are to be fulfilled by cargo ships generally or by any class of cargo ships in particular;

(c) the duties of the surveyor making a survey;

---

1. Ins. by Act 69 of 1976, s. 22 (w.e.f.1-12-1976).
2. The words "or a pilgrim ship" omitted by Act 63 of 2002, s. 8 (w.e.f. 1-2-2003).
3. Ins. by s. 8, *ibid.* (w.e.f. 1-2-2003).
4. Ins. by Act 21 of 1966, s. 16 (w.e.f. 28-5-1966).
5. The words "of five hundred tons gross or more" omitted by Act 41 of 1984, s. 18 (w.e.f. 15-7-1985).
6. Subs. by Act 63 of 2002, s. 9, for "the Central Government" (w.e.f. 1-2-2003).
7. Subs. by Act 41 of 1984, s. 18, for "if the ship performs international voyages" (w.e.f. 15-7-1985).
8 Subs. by Act 63 of 2002, s. 9, for "of the Act and the Central Government" (w.e.f. 1-2-2003).
9. Ins. by s. 9, *ibid*. (w.e.f. 1-12-2003).

(d) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places or ports of survey;

(e) the closing of and keeping closed, the openings in ships" hulls and any water-tight bulkheads;

(f) the securing of and keeping in place, and the inspection of, contrivances for closing any such openings as aforesaid;

(g) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof; and

(h) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid.]

[1][**300. Cargo ship safety equipment and cargo ship equipment certificates for ships other then passenger ships.**—(*1*) Where in respect of an Indian cargo ship the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to life saving and fire appliances applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, that Government or the authorised person may issue in respect of the ship-

(a) if the ship is of five hundred tons gross or more and performs international voyages, a certificate in the prescribed form to be called a cargo ship safety equipment certificate;

(b) in other cases, a certificate in the prescribed form to be called a cargo ship equipment certificate.

(2) Where, in respect of a ship referred to in sub-section (*1*), there is in force an exemption certificate granted under section 302 and the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with all the requirements referred to in that sub-section, other than, those from which the ship is exempt under that certificate, that Government or the authorised person may issue a certificate in the prescribed form to be called a qualified cargo ship safety equipment certificate or a qualified cargo ship equipment certificate, as the case may be.]

[2][**301. Cargo ship safety radio certificate and qualified cargo ship safety radio certificate, etc.**—The owner or master of any Indian cargo ship, which is required by the provisions of section 291 to be provided with a radio installation shall, if the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with all the provisions of this Act and the rules made thereunder relating to radio installation applicable to such ship, receive—

(a) in the case of a ship of three hundred tons gross or more, a certificate in the prescribed form to be called a cargo ship safety radio certificate;

(b) in the case of a ship of three hundred tons gross or more but less than three thousand tons gross performing voyages only between ports or places in India, a certificate in the prescribed form to be called a qualified cargo ship safety radio certificate; and

(c) in other cases, a certificate in the prescribed form to be called a cargo ship radio certificate.]

**302. Exemption certificates**.—The owner or master of an Indian ship which is exempt from any of the provisions of the construction rules or of this Act and the rules made thereunder relating to life saving and fire appliances and radio telegraphy or radio telephony installation shall, on application to the officer appointed in this behalf by the Central Government receive from such officer a certificate in the prescribed form to be called an exemption certificate.

1. Subs. by Act 63 of 2002, s. 10, for section 300 (w.e.f. 1-2-2003).
2. Subs. by s. 11, *ibid.*, for section 301 (w.e.f. 1-2-2003).

[1][303. Duration of certificates.—](*1*) A passenger ship safety certificate, a qualified passenger ship safety certificate, a special trade passenger ship safety certificate and a special trade passenger ship space certificate issued under this Part shall be in force for a period of twelve months from the date of its issue or for such shorter period as may be specified in the certificate.

(2) A cargo ship safety equipment certificate, a qualified cargo ship safety equipment certificate, a cargo ship equipment certificate, a qualified cargo ship equipment certificate, a cargo ship safety construction certificate, a qualified cargo ship safety construction certificate, a cargo ship construction certificate, a qualified cargo ship construction certificate, a cargo ship safety radio certificate, a qualified cargo ship safety radio certificate and a cargo ship radio certificate issued under this Part shall be in force for a period of five years from the date of its issue or for such shorter period as may be specified in the certificate.

(3) An exemption certificate issued under section 302 shall be in force for the period for which the certificate to which it relates remains in force or for such shorter period as may be specified in the exemption certificate.

(4) Notwithstanding the requirements of sub-sections (*1*), (*2*) and (*3*) when the survey is completed within three months before the expiry date of the existing certificate, the new certificate may be valid from the date of completion of the survey,—

(a) for a passenger ship, a date not exceeding twelve months; and

(b) for a cargo ship, a date not exceeding five years,

from the date of expiry of the existing certificate.

(5) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship—

(a) where the ship is not in a port in which it is to be surveyed, on the date when the certificate would, but for the extension, have expired, for such period not exceeding three months from the said date as may be sufficient to enable the ship to complete its voyage to the port in which it is to be surveyed;

(b) where the ship is engaged on a short voyage and whose certificate has not been extended under clause (*a*), for a period up to one month from the date when the certificate would have expired:

Provided that any extension granted under clause (*a*) shall cease to be operative upon the ship's arrival at the port referred to in that clause:

Provided further that no extension shall be granted under clause (*b*) in respect of a certificate extended under clause (*a*).

(6) Where an existing certificate of a ship has been extended under sub-section (5) and when survey is completed, the new certificate shall be valid up to,—

(a) for a passenger ship, a date not exceeding twelve months; or

(b) for a cargo ship, a date not exceeding five years,

from the date of expiry of the existing certificate.

(7) In special circumstances where the Central Government so determines, a new certificate, need not be dated from the date of expiry of the existing certificate, shall be valid up to,—

(a) for a passenger ship, a date not exceeding twelve months;

(b) for a cargo ship, a date not exceeding five years,

from the date of completion of the survey.

---

1. Subs. by Act 63 of 2002, s. 12, for section 303 (w.e.f. 1-2-2003).

(8) Where a certificate referred to in sub-section (*2*) is issued for a period of less than five years, the Central Government or any person authorised by it in this behalf may extend the validity of the certificate beyond the expiry date to the maximum period specified in sub-section (*2*) if appropriate surveys, applicable when a certificate is issued for a period of five years, are carried out.

(9) If a survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Central Government or any person authorised by it in this behalf may endorse the existing certificate and such certificate shall be in force for a further period which shall not exceed five months from the expiry date of the existing certificate.

(10) If annual, intermediate or periodical surveys in the manner as specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be, are completed before the period stipulated therefore, then—

(a) the anniversary date mentioned on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;

(b) the subsequent surveys shall be completed at the stipulated intervals using the new anniversary date so endorsed;

(c) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as the case may be, are carried out so that the maximum stipulated intervals between the surveys are not exceeded.

(11) A certificate issued under section 299A, section 300 or section 301 shall cease to be valid,—

(a) if the relevant surveys specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be, are not completed within the stipulated period;

(b) if the certificate is not endorsed; or

(c) if the ship ceases to be an Indian ship.]

**304. Modification of safety convention certificates as respects life saving appliance**s.—(*1*) If an Indian ship in respect of which [1][a passenger ship safety certificate] [2][or a special trade passenger ship safety certificate] issued under section 299 is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life saving appliances on the ship provide, the owner or master of the ship may obtain from the authority issuing the certificate, or any person, authorised by the authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage, and the modifications which may be made for the purpose of that voyage in the particulars with respect to life saving appliances stated in the certificate.

(2) Where a valid [3][passenger ship safety certificate or special trade passenger ship safety certificate] is produced in respect of a passenger ship other than an Indian ship and there is attached to the certificate a memorandum which—

(a) has been issued by or under the authority of the Government of the country in which the ship is registered, and

(b) modifies for me purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificate with respect to life saving appliances,

1. Subs. by Act 21 of 1966, s. 20, for "a safety certificate" (w.e.f. 28-5-1966).
2. Ins. by Act 69 of 1976, s. 23 (w.e.f. 1-12-1976).
3. Subs. by s. 23, *ibid*., for "safety convention certificate" (w.e.f. 1-12-1976).

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

**305. Recognition of certificates issued outside India**.—A valid safety convention certificate issued in respect of a ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship under this Part.

**306. Issue of certificates to foreign ships in India and Indian ships in foreign countries**.—(*1*) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate safety convention certificate to be issued in respect of a ship [1][registered or to be registered] in that country, if it is satisfied in like manner as in the case of an Indian ship that such certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so is issued.

(*2*) The Central Government may request the Government of a country to which the Safety Convention applies, to issue an appropriate safety convention certificate [2][in respect of a ship registered or to be registered in India] and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purpose of this Act as if it had been issued by the Central Government.

**307. Prohibition on proceeding to sea without certificates**.—[3][(*1*) No Indian passenger ship shall proceed on a voyage from any port or place in India to any port or place out side India—

(a) if the ship is a ship, other than a special trade passenger ship, unless there is in force in respect of the ship either—

(i) a passenger ship safety certificate issued under section 299; or

(ii) a qualified passenger ship safety certificate issued under section 299 and an exemption certificate issued under section 302;

(b) if the ship is a special trade passenger ship, unless there is in force in respect of the ship the certificate referred to in sub-clause (*i*) of clause (*a*) or the certificates referred to in sub-clause (*ii*) of that clause and a special trade passenger ship safety certificate and a special trade passenger ship space certificate,

being in each case a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.]

(2) No sea-going [4][Indian cargo ship, of five hundred tons gross or more,] shall proceed on a voyage from any place in India to any place outside India unless there is in force in respect of the ship—

(a) such certificate or certificates as would be required in her case by the provisions of sub-section (*1*) if she were a passenger ship, or

[5][(*b*) a cargo ship safety construction certificate issued under section 299A, a cargo ship safety equipment certificate issued under section 300 and a cargo ship safety [6][radio certificate] issued under section 301, or]

(*c*) a [7][qualified cargo safety equipment certificate] issued under section 300 and an exemption certificate issued under section 302 being certificates which by the terms thereof are

---

1. Subs. by Act 21 of 1966, s. 21, for "registered" (w.e.f. 28-5-1966).
2. Subs. by s. 21, *ibid.*, for "in respect of an Indian ship" (w.e.f. 28-5-1966).
3. Subs. by Act 69 of 1976, s. 24, for sub-section (*1*) (w.e.f. 1-12-1976).
4. Subs. by Act 21 of 1966, s. 22, for "Indian ship of five hundred tons gross or more, not being a passenger ship" (w.e.f. 28-5-1966).
5. Subs. by s. 22, *ibid.*, for clause (*b*) (w.e.f. 28-5-1966).
6. Subs. by Act 63 of 2002, s. 13, for "radio telegraphy certificate or a cargo ship safety radio telephony certificate" (w.e.f. 1-2-2003).
7. Subs. by Act 21 of 1966, s. 22, for "qualified safety equipment certificate" (w.e.f. 28-5-1966).

applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

[1][(*2A*) No sea-going Indian cargo ship, less than five hundred tons gross, shall proceed on a voyage from any port or place in India to any port or place in India or to any port or place outside India unless there is in force in respect of the ship a cargo ship construction certificate issued under section 299A and a cargo ship equipment certificate issued under section 300 and,—

(i) a cargo ship safety radio certificate if the ship is three hundred tons gross or more;

(ii) a qualified cargo ship safety radio certificate if the ship is operating within ports or places in India and is of three hundred to five hundred tons gross; or

(iii) a cargo ship radio certificate if the ship is less than three hundred tons gross,

issued under section 301.]

(3) No sea-going [2][Indian cargo ship of the five hundred tons gross or more,] shall proceed on a voyage between ports or places in India unless there is in force in respect of the ship—

(a) [3][a cargo ship [4][safety construction certificate or cargo ship construction certificate issued under section 299A]

(b) a [5][cargo ship equipment certificate or a] [6][qualified cargo ship equipment certificate] issued under section 300 and an exemption certificate issued under section 302;

(c) a [7][cargo ship] [8][safety radio certificate or a qualified cargo ship safety radio certificate, if the ship operates between ports or places in India and is between five hundred to three thousand tons gross] issued under section 301 or an exemption certificate issued under section 302;

being a certificate which by the terms thereof is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(4) The master of every ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

**308. Production of certificates by ships other than Indian ships**.—(*1*) The master of [9][every ship, being a passenger ship or being a cargo ship of three hundred tons gross or more,] belonging to a country to which the Safety Convention applies, shall produce a valid safety convention certificate to the customs collector from whom a clearance for the ship is demanded in respect of a voyage from a port or place in India to a port or place outside India and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

(*2*) Where a valid safety convention certificate is produced in respect of a ship,[10]*** the ship, not be deemed to be unsafe for the purpose of section 342 by reason of the defective condition of her hull, equipment or machinery unless it appears that the ship cannot proceed to sea without danger to

1. Subs. by Act 63 of 2002, s 13, for sub-section (*2A*) (w.e.f. 1-2-2003).
2. Subs. by Act 21 of 1966, s. 22, for "Indian ship of five hundred tons gross or more, not being a passenger ship," (w.e.f. 28-5-1966).
3. Subs. by s. 22, *ibid.*, for "an equipment certificate" (w.e.f. 28-5-1966).
4. Subs. by Act 63 of 2002, s. 13, for "equipment certificate issued under, section 300" (w.e.f. 1-2-2003).
5. Ins. by s. 13, *ibid*. (w.e.f. 1-2-2003).
6. Subs. by Act 21 of 1966, s. 22, for "qualified equipment certificate" (w.e.f. 28-5-1966).
7. Ins. by s. 22, *ibid*. (w.e.f. 28-5-1966).
8. Subs. by Act 63 of 2002, s. 22, for "radio telegraphy certificate or a cargo ship radio telephony certificate" (w.e.f. 1-2-2003).
9. Subs. by Act 21 of 1966, s. 23, for "every ship other than an Indian ship being a passenger ship of five hundred tons gross or more" (w.e.f. 28-5-1966).
10. The words "other than an Indian ship" omitted by s. 23, *ibid*. (w.e.f. 28-5-1966).

the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

[1][(*3*) Nothing in this section shall apply in respect of an Indian ship or a nuclear ship;]

**309. Application of certain sections to certificates**.—The provisions of sections 228 to 231 (inclusive) shall apply to and in relation to every certificate issued by the Central Government under sections 299, [2][299A], 300, 301 and 302 in the same manner as they apply to and in relation to a certificate of survey.

[3][**309A. Alterations pending issue of a safely convention certificate**.—Where any survey of a ship for the purpose of issue under this Part of a safety convention certificate has been completed, then, notwithstanding anything contained in this Act, the owner, agent or master of the ship shall not, until such certificate has been issued, make, or cause to be made, any alteration in the structural arrangements, machinery, equipment and other matters covered by the survey without the prior written permission of the Central Government or a person appointed by that Government in this behalf.]

*Load lines*

**310. Ships exempt from provisions relating to load lines**.—(*1*) Save as otherwise provided in this section, the provisions of this Part relating to load lines shall apply to all sailing vessels as they apply to ships, and accordingly, the expression "ship" in the said provisions of this Part shall be construed as including a sailing vessel.

(2) The provisions of this Part relating to load lines shall not apply to—

[4][(*a*) any sailing vessel, being an existing vessel of less than one hundred and fifty tons gross, or a new vessel of less than twenty-four meters in length, and in either case employed in plying coastwise between ports situated within India, Pakistan, Burma and Ceylon;]

(b) any ship solely engaged in fishing;

(c) any pleasure yacht.

(3) The Central Government may, on such conditions as it may think fit, exempt from the provisions of this Part relating to load lines—

(a) any ship plying between the near neighboring ports of two or more countries, if the Central Government and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load lines;

(b) any ship plying between near neighbouring ports of the same country, if the Central Government is satisfied as aforesaid;

(c) wooden ships of primitive build, if the Central Government considers that it would be unreasonable or impracticable to apply the said provisions to them;

[5][(*d*) any coasting ship, being an existing ship of less than one hundred and fifty tons gross or a new ship of less than twenty-four meters in length:

Provided that any such ship does not carry cargo;

(e) any ship which embodies features of a novel kind, if the Central Government is satisfied that the application of the provisions of this Part relating to load lines to such a ship might seriously impede research into development of such features and their incorporation in ships and

1. Ins. by Act 21 of 1966, s. 23 (w.e.f. 28-5-1966).
2. Ins. by s. 24, *ibid*. (w.e.f. 28-5-1966).
3. Ins. by s. 25, *ibid*. (w.e.f.28-5-1966).
4. Subs. by Act 25 of 1970, s. 5, for clause (*a*) (w.e.f. 21-7-1968).
5. Subs. by s. 5, *ibid*., for clause (*d*) (w.e.f. 21-7-1968).

the Central Government and the Governments of the countries to be visited by the ship are satisfied that the ship complies with safety requirements which are adequate for the purposes for which the ship is intended and are such as to ensure the overall safety of the ship;

(f) any ship which is not normally engaged on voyages to ports outside India but which in exceptional circumstances is required to undertake such voyage if the Central Government is satisfied that the ship complies with safety requirements which are adequate for such voyage.]

**311. Power to make rules as to load lines**.—The Central Government may, subject to the condition of previous publication, make rules (hereafter in this Act referred to as the load line rules) regulating the survey of ships for the purpose of assignment and marking of load lines and prescribing the conditions (hereafter in this Act referred to as the conditions of assignment) on which load lines may be assigned.

**312. Marking of deck line and load lines**.—(*1*) No Indian ship, being a ship of which the keel was laid [1][on or after the 21st day of July, 1968], and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules;

(b) the ship complies with the conditions of assignment;

(c) the ship is marked on each side with a mark (hereafter in this Act referred to as a deck line) indicating the position of the uppermost complete deck as defined by the load line rules and with marks (hereafter in this Act referred to as load lines) indicating the several maximum depths to which the ship can be safely located in various circumstances prescribed by the load line rules;

(d) the deck line and load lines are of the description required by the load line rules, the deck line is in the position required by those rules, and the load lines are of the number required by such of those rules as are applicable to the ship; and

(e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

(2) No Indian ship, being a ship of which the keel was laid [2][before the 21st day of July, 1968,] and not being exempt from the provisions of this Part relating to load lines, shall proceed to sea unless—

(a) the ship has been surveyed and marked in accordance with clauses (*a*), (*c*) and (*d*) of sub-section (*1*);

(b) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the Central Government, is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship at the time when she is first surveyed under this section; and

[3][(*c*) the load lines are in the position required by clause (*e*) of sub-section (*1*).]

(3) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 336.

[4]**[312A. Alterations after survey.—**Where any survey under this Part of a ship for the purpose of assignment and marking of load lines has been completed then, notwithstanding anything contained in

1. Subs. by Act 25 of 1970, s. 6, for "after the 30th day of June, 1932" (w.e.f. 21-7-1968).
2. Subs. by s. 6, *ibid.*, for "before the 1st day of July 1932" (w.e.f. 21-7-1968).
3. Subs. by s. 6, *ibid.*, for clause (*c*) (w.e.f. 21-7-1968).
4. Ins. by s.7, *ibid.* (w.e.f. 21-7-1968).

this Act, the owner, agent or master of the ship shall not make or cause to be made any alteration in the structure, equipment, arrangements, material or scantlings covered by the survey without the prior written permission of the Central Government or a person authorised by that Government in this behalf.]

**313. Submersion of load lines**.—(*1*) An Indian ship (not being exempt from the provisions of this Part relating to load lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded.

(*2*) Without prejudice to any other proceedings under this Act, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

**314. Maintenance of load line marks**.—(*1*) No owner or master of an Indian ship which has been marked in accordance with the foregoing provisions of this Part, shall without reasonable cause, fail to keep the ship so marked.

(*2*) No person shall conceal, remove, alter, deface or obliterate, or suffer any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Part except with the authority of a person entitled under the load line rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

**315. Inspection of ships with respect to load lines**.—A surveyor may inspect any Indian ship for the purpose of seeing that the provisions of this Part relating to load lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship.

*Load line certificates*

**316. Issue of load line certificates and effect thereof**.—(*1*) Where an Indian ship has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee,—

[1][(*a*) in the case of an existing ship which is of one hundred and fifty tons gross or more or a new ship of twenty-four meters or more in length, and which in either case carries cargo or passengers, a certificate to be called "an international load line certificate";

(*aa*) in the case of a ship which is exempted under clause (*e*) or clause (*f*) of sub-section (*3*) of section 310, a certificate to be called "an international load line exemption certificate]; and,

(*b*) in the case of any other ship, a certificate to be called "an Indian load line certificate".

(2) Every such certificate shall be issued cither by the Central Government or by such other person as may be authorised in that behalf by the Central Government and shall be issued in such form and manner as may be prescribed by the load line rules.

(3) The Central Government may request the Government of a country to which the Load Line Convention applies, to issue a load line certificate in the form of an international load line certificate under that Convention in respect of an Indian ship and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Central Government.

(4) Where a load line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purposes of the foregoing provisions of this Part, be deemed to have been surveyed as required by those provisions, and if the deck line and

1. Subs. by Act 25 of 1970, s. 8, for clause (*a*) (w.e.f. 21-7-1968).

load lines on the ship are of the number and description required by the load line rules and the position of the deck line and load lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

[1][**317. Duration and cancellation of certificates.**—(*1*) Every certificate issued in respect of a ship under clause (*a*) or clause (*b*) of sub-section (*1*) of section 316 and every certificate issued under clause (*aa*) of that sub-section to a ship referred to in clause (*e*) of sub-section (*3*) of section 310 shall be in force for a period of five years from the date of its issue or for such shorter period as may be specified in the certificate but subject to the provisions of this Part, a new certificate may be issued in respect of such ship:

Provided that where it is not possible to issue such new certificate to any ship before the expiry of its existing certificate, the Central Government or any other person authorised by it to issue such certificate may, on being satisfied that no alterations affecting the ship's free board have been made in the structure, equipment, arrangements, material or scantlings, after the last survey of the ship under sub-section (*5*), extend the validity of the existing certificate for such period not exceeding five months as the Central Government or such person may deem fit.

[2][Provided further that when the survey for the purpose of issue of certificate under sub-section (1) of section 316 is completed within three months before the expiry date of the existing certificate, the new certificate may be valid from the date of completion of such survey to a date not exceeding five years from the date of expiry of the existing certificate.]

(2) Every certificate issued under clause (*aa*) of sub-section (*1*) of section 316 to a ship referred to in clause (*f*) of sub-section (*3*) of section 310 shall cease to be valid upon the completion of the voyage in respect of which such certificate was issued.

(3) Notwithstanding anything contained in the foregoing provisions of this section, any certificate issued in respect of a ship under sub-section (*1*) of section 316 [3][shall cease to be valid when—

(a) the ship ceases to be an Indian ship;

(b) material alterations such as would necessitate the assignment of an increased free board have taken place in the hull or superstructure of the ship;

(c) the fittings and appliances for the protection of openings, the guard rails, freeing ports, or the means of access to the crew's quarters are not maintained in an effective condition;

(d) the structural strength of the ship is lowered to such an extent as to render the ship unsafe;

(e) the certificate is not endorsed to prove that the ship has been surveyed as required under sub-section (*5*); or

(f) the marking of the deck line and load lines on the ship have not been properly maintained].

[4]* * * * *

(*5*) The owner of every ship in respect of which any certificate has been issued under sub-section (1) of section 316 shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner [3][and the certificate endorsed once at least in each year during the period commencing three months before and ending three months after the anniversary date of expiry of the certificate for the purpose of ensuring that—

(a) alterations have not been made to the hull or superstructure which would affect the calculations determining the position of the load lines;

(b) the fittings and the appliances for the protection of openings, the guard rails, freeing ports, or the means of access to the crew's quarters are maintained in an effective condition;

---

1. Subs. by Act 25 of 1970, s. 9, for section 317 (w.e.f. 21-7-1968).
2. Ins. by Act 63 of 2002, s. 14 (w.e.f. 1-2-2003).
3. Subs. by s. 14, *ibid.*, for certain words (w.e.f. 1-2-2003).
4. Omitted by s. 14, *ibid.* (w.e.f. 1-2-2003).

(c) the free board marks are correctly and permanently marked; and

(d) the stability information required under section 298 is readily available on board]

[1][(*6*) If an annual survey is completed before the period specified in sub-section (*5*) then,—

(a) the anniversary date mentioned on the certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;

(b) the subsequent annual survey required by sub-section (5) shall be completed using the new anniversary date;

(c) the expiry date of the certificate may remain unchanged provided one or more annual survey is carried out so that the maximum interval between the surveys specified under sub-section (*5*) is not exceeded.

(*7*) If a certificate under sub-section (*1*) of section 316 is issued for a period of less than five years, the Central Government or any person authorised by it in this behalf, may extend the validity of the certificate beyond the expiry date to a maximum period specified in sub-section (*1*):

Provided that, annual surveys referred to in sub-section (*5*) are carried out as may be appropriate.

(*7A*) If a ship at the time when a certificate expires is not in a port at which it is to be surveyed, the Central Government or any person authorised by it in this behalf may extend the period of validity of the certificate, but this extension shall be granted only for the purpose of allowing the ship to complete the voyage to the port in which it is to be surveyed and also only in cases where it appears proper and reasonable to do so:

Provided that no certificate shall be extended for a period longer than three months and the ship to which an extension is granted shall not on its arrival at the port in which it is to be surveyed leave that port without having a new certificate:

Provided further that when the survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate.

(*7B*) A certificate, issued to a ship engaged in short voyage which has not been extended under sub-section (*7A*), may be extended by the Central Government or any person authorised by it in this behalf for a period up to one month from the date of expiry and when the survey is completed, the new certificate shall be valid up to a date not exceeding five years from the date of expiry of the existing certificate.

(*7C*) In special circumstances where the Central Government so determines a new certificate, need not be dated from the date of expiry of the existing certificate, shall be valid up to a date not exceeding five years from the date of completion of the survey.]

(8) Where any certificate has ceased to be valid or been cancelled under this section, the Central Government may require the owner or master of the ship to which the certificate relates to deliver up the certificate as it directs and the ship may be detained until such Requirement has been complied with.

(9) On the survey of any ship in pursuance of this section, there shall be paid by the owner of the ship such fee as may be prescribed.]

**318. Ships not to proceed to sea without certificate**.—(*1*) No Indian ship shall proceed to sea unless there is in force in respect of the ship a load line certificate issued under the provisions of section 316.

1. Subs. by Act 63 of 2002, s. 14, for sub-sections (*6*) and (*7*) (w.e.f. 1-2-2003).

(*2*) The master of every Indian ship shall produce to the customs collector, from whom a port clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

**319. Publication of load line certificate and particulars relating to depth of loading**.—(*1*) When a load line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of an Indian ship other than a home-trade ship of less than two hundred tons gross—

(a) the owner of the ship shall forthwith on the receipt of the certificate cause it to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log book, shall enter or cause to be entered therein the particulars as to the position of the deck line and load lines specified in the certificate.

(2) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall—

(a) enter or cause to be entered in the official log book such particulars relating to the depth to which the ship is for the time being loaded as the Central Government may by rules made in this behalf prescribe; and

(b) cause a notice in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Central Government may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (*b*) of this sub-section.

**320. Insertion of particulars as to load lines in agreements with crew**.—(*1*) Before an agreement with the crew of any ship in respect of which a load line certificate is in force, is signed by any member, of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load lines specified in the certificate.

(2) In the case of a ship required by this Act to engage its crew before a shipping master, the shipping master shall not proceed with the engagement of the crew until—

(a) there is produced to him a load line certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

*Special provisions as to ship other than Indian ships*

**321. Issue of load line certificates to foreign ships in India and Indian ships in foreign countries**.—[1][(*1*)] The Central Government may, at the request of a country to which the Load Line Convention applies, issue an international load line certificate in respect of a ship [2][registered or to be registered] in that country if it is satisfied in like manner as in the case of an Indian ship that it can properly issue the certificate and where the certificate is issued at such a request, it shall contain a statement that it has been so issued.

[3][(*2*) The Central Government shall, as soon as may be, after the issue of a certificate in respect of a ship under sub-section (*1*), forward to the Government at whose request such certificate was issued a copy each of the certificate, the survey report used in computing the free, board of the ship and of the computations.]

---

1. Section 321 renumbered as sub-section (*1*) thereof by Act 25 of 1970, s.10 (w.e.f. 21-7-1968).
2. Subs. by s. 10, *ibid*., for the word "registered" (w.e.f. 21-7-1968).
3. Ins. by s. 10, *ibid*. (w.e.f. 21-7-1968).

**322. Recognition of load line certificates issued outside India.—**An international [1][load line certificate or, as the case may be, an international load line exemption certificate] issued in respect of any ship other than an Indian ship by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as a [1][load line certificate or, as the case may be, an international load line exemption certificate] issued in respect of an Indian ship under this Part.

**323. Inspection and control of Load Line Convention ships other than Indian ships.—**[2][(*1*) A surveyor may, at any reasonable time, go on board any ship (other than an Indian ship) carrying cargo or passengers and registered in a country to which the Load Line Convention applies, when such ship is within any port in India, for the purpose of demanding the production of any international load line certificate or, as the case may be, international load line exemption certificate for the time being in force in respect of the ship:

Provided that such ship is an existing ship of one hundred and fifty tons gross or more or a new ship of twenty-four meters or more in length.]

(2) If a valid international load line certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load line shall be limited to seeing—

(a) that the ship is not loaded beyond the limits allowed by the certificate;

(b) that the position of the load lines on the ship corresponds with the position specified in the certificate;

[3][(*c*) that no material alterations as would necessitate the assignment of an increased free board have taken place in the hull or superstructures of the ship;]

(*d*) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship [4][in an effective condition.]

[5][(*2A*) If a valid international load line exemption certificate is produced to the surveyor on demand made under sub-section (*1*), the surveyor's powers of inspecting the ship with respect to load lines shall be limited to seeing that the conditions stipulated in the certificate are complied with.]

(3) If it is found [6][on any inspection under sub-section (*2*) or, as the case may be, sub-section (*2A*)] that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and the provisions of section 342 shall apply.

(4) If it is found [6][on any inspection under sub-section (*2*) or, as the ease may be, sub-section (*2A*)] that the load lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(5) If it is found [6][on any inspection under sub-section (*2*) or, as the case may be, sub-section (*2A*)] that the ship has been so materially altered in respect of the matters referred to in clauses (*c*) and (d) of sub-section (*2*) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 336 (in the case of an Indian ship) or for the purpose of section 342 (in the case of any other ship):

Provided that where the ship has been detained under either of the last-mentioned sub-sections, the Central Government shall order the ship to be released as soon as, it is satisfied that the ship is fit to proceed to sea without danger to human life.

---

1. Subs. by Act 25 of 1970, s. 11, for "load line certificate" (w.e.f. 21-7-1968).
2. Subs. by s. 12, *ibid.*, for sub-section (*1*) (w.e.f. 21-7-1968).
3. Subs. by s. 12, *ibid.*, for clause (*c*) (w.e.f. 21-7-1968).
4. Subs. by s. 12, *ibid.*, for certain words (w.e.f. 21-7-1968).
5. Ins. by s. 12, *ibid*. (w.e.f. 21-7-1968).
6. Subs. by s. 12, *ibid*., for "on any such inspection" (w.e.f. 21-7-1968).

(6) If a valid international load line certificate [1][or, as the case may be, international load line exemption certificate] is not produced to the surveyor on such demand as aforesaid the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part relating to load lines have been complied with as if the ship were an Indian ship.

(7) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded.

**324. Certificate of Load Line Convention ships other than Indian ships to be produced to customs**.—The master of every ship other than an Indian ship being a ship of one hundred and fifty tons gross or more carrying cargo or passengers, and belonging to a country to which the Load Line Convention applies, shall produce to the Customs Collector from whom a port clearance for the ship from any port of India is demanded—

(a) in a case where port clearance is demanded in respect of a voyage to a port outside India, a valid international load line certificate;

(b) in a case where port clearance is demanded in respect of any other voyage, either a valid international load line certificate or a valid Indian load line certificate;

and the port clearance shall not be granted, and the ship may be detained, until the certificate required by this section is so produced.

**325. Marking of deck line and load lines of ships other than Indian ships**.—The provisions of section 312 shall apply to ships other than Indian ships proceeding or attempting to proceed to sea from ports in India as they apply to Indian ships subject to the following modifications, namely:—

(a) the said section shall not apply to a ship other than an Indian ship if a valid international load line certificate is produced in respect of the ship; and

(b) subject to the provisions of clause (*a*), a ship other than an Indian ship which does not comply with the conditions of assignment to the extent required in her case by section 323 shall be deemed to be unsafe for the purpose of section 342.

**326. Submersion of load line of ships other than Indian ships**.—The provisions of section 313 shall apply to ships other than Indian ships, while they are within any port in India as they apply to Indian ships subject to the following modifications, namely:—

[2][(*a*) no ship belonging to a country to which the Load Line Convention applies being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 323; and]

(b) the expression "the appropriate load line" in relation to any ship other than an Indian ship shall mean—

(i) in the case of a ship in respect of which there is produced on such, an inspection as aforesaid a valid international load line certificate, [2][or, as the case may be, an international load line exemption certificate] the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention, to be loaded;

1. Ins. by Act 25 of 1970, s.12 (w.e.f. 21-7-1968).
2. Ins. by s. 13, *ibid*. (w.e.f. 21-7-1968).

(ii) in any other case, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded, or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

**327. Inspection of ships other than Indian ships belonging to non-Convention countries**.—The provisions of section 315 shall apply, in the same manner as they apply to Indian ships, to all ships registered in a country to which the Load Line Convention does not apply while they are within Indian jurisdiction.

**328. Load line certificates and international load line exemption certificates of ships other than Indian ships**.—(*1*) The provisions of this Part relating to the issue, effect, duration, [1][and cancellation of Indian load fine certificates or, as the case may be, international load lines exemption certificates] shall apply to ships other than Indian ships as they apply to Indian ships subject to the following modifications, namely:—

(a) any such certificate may be issued in respect of any such ship as in respect of an Indian ship provided that [2][any such certificate issued in respect of a ship carrying cargo or passengers being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length] and registered, in a country to which the Load Line Convention applies, shall only be valid so long as the ship is not plying on voyages from or to any port in India to or from any place outside India and shall be endorsed with a statement to that effect and shall be cancelled by the Central Government if it has reason to believe that the ship is so plying; and

(b) the survey required for the purpose of seeing whether the certificate should remain in force shall take-place when required by the Central Government.

(2) If the Central Government is satisfied—

(a) that provisions has been made for the fixing, marking and certifying of load lines by the law in force in any country outside India with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising Indian load line certificates as having the same effect in ports of that country as certificates issued under the said provision; and

(b) that the said provision for fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part relating to load lines and is equally effective,

it may, by notification in the Official Gazette, direct that load line certificates issued in pursuance of the said provision or in respect of ships (or that class or description of ships) of that country, shall have the same effect for the purpose of this Part as Indian load line certificates:

[3][Provided that such direction shall not apply to any ship carrying cargo or passengers being an existing ship of one hundred and fifty tons gross or more or being a new ship of twenty-four metres or more in length if such ship is registered in a country to which the Load Line Convention applies, and is engaged in plying on voyages from or to any port in India to or from any port outside India.]

**329. Certificates to be produced to customs by ships other than Indian ships registered in non-Convention countries**.—The master of every ship registered in a country to which the Load Line Convention does not apply shall produce to the customs collector from whom a port clearance for the ship from any port in India is demanded, either an Indian load line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and the port clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

---

1. Subs. by Act 25 of 1970, s. 14, for the words "renewal and cancellation of Indian load line certificates" (w.e.f. 21-7-1968).
2. Subs. by s. 14, *ibid.*, for "any such certificate issued in respect of a ship of 150 tons gross or more carrying cargo or passengers" (w.e.f. 21-7-1968).
3. Subs. by s. 14, *ibid.*, for the proviso (w.e.f. 21-7-1968).

*Loading of timber*

**330. Power to make rules as to timber cargo**.—(*1*) The Central Government shall, subject to the condition of previous publication, make rules (hereafter in this section referred to as the timber cargo rules) as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any Indian ship.

(2) The timber cargo rules may prescribe a special load line to be used only when the ships carrying timber as cargo on deck and the conditions on which such special load line may be assigned, and may further prescribe either generally or with reference to particular voyages and seasons the manner and position in which such timber is to be stowed and the provisions which are to be made for the safety of the crew.

(3) Any surveyor may at any reasonable time, inspect any Indian ship carrying a timber as cargo in any uncovered space on her deck for the purpose of seeing whether the timber cargo rules have been complied with.

(4) The foregoing provisions of this section and the timber cargo rules shall apply to ships other than Indian ships while they are within Indian jurisdiction as they apply to Indian ships.

*Dangerous goods and grain cargoes*

**331. Carriage of dangerous goods**.—(*1*) The Central Government may make rules for regulating in the interests of safety the carriage of dangerous goods in ships.

[1][(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the classification, packing, labelling and marking of such goods or any class of such goods, stowing of such goods (whether with or without other cargo) including plans for stowing, the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships, and such other matters relating to dangerous goods as required to be provided for implementing the provisions of the Safety Convention.]

(3) The owner, master or agent of a ship carrying or intending to carry any dangerous goods as cargo and about to make a voyage from a port in India shall furnish in advance the prescribed particulars of the ship and the cargo to such authority as may be prescribed for the purpose.

(4) A surveyor may inspect the ship for the purpose of securing that any rules under this section are complied with.

(5) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the ship shall be deemed for the purpose of this Part to be an unsafe ship.

(6) This section shall apply, in the same manner as it applies to Indian ships, to ships other than Indian ships while they are within any port in India or are embarking or disembarking passengers or are loading or discharging cargo or fuel within Indian jurisdiction.

*Explanation*.— In this section the expression "dangerous goods" means goods which by reasons of the nature, quantity or mode of stowage are either singly or collectively liable to endanger the life or the health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression "explosive" as defined in the Indian Explosives Act, 1884, and any other goods which the Central Government may by notification in the Official Gazette specify as dangerous goods [2][but shall not include,—

(a) any fog or distress signals or other stores or equipment required to be carried by the ship under this Act or the rules or regulations thereunder;

(b) particular cargoes carried in ships specially built or converted as a whole for that purpose, such as tankers.]

1. Subs. by Act 21 of 1966, s. 26, for sub-section (*2*) (w.e.f. 28-5-1966).
2. Subs. by s. 26, *ibid.*, for certain words (w.e.f. 28-5-1966).

[1][**331A. Grain loading plan**.—(*1*) No grain shall be loaded on board any Indian ship anywhere unless there is in force in respect of such ship a grain-loading plan approved under sub-section (*3*) or sub-section (*4*).

(2) The grain-loading plan shall be in such form and contain such particulars as to the stability of the ship, circumstances of loading on departure and arrival, the main characteristics of the fittings used to prevent the shifting of cargo and such other matters as may be prescribed, having regard to the rules made under sub-section (*5*) of section 332.

(3) Save as otherwise provided in sub-section (*4*), the grain-loading plan shall be submitted to the Central Government for approval and that Government may, having regard to the rules made under sub-section (*5*) of section 332, the stability of the ship and the circumstances of loading on departure and arrival, approve the plan with such modifications, if any, as it may deem necessary.

(4) The Central Government may request the Government of a country to which the Safety Convention applies to approve the grain-loading plan of an Indian ship and an approval given in pursuance of such a request and containing a statement that it has been so given shall have effect for the purposes of this section as if the approval had been given by the Central Government.

(5) The Central Government may, at the request of the Government of a country to which the Safety Convention applies approve the grain-loading plan of a ship registered in that country if the Central Government is satisfied, in the like manner as in the case of an Indian ship, that such approval can properly be given and where approval is given at such a request, it shall contain a statement that it has been so given.

(6) It is hereby declared that for the purposes of section 208 (which requires document relating to navigation to be delivered by the master of a ship to his successor) the plan shall be deemed to be a document relating to the navigation of the ship.]

**332. Carriage of grain**.—(*1*) Where grain is loaded on board any Indian ship anywhere or is loaded within any port in India on board any other ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner or the master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with grain shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside India without all necessary and reasonable precuations having been taken to prevent the grain from shifting, enters any port in India so laden, the owner or master of the ship shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

[2][(*2A*) Where grain is loaded on board an Indian ship in accordance with a grain loading plan approved under section 331A or where grain is loaded on board any other ship in accordance with a grain-loading plan approved by or on behalf of the Government of the country in which that ship is registered, the ship shall be deemed, for the purposes of sub-sections (*1*) and (*2*), to have been loaded with all necessary and reasonable precautions.]

(3) On the arrival at a port in India from a port outside India of any ship carrying a cargo of grain, the master shall cause to be delivered at the port to such customs or other officer as may be specified by the Central Government in this behalf, a notice stating-

(a) the draught of water and free board of the said ship after the loading of the cargo was completed at the final port of loading; [3]***

[4][(*b*) the kind of grain carried and quantity thereof stated in cubic feet, quarters, bushels or tons weight; and

---

1. Ins. by Act 21 of 1966, s. 27 (w.e.f. 28-5-1966).
2. Ins. by s. 28, *ibid.* (w.e.f. 28-5-1966).
3. The word "and" omitted by s. 28, *ibid.* (w.e.f. 28-5-1966).
4. Subs. by s. 28, *ibid.*, for clause (*b*) (w.e.f. 28-5-1966).

(*c*) the mode in which the grain is stowed and the precautions taken to prevent the grain from shifting and where the grain has been stowed in accordance with the ships" grain-loading plan, if any, that it has been so stowed.]

[1][(*4*) any person authorised in this behalf, by general or special order of the Central Government may, for securing the observance of the provisions of this section, go on board a ship carrying a cargo of grain and require the production of the grain-loading plan of the ship and inspect the mode in which the cargo is stowed in the ship.]

(5) The Central Government may, subject to the condition of previous publication, [2][make rules in relation to grain-loading plans and the loading of ships] with grain generally or of ships of any class specifying the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression necessary and reasonable precautions".

(6) In [3][section 331A and this section,] the expression "gram" includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage reckoning one hundred cubic feet or two tons of weight of grain as equivalent to one ton of registered tonnage.

*Sub-division load lines*

**333. Submersion of sub-division load lines in case of passenger ships**.—(*1*) Where—

(a) an Indian passenger ship has been marked with sub-division load lines, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is sub-divided and to the space for the time being allotted to passengers, and

(b) the appropriate sub-division load line, that is to say, the sub-division load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under the provisions of this Part to be loaded,

the ship shall not be so loaded as to submerge in salt water the appropriate sub-division load line on each side of the ship when the ship has no list.

(*2*) Without prejudice to any other proceedings under this Act, any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

*Unseaworthy ships*

**334. Unseaworthy ship not to be sent to sea**.—(*1*) Every person who sends or attempts to send an Indian ship to sea from any port in India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(2) Every master of an Indian ship who knowingly lakes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Central Government.

---

1. Subs. by Act 21 of 1966, s. 28, for sub-section (*4*) (w.e.f. 28-5-1966).
2. Subs. by s. 28, *ibid*., for "make rules in relation to the loading of ships" (w.e.f. 28-5-1966).
3. Subs. by s. 28, *ibid.*, for "this section" (w.e.f. 28-5-1966).

(5) A ship is "unseaworthy" within the meaning of this Act when the materials of which she is made, her construction, qualifications of the master, the number, description and qualifications of the crew including officers, the weight, description and stowage of the cargo and ballast, the condition of her hull and equipment, boilers and machinery are not such as to render her in every respect fit for the proposed voyage or service.

**335. Obligation of owner to crew with respect to seaworthiness.**—(*1*) In every contract of service, express or implied between the owner of an Indian ship and the master or any seaman thereof, and in every contract of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

(*2*) For the purpose of seeing that the provisions of this section have been complied with, the Central Government may, either at the request of the owner or otherwise, arrange for a survey of the hull, equipment or machinery of any sea-going ship by a surveyor.

*Detention of unsafe ships by the Central Government*

**336. Power to detain unsafe ship and procedure for detention.**—(*1*) Where an Indian ship in any port to which the Central Government may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such slip any be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

(a) The Central Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.

(b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

(c) When the Central Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving the report, may either order the ship to be released or if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Central Government thinks necessary for the protection of human life.

(d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the court of survey for the port where the ship is detained.

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Central Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no right of appeal. If the surveyor and assessor differ in their report, the Central Government may act as if the requisition

had not been made, and the owner or master shall have a right of such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(f) Where a ship has been provisionally detained, the Central Government may at any time if it thinks it expedient, refer the matter to the Court of survey for the port where the ship is detained.

(g) The Central Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Central Government for the purpose (in this Act referred to as a detaining officer) shall have the same power as the Central Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her, and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining officer shall forthwith report to the Central Government any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her Indian register being subsequently closed.

*Costs of detention and damages incidental thereto*

**337. Liability of Central Government for costs and damage when ship wrongly detained**.—If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner or the master, for the provisional detention of a ship, the Central Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

**338. Liability of ship owner for costs when ship rightly detained**.—If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event occurs, the owner of the ship shall be liable to pay to the Central Government its costs of and incidental to the detention and survey of the ship; and the ship shall not be released until such costs are paid.

**339. Method of calculating costs of detention and survey**.—For the purposes of this Act, the costs of and incidental to any proceeding before a Court of survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Central Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

**340. Power to require from complainant security for costs, etc**.—When a complaint is made to the Central Government or a detaining officer that an Indian ship is unsafe, it shall be in the discretion of the Central Government or the detaining officer, as the case may be, to require the complainant to give security to the satisfaction of the Central Government or the detaining officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Central Government or the detaining officer frivolous or vexatious, such security shall not be required; and the Central Government or the detaining officer shall, if the complaint is made insufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

**341. Costs, etc., payable by Central Government recoverable from complainant**.—Where a ship is detained in consequence of any complaint and the circumstances are such that the Central Government is liable under this Part to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Central Government all such costs and compensation as the Central Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

**342. Application to ships other than Indian ships of provisions as to detention**.—When a ship other than an Indian ship is in a port in India and is, whilst at that port, unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that ship as if she were an Indian ship with the following modifications, namely: —

(a) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

(b) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Central Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Central Government shall cause the ship, to be detained or released accordingly, but, if they differ, the Central Government may act as if the requisition had not been made, and the owner and master shall have the like right of appeal to a Court of survey touching the report of the surveyor as is hereinbefore provided in the case of an Indian ship; and

(c) where the owner or master of the ship appeals to the Court of survey, the consular officer, at the request of the owner or master, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were an Indian ship, would be appointed otherwise than by the Central Government.

**343. Exemption of ships from certain provisions of this Part**.—(1) Nothing in this Part—

(a) prohibiting a ship from proceeding to sea unless there are in force in relation to the ship, or are produced the appropriate certificates issued under this Part or the appropriate safety convention certificates;

(b) requiring information about a ship's stability to be carried on board,

shall, unless in the case of information about a ship's stability the Central Government otherwise orders, apply to any troopship, pleasure yacht or fishing vessel or to [1][any cargo ship of less than three hundred tons gross] or to any ship not fitted with mechanical means of propulsion.

(2) Nothing in the preceding sub-section shall affect the exemption conferred by any other provision of this Act.

(3) Nothing in this Part shall apply to any ship other than an Indian ship while it is within any port in India if it would not have been within such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

**344. Power to make rules respecting certificates under this Part**.—(*1*) The Central Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Part relating to certificates granted under this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

[2][(*a*) the form of any certificate and record of equipment issued under this Part;

(*aa*) the manner of surveys required to be made in respect of ships to which the manner of surveys specified in the Safety Convention is not applicable;]

1. Subs. by Act 21 of 1966, s. 29, for "any ship of less than five hundred tons gross other than a passenger ship" (w.e.f. 28-5-1966).
2. Subs. by Act 63 of 2002, s.15, for clause (*a*) (w.e.f. 1-2-2003).

(b) the circumstances in which a certificate purporting to have been issued outside India in accordance with the provisions of the Safety Convention or the Load Line Convention shall be recognised in India;

(c) the fees to be charged in respect of any certificate issued under this Part and the manner in which such fees may be recovered.

[1][(*d*) the fees to be charged for the survey or inspection of hull, machinery, boilers, electrical appliances and other fittings and the materials used for their construction, fire appliances, life-saving appliances, radio communications equipment, radar, echo sounding device and gyro compass, or testing or approval of any of the foregoing equipments or materials used for their manufacture, or examination of plans of construction of any part of ships' hull, machinery, electrical appliances and other equipment aforesaid and the manner in which such fees may be recovered.]

## [2][PART IXA

## NUCLEAR SHIPS

**344A.Application of Act to nuclear ships.—**(*1*) This Part applies only to nuclear ships.

(2) Notwithstanding anything contained in this Act, a nuclear ship shall not be required to obtain or produce any certificate referred to in sub-clauses (*i*) to (*ix*) of clause (*38*) of section 3 or, as the case may be, any like valid safety convention certificate.

(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act (other than the provisions of this Part and the provisions of section 456) specified in the notification—

(a) shall not apply to nuclear ships; or

(b) shall apply to nuclear ships, only with such exceptions, modifications and adaptations as may be specified in the notification.

(4) A copy of every notification proposed to be issued under sub-section (*3*) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are in session and it shall not be issued until it has been approved, whether with or without modification, by each House of Parliament.

**344B. Nuclear passenger ship safety certificates and nuclear cargo ship safety certificates**.—(*1*) If in respect of any Indian nuclear passenger or cargo ship the Central Government is satisfied that the ship has been surveyed in accordance with this Act and has been inspected by a person appointed in this behalf by the Central Government and has complied with such special requirements, if any, as that person has, after such inspection, specified, the Central Government may issue—

(a) in the case of a passenger ship, a nuclear passenger ship safety certificate;

(b) in the case of a cargo ship, a nuclear cargo ship safety certificate.

(2) A certificate issued under sub-section (*1*) shall be in force for a period of twelve months from the date of issue or for such shorter period as may be specified in the certificate.

**344C. Prohibition of proceeding to sea without certificates.—**(*1*) No Indian nuclear ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship—

(a) a nuclear passenger ship safety certificate, if she is a passenger ship;

(b) a nuclear cargo ship safety certificate, if she is a cargo ship.

---

1. Ins. by Act 12 of 1983, s. 9 (w.e.f. 18-5-1983).
2. Ins. by Act 21 of 1966, s. 30 (w.e.f. 28-5-1966).

(*2*) The master of a ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate required by sub-section (*1*) when the ship proceeds to sea and the port clearance shall not be granted and the ship may be detained until the said certificate is so produced.

**344D. Safety assessment and operating manual.—**(*1*) Every Indian nuclear ship shall have on board a safety assessment and an operating manual in such form and containing such particulars and approved by such authority as may be prescribed.

(*2*) The safety assessment and the operating manual shall be prepared, maintained and kept up-to-date in such manner as may be prescribed.

**344E. Foreign nuclear ships to give advance notice of arrival**.**—**(*1*) No nuclear ship, other than an Indian ship, shall enter the territorial waters of India unless the master, owner or agent thereof has given such advance notice of the ship's intended arrival in India as may be prescribed, to such authority as may be specified by the Central Government, and has forwarded along with the notice a true copy of the ship's safety assessment to that authority.

(*2*) If on the examination and evaluation of the ship's safety assessment the authority referred to in sub-section (*1*) is of opinion that the entry of the ship will involve unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may direct the nuclear ship not to enter the territorial waters of India and the ship shall comply with such direction.

**344F. Control on arrival of nuclear ships.—**(*1*) The master of every nuclear ship shall, on arrival at a port in India, give notice of the ship's arrival in the prescribed form to such authority as the Central Government may specify in this behalf.

(2) Any person authorised in this behalf (hereinafter referred to as the authorised person), by general or special order of the Central Government, may go on board such ship for the purpose of verifying that she has on board a valid nuclear passenger ship safety certificate or, as the case may be, nuclear cargo ship safety certificate and for the purpose of satisfying himself after examining the safety assessment and operating manual and such other things as he deems fit that there are no unreasonable radiation or other hazards to the crew, passengers members of the public, waterways, food or water resources.

(3) If the authorised person is satisfied after such examination that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may issue a certificate to that effect.

**344G. Notice of accidents to nuclear ships.—**(*1*) Where an Indian nuclear ship meets with an accident and such accident is likely to lead to environmental hazards, the master of the ship shall forthwith give notice of the accident**—**

(a) to such officer or authority as may be specified in this behalf by the Central Government; and

(b) if the ship is in or intends to enter the territorial water of a foreign State, also to the appropriate Government authority of the State.

(2) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (*1*) while she is in the territorial waters of, or at a port in, India, the master of the ship shall forthwith give notice of the accident to the officer or authority specified under clause (*a*) of sub-section (*1*).

(3) On receipt of a notice under sub-section (*1*) or sub-section (*2*), the officer or authority specified under clause (*a*) of sub-section (*1*) shall issue such directions as he thinks necessary and expedient in the circumstances of the case and investigate into the causes of the accident in such manner as may be prescribed.

(4) A copy of the directions issued under sub-section (*3*) and a report of the findings of the investigation shall be sent to the Central Government within such time as may be prescribed.

(5) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (*1*) at any port or place outside India and intends to enter the territorial waters of India in a damaged condition, the master of such ship shall give notice of the nature of the accident and the condition of the ship in such form as may be prescribed to the officer or authority specified under clause (*a*) of sub-section (*1*) and shall comply with such directions as that officer or authority may give.

(6) The provisions of this section are in addition to and not in derogation of the provisions, of Part XII of this Act.

**344H. Application of certain sections to or in relation to certain certificates under section 344B.—**(*1*) The provisions of sections 228 to 231 (inclusive) shall, so far as may be, apply to and in relation to every certificate issued by the Central Government under section 344B in the same manner as they apply to and in relation to a certificate of survey.

(*2*) The provisions of section 309 A shall apply to and in relation to a nuclear ship surveyed for the purpose of issue of a certificate under section 344B as they apply to and in relation to a ship surveyed for the purpose of issue of a safety convention certificate under Part IX.

**344-I. Power to make rules**.— (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the design, construction and standards of inspection and assembly of the reactor installations of nuclear ships;

(b) the standards of safety of nuclear ships;

(c) the manner of survey of nuclear ships;

(d) the forms in which certificates under this Part may be issued;

(e) the form and manner in which the safety assessment and operating manual of a nuclear ship are to be prepared, maintained and kept up-to-date and the particulars to be contained therein;

(f) the form of notices under this Part and the time when such notices should be given;

(g) the manner in which investigations may be made into causes of accidents to a nuclear ship;

(h) the special precautions to be taken against unreasonable radiation or other nuclear hazards to the crew, passengers and other persons, to waterways and to food and water resources;

(i) the manner in which radio-active waste from nuclear ships is to be stowed and disposed of;

(j) the manner in which the reactor fuelling, defuelling and refuelling and maintenance of nuclear ships are to be carried out;

(k) the special training for and qualifications of, masters and seamen of nuclear ships;

(l) the special requirements relating to approach, entry into, stay in or departure from, an Indian port of a nuclear ship;

(m) the procedure to be followed for determining the operational conditions of a nuclear ship;

(n) the protection and closure of the reactor installation of nuclear ships in the case of a collision, grounding, fire, leakage of radio-active material or other accident;

(o) the fees to be charged for any inspection survey or certificate under this Part;

(p) any other matter which has to be or may be prescribed.]

[1][PART IXB

SECURITY OF SHIPS AND PORT FACILITIES

**344J. Application.—**(*1*) Subject to sub-section (*2*), this Part shall apply to—

(a) the following types of ships engaged on international voyages, namely:—

(i) passenger ships including high speed passenger craft;

(ii) cargo ships including high speed craft of five hundred gross tonnage and above;

(iii) mobile offshore drilling units:

Provided that the Central Government may extend the application of this Part to those ships which are exclusively engaged on coastal voyages;

(b) the port facilities serving ships referred to in clause (*a*):

Provided that the Central Government may, after taking decision, on the basis of port facility security assessment having carried out under this Part, extend the application of this Part to those port facilities which, although used primarily by ships not engaged on international voyages, are occasionally required, to serve ships arriving or departing on international voyages.

(2) This Part shall not apply to war ships, naval auxiliaries, or other ships owned or operated by the Central Government and used only for non-commercial service by that Government.

**344K. Definitions.—**In this Part, unless the context otherwise requires,—

(a) "company" means the owner of the ship who, or any organisation which has assumed the responsibility of operation of the ship from the owner of such ship and who or which has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;

(b) "declaration of security" means an agreement between ships or a ship and a port facility specifying therein the security measures to be complied with;

(c) "designated authority" means such authority as the Central Government may, by notification in the Official Gazette, specify;

(d) "International Ship and Port Facility Security Code" means the code for the security of ships and port facilities provided in the Safety Convention;

(e) "port facility" means any location or area including anchorages or waiting berths or approaches from seaward and determined by the Central Government or the designated authority, as the case may be, where interface between ships or a ship and a port takes place;

(f) "recognised security organisation" means any organisation, company, firm or body of individuals having expertise in matters relating to security and knowledge of ship, and port operations, which or who are authorised by the Central Government by notification in the Official Gazette, to carry out assessment or verification or approval or certification required by this Part or by the International Ship arid Port Facility Code;

(g) "security level" means the qualification of the degree of risk associated with the threat or an unlawful act against a ship, or against a port facility or any other area connected therewith;

(h) words and expressions used in this Part but not defined in this Part shall have the respective meanings as assigned to them in the Safety Convention.

**344L. Ship identification number.—**(*1*) The Central Government or the designated authority, as the case may be, shall provide every Indian ship of one hundred gross tonnage and above and every Indian cargo ship of three hundred gross tonnage and above, a ship identification number, which conforms to the relevant scheme formulated by the International Maritime Organisation.

1. Ins. by Act 40 of 2007, s. 6 (w.e.f. 1-3-2008).

(*2*) All the certificates issued under this Act and all certified copies thereof shall bear the ship identification number.

**344M. Security measures.—**(*1*) The Central Government or the designated authority, as the case may be, shall set security levels taking into consideration human element such as shore leave and provide information thereof to all the Indian ships, as may be prescribed.

(*2*) The Central Government or the designated authority, as the case may be, shall set security levels and provide information thereof to port facilities within India and to every ship prior to entering an Indian port or while in a port within India, as may be prescribed:

Provided that the Central Government may authorise any recognised security organisation to carry out any of the security measures under this section, on behalf of it, with such conditions as may be prescribed.

**344N. Port facility assessment.—**The Central Government shall carry out port facility assessment in the manner as may be prescribed.

**344-O. Obligations of companies, etc.—**Every company, ship or port facility shall comply with the relevant requirements under the Safety Convention and the International Code for the Security of Ships and Port Facility.

**344P. Obligations of port facility.—**Every port facility in India shall comply with the requirement of this Part or the rules made thereunder.

**344Q. International Ship Security Certificate.—**The Central Government or the designated authority or the authorised person, as the case may be, shall issue every Indian ship to which this Part applies, an International Ship Security Certificate or an Interim International Ship Security Certificate, as the case may be, in the form and manner as may be prescribed.

**344R. Ship Security Alert System.—**Every Indian ship shall be provided with such Ship Security Alert System, as may be prescribed.

**344S. Control measures.—**Every ship to which this Part applies shall be subject to such control measures as may be prescribed.

**344T. Power to make rules.—**(*1*) The Central Government may, having regard to the provisions of the Safety Convention, make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (*1*), such rules may provide—

(a) for alternative or equivalent security levels;

(b) fee to be levied for any service rendered;

(c) any other matter which by this Part is to be, or may be, prescribed.

## PART X

### COLLISIONS, ACCIDENTS AT SEA AND [1]*** LIABILITY

**345. Division of loss in case of collision.—**(*1*) Whenever by the fault of two or more ships damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault :

Provided that—

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

1. The words "limitation of" omitted by Act 25 of 1970, s. 15 (w.e.f. 15-9-1972).

(b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed;

(c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(*2*) For the purposes of this Part, references to damage or loss caused by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages.

**346. Damages for personal injury**.—(*1*) Whenever loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships concerned shall be joint and several.

(*2*) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

**347. Right of contribution**.—(*1*) Whenever loss of life or personal injuries are suffered by a person on board a ship owing to the fault of that ship and of any other ship or ships, and a proportion of the damages is recovered from the owner of one of the ships which exceeds the proportion in which she was in fault, the said owner may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault:

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(*2*) In addition to any other remedy provided by law, the person entitled to any contribution under sub-section (*1*) shall, for the purpose of recovering the contribution, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

**348. Duty of master of ship to assist in case of collision**.—In every case of collision between two ships it shall be the duty of the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any—

(a) to render to the other ship, her master, crew and passengers, if any, such assistance as may be practicable and may be necessary to save them from any danger caused by the collision and to stay by the other ship until he has ascertained that she has no need of further assistance, and

(b) to give to the masters or persons in-charge of the other ships the name of his own ship and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound.

**349. Collision to be entered in official log**.—In every case of collision in which it is practicable so to do, the master of every ship concerned shall, immediately after the occurrence, cause a statement thereof and of the circumstances under which the same occurred to be entered in the official log book, if any, and the entry shall be signed by the master and also by the mate or one of the crew.

**350. Report to Central Government of accidents to ships**.—When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Act in respect of the ship, the owner or master shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, transmit to the Central Government or the nearest principal officer a report of the accident or damage and of the probable cause thereof stating the name of the ship, her official number, if any, her port of registry and the place where she is.

**351. Notice of loss of Indian ship to be given to Central Government**.—If the owner or agent of any Indian ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Central Government notice in writing of loss and of the probable cause thereof stating the name of the ship, her official number, if any, and her port of registry.

[1][PART XA

LIMITATION OF LIABILITY

**352. Definitions**.—In this Part, unless the context otherwise requires,—

(a) "claim" means a personal claim or property claim;

[2][(*b*) "Convention" means the Convention on Limitation of Liability for Maritime Claims, 1976 as amended from time to time;]

(*c*) "Fund", in relation to a vessel, means the limitation Fund constituted under section 352C;

(*d*)"liability", in relation to owner of a vessel, includes liability of the vessel herself;

(*e*)"occurrence" means an occurrence referred to in sub-section (*1*) of section 352A;

(*f*)"personal claim" means a claim resulting from loss of life or personal injury;

(g) "property claim" means any claim other than a personal claim arising from an occurrence.

[3][(*h*) "salvor" means any person rendering services in direct connection with salvage operations.

*Explanation*.—For the purpose of this clause, "salvage operations" includes—

(i) the raising, removal, destruction or the rendering a ship harmless which is sunk, wrecked, stranded or abandoned including anything that is or has been on board such ship;

(ii) the removal, destruction or rendering the cargo of a ship harmless; and

(iii) the measures taken to avert or minimise loss to a ship or its cargo or both;

(*i*) "ship owner" means owner, charterer, manager,'and operator of a sea going ship;

(*j*) "Special Drawing Rights" means Special Drawing Rights as determined by the International Monetary Fund.]

[4]**[352A. Limitation of liability for damages in respect of certain claims.**—(*1*) The ship owner, salvor, any person for whose act, neglect or default the ship owner or salvor, as the case may be, is responsible, and an insurer of liability for claims to the same extent as the assured himself, may limit his liability as provided under section 352B in respect of,—

(a) claims arising from loss of life of or personal injury to, or loss of or damage to, property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims arising out of loss resulting from delay in the carriage by sea of cargo and passengers or their luggage;

(c) claims arising out of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

1. Subs. by Act 25 of 1970, s. 16, for section 352 (w.e.f. 15-9-1972).
2. Subs. by Act 63 of 2002, s. 16, for clause (*b*) (w.e.f. 1-2-2003).
3. Ins. by s. 16, *ibid.* (w.e.f. 1-2-2003).
4. Subs. by s. 17, *ibid.*, for section 352A (w.e.f. 1-2-2003).

(d) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with the provisions of the Convention or the rules made in this behalf prescribe, as the case may be, and such further loss caused by such measures;

(e) claims for the loss of life or personal injury to passengers of a ship brought by or on behalf of any person,—

(i) under the contract of passenger carriage; or

(ii) who, with the consent of the carrier, is accompanying a vehicle for live animals which are covered by a contract for the carriage of goods,

carried in that ship:

Provided that the limits for passengers claim specified in the rules made under this Part shall not be applicable to the passengers carried in and around the coast of India in respect of whom separate limits shall be prescribed.

(2) Claims set out in sub-section (*1*) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise:

Provided that claims set out in clause (*d*) of sub-section (*1*) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable. (*3*) Nothing in this section shall apply to—

(a) claims for salvage or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, 1992 as amended from time to time;

(c) claims by servants of the ship owner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the ship owner or salvor and such servants of the ship owner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in the provision of the Convention or the rules made under this Part prescribe;

(d) claims subject to any International Convention or any law for the time being in force in India governing or prohibiting limitation of liability for nuclear damage;

(e) claims against the ship owner of a nuclear ship for nuclear damage.

*Explanation* 1.—For the purpose of this section, the act of involving limitation of liability shall not constitute an admission of liability.

*Explanation* 2.— For the purpose of this Part, the liability of a ship owner shall include liability in an action brought against the ship herself.]

[1]**[352B. Limitation of liability.—**The amount to which any person referred to in sub-section (*1*) of section 352A may limit his liability in accordance with the provisions of the Convention and in cases where the provisions of the Convention are not applicable, the limit shall be in accordance with the rules made in this behalf prescribe.]

**352C. Limitation Fund and consolidation of claims** [2]*****.—**[3][(*1*) Where any liability is alleged to have been incurred by a person referred to in sub-section (*1*) of section 352A in respect of claims arising out of an occurrence, and legal proceedings are instituted in respect of claims subject to limitation, then such person may apply to the High Court for the setting up of a limitation Fund for the

1. Subs. by Act 63 of 2002, s. 18, for section 352B (w.e.f. 1-2-2003).
2. The words "against owner" omitted by s. 19, *ibid.* (w.e.f. 1-2-2003).
3. Subs. by s. 19, *ibid.*, for sub-section (*1*) (w.e.f. 1-2-2003).

total sum representing the amounts set out in the Convention or the rules made in this behalf under this Part applicable to claims for which that person may be liable together with interest thereon from the date of occurrence giving rise to the liability until the date of the constitution of the Fund.]

(2) The High Court to which the application is made under sub-section (*1*) may determine the amount of the owner's liability and require him to deposit such amount with the High Court [1][or produce a guarantee acceptable or produce a bank guarantee in respect of the amount as in the opinion of the High Court is satisfactory and the amount so deposited or guarantee so given] shall constitute a limitation Fund for the purposes of the claims referred to in sub-section (*1*) and shall be utilised only for the payment of such claims.

(3) After the Fund has been constituted, no person entitled to claim against it shall be entitled to exercise any right against any other assets of the owner in respect of his claim against the Fund, if that Fund is actually available for the benefit of the claimant.

(4) Subject to the provisions of this Part, the High Court may distribute the amount constituting the Fund rateably amongst the several claimants and may stay any proceedings pending in any other court in relation to the same matter and may proceed in such manner and subject to such rules of the High Court as to making persons interested parties to the proceedings, and as to the exclusion of any claims which do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the High Court thinks fit.

[2][(*5*) Where the person referred to in sub-section (*1*) or his insurer establishes that he has paid is whole or in part any claims in respect of which he can limit his liability under this Part, the High Court shall place him in the same position and to the same extent in relation to the Fund as the claimant whose claim has been paid and allow to acquire by subrogation the rights which the person so compensated would have enjoyed under this Part:

Provided that the right of subrogation provided for in this sub-section may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they might, have paid to that extent if prescribed by the rules made in this behalf under this Part.

(6) Where the person liable or any other person has established that he may at a later date be required to pay in whole or in part, any of the claims under this Part, which could be settled from the Fund, the High Court may notwithstanding the foregoing provisions of this section order that a sufficient sum may be provisionally set aside for the purpose to enable the person to enforce his claim against the Fund at a later date in accordance with the provisions of sub-section (*5*).]

(7) If the owner is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

**352D. Release of ship, etc**.—(*1*) Where a vessel or other property is detained in connection with a claim which appears to the High Court to be founded on a liability to which a limit set by section 352B applies, or security is given to prevent or obtain release from such detention, the High Court may, and in the circumstances mentioned in sub-section (*3*) of this section shall, order the release of the vessel, property or security if the conditions specified in sub-section (*2*) are satisfied; and where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the High Court to adjudicate upon the claim.

(2) The conditions referred to in sub-section (*1*) are—

(a) that security which in the opinion of the High Court is satisfactory (in this section referred to as "guarantee") has previously been given whether in India or elsewhere, in respect of the said liability or any other liability incurred on the same occasion and the High Court is satisfied that if the claim is established, the amount for which the guarantee was given or such part thereof as corresponds to the claim will be actually available to the claimant; and

1. Subs. by Act 63 of 2002, s. 19, for certain words (w.e.f. 1-2-2003).
2. Subs. by s. 19, *ibid*., for sub-sections (*5*) and (*6*) (w.e.f. 1-2-2003).

(b) that either the guarantee is for an amount not less than the said limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances referred to in sub-section (*1*) are that the guarantee was given in a port which, in relation to the claim, is the relevant port (for as the case may be, a relevant port) and that port is in a convention country.

(4) For the purposes of this section—

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which security was last given

(b) any question whether the amount of any security is (either by itself or together with any other amount) not less than any limit set by section 352B shall be decided as at the time at which the security is given;

(c) where part only of the amount for which a guarantee was given will be available to a claimant that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in sub-section (*1*).

(5) In this section—

[1][(*a*) "Convention country" means a country in which the Convention on Limitation of Liability for Maritime Claims, 1976 as amended from time to time is for the time being in force;]

(*b*) "relevant port", in relation to any claim, means a port where the event giving rise to the claim occurred, or if that event did not occur in that port, the first port of call after the event-occurred and includes in relation to a claim for loss of life or personal injury or for damage to cargo, the port of disembarkation or discharge.

[2][(*6*) Notwithstanding anything contained in sub-sections (*1*) to (*4*), the vessels or other property referred to in sub-section (*1*) shall be ordered to be released if the limitation Fund has been constituted,—

(a) in the port where the occurrence took place, or, if it took place out of port, in the first port of call thereafter;

(b) in the port of disembarkation in respect of claims for loss of life or personal injury; or

(c) in the port of discharge in respect of damage to cargo.

(*7*) The provision of sub-section (*6*) shall apply only if the claimant brings a claim against the limitation Fund before the High Court administering the Fund and the Fund is actually available and freely transferable in respect of that claim.]

[3]**[352E. Scope of application.—**(*1*) The provisions of this Part shall apply whenever any person referred to in sub-section (*1*) of section 352A seeks to limit his liability before the Court or seeks to procure the release of a ship or other property or the discharge of any guarantee given within the Indian jurisdiction but any person referred to in sub-section (*1*) of section 352A who at the time when the provisions under this Part are invoked before any Court in India does not have his habitual residence in India or does not have his principal place of business in India or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of the State, which is a party to the Convention, is wholly excluded from the provisions of this Part.

(2) The provisions of this Part shall not be applicable to the following vessels unless the Central Government, by notification, specify otherwise,—

(a) ships intended for navigation on or around coast of India and registered as coastal vessels under the provisions of this Act;

---

1. Subs. by Act 63 of 2002, s. 20, for clause (*a*) (w.e.f.1-2-2003).
2. Ins. by s. 20, *ibid*. (w.e.f. 1-2-2003).
3. Subs. by s. 21, *ibid*., for section 352E (w.e.f. 1-2-2003).

(b) ships less than three hundred tons;

(c) air-cushion vehicles;

(d) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.]

**352F. Application of this Part to charterer, manager, etc., of a vessel.—**(*1*) Subject to the provisions of sub-section (*2*), the provisions of this Part relating to limitation of liability of an owner of a vessel in respect of claims arising out of an occurrence shall apply to the charterer, manager and operator of the vessel and to the master, members of the crew and other servants of the owner, charterer. manager or operator acting in the course of their employment in the same manner as they apply in relation to the owner.

Provided that the total limits of liability of the owner and all other persons referred to in this sub-section in aspect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with the provisions of section 352B.

(*2*) The master or a member of the crew of a vessel may limit his liability under subsection (*1*) even if the occurrence which gives rise to a claim against him resulted from the actual fault or privity of the master and the members of the crew or any one or more of them :

Provided that where the master or a member of the crew is at the same time the owner, co-owner, charterer, manager or operator of a vessel, the provisions of this sub-section shall only apply where such occurrence resulted from any act, neglect or default committed by the master or, as the case may be, the member of the crew in his capacity as master, or, as the case may be, us a member of the crew.

[1][**352FA. Power to make rules.—**The Central Government may make rules to carry out the purposes of this Part:

Provided that the rules under this Part shall be made having regard to the provisions of the Convention.]

[2][PART XB

CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

**352G. Application**.—This Part applies to—

(a) every Indian ship wherever it is; and

(b) every foreign ship while it is at a port or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or any other law for the time being in force.

[3][**352H. Definitions.—**In this Part, unless the context otherwise requires,—

(a) "incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;

(b) "liability convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992 as amended from time to time;

(c) "oil" means any persistent hydro carbon mineral oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil whether carried on board a ship as cargo or in the bunker of such ship;

1. Ins. by Act 63 of 2002, s. 22 (w.e.f. 1-2-2003).
2. Ins. by Act 12 of 1983, s. 10 (w.e.f. 18-5-1983).
3. Subs. by Act 63 of 2002, s. 23, for section 352H (w.e.f. 1-2-2003).

(d) "owner" means—

(i) the person registered as owner of the ship;

(ii) in the absence of registration, the person owning the ship; or

(iii) in the case of a ship owned by a foreign State, the person registered in that State as operator of the ship;

(e) "person" means any individual or partnership or any public or private body, whether corporate or not, including a state or any of its constituent sub-divisions;

(f) "pollution damage" means—

(i) loss or damage caused outside the ship by contamination resulting from escape or discharge of oil from the ship, wherever such escape or discharge occurs, provided that compensation for impairment of the environment other than losses or profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;

(ii) the costs of preventive measures and further loss or damage caused by such measures;

(g) "preventive measures" means any reasonable measures taken by any person after the incident to prevent or minimise pollution damage;

(h) "ship" means any sea-going vessel and sea borne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard;

(i) "State of the ship's registry", in relation to registered or unregistered ships, means the State of registration of the ship, or as the case may be, the State whose flag the ship is flying.]

**352-I. Liability of owner**.—(*1*) Save, as otherwise provided in sub-sections (*2*), (*3*) and (*4*), the owner at the time of an incident, or, where the incident consists of a series of occurrence at the time of first of such occurrences, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.

(2) No liability for pollution damage shall attach to the owner under sub-section (*1*), if he proves that the pollution damage—

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause such damage by any other person; or

(c) was wholly caused by the negligence or the wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

(3) Where, with respect to any incident the owner proves that the pollution damage resulted, either wholly or partially, from an act or omission done, with intent to cause such damage, by the person who suffered damage, or from the negligence of that person, the owner shall be exonerated wholly or, as the case may be, partially, from liability to that person.

[1][(*4*) When any incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under sub-section (*3*), shall be jointly and severally liable for such damage which is not reasonably separable.]

1. Subs. by Act 63 of 2002, s. 24, for sub-section (*4*) (w.e.f. 1-2-2003).

(5) No claim for pollution damage shall be made against any owner otherwise than in accordance with the provisions of this section.

[1][(*6*) Without prejudice to any right of recourse of the owner against third parties, no claim for compensation for pollution damage may be made against—

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, renders services for the ship;

(c) any charterer (howsoever described, including a bare-boat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in clauses (*c*), (*d*) and (*e*),

unless the incident causing such damage occurred as a result of their personal act or omission committed or made with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.]

[2]**[352J. Limitation of liability.—**(*1*) The owner shall be entitled to limit his liability under this Part, in respect of any one or more incident, as may be prescribed.

(*2*) The owner shall not be entitled to limit his liability if it is proved that the incident causing pollution damage occurred as a result of his personal act or omission committed or made with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.]

**352K. Constitution of limitation fund**.**—**(*1*) (*a*) Any owner desiring to avail of the benefit of limitation of his liability under sub-section (*1*) of section 352J shall make an application to the High Court for constitution of a limitation fund (hereafter in this Part referred to as fund).

(*b*) Such fund may be constituted either by depositing the sum with the High Court or by furnishing bank guarantee or such other security as, in the opinion of the High Court, is satisfactory.

(*2*) (*a*) The insurer or any other person providing financial security to the owner may apply to the High Court for constitution of the fund under sub-section (*1*) and any fund so constituted shall have the same effect as it were constituted "by the owner.

(*b*) Such fund may be constituted even in cases where sub-section (*2*) of section 352J applies but in any such event constitution of the fund shall not prejudice the rights of any claimant against the owner for full compensation exceeding the amount deposited or secured in the fund.

[3][(*3*) The amount in Special Drawing Rights to be deposited or secured in the fund under sub-section (*1*) shall be converted in rupees on the basis of official value in rupees of the Special Drawing Rights as determined by the Reserve Bank of India on the date of constitution of the fund.]

**352L. Acquisition of right for compensation by subrogation**.**—**(*1*) Where the owner or any of his servants or agents or any other person providing him insurance or other financial security has, as a result of incident in question, paid any compensation to any claimant, such person shall, up to the amount so paid by him, be entitled to acquire by subrogation the rights to which the claimant so compensated would be entitled to.

(*2*) Where the owner or any other person providing him insurance or other financial security establishes that he may, at a later date, be compelled to pay to any person, in whole or in part, any

1. Subs. by Act 63 of 2002, s. 24, for sub-section (*6*) (w.e.f. 1-2-2003).
2. Subs. by s. 25, *ibid.*, for section 352J (w.e.f. 1-2-2003).
3. Subs. by Act 55 of 1988, s. 4, for sub-section (*3*) (w.e.f. 1-7-1989).

amount by way of compensation for pollution damage caused by the incident with respect to which he would have been entitled to acquire by subrogation the right of the claimant had the compensation been paid before the fund was distributed, the High Court may order that sufficient amount from the fund may provisionally be set aside to enable the owner or such other person to enforce his claim against the fund at a later date.

**352M. Consolidation of claim and distribution of fund.—**(*1*) The High Court shall consolidate all claims against the fund including those arising under section 352L.

(2) Any claim in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall rank equally with other claims against the fund.

(3) Subject to the provisions of sub-section (*2*) of section 352L, the High Court shall distribute the amount in the fund among all claimants in proportion to their established claims.

**352N. Compulsory insurance or other financial guarantee.—**(*1*) The owner of every Indian ship which carries 2000 tons or more oil in bulk as cargo shall, in respect of such ship, maintain an insurance or other financial security for an amount equivalent to—

[1][(*a*) one hundred and thirty-three Special Drawing Rights for each ton of the ship's tonnage;

or

(*b*) fourteen million Special Drawing Rights,]

whichever is lower.

(2) In respect of every Indian ship which maintains insurance or other financial security under sub-section (*1*), there shall be issued by the Director-General a certificate in such form and giving such particulars as may be prescribed.

(3) On an application by the owner or agent of any foreign ship, the Director-General may issue a certificate under sub-section (*2*) in respect of such foreign ship on production of satisfactory evidence relating to maintenance of insurance or other financial security in accordance with the provisions of the International Convention on Civil Liability for Oil Pollution Damage signed at Brussels on the 29th day of November, 1969 [2][as amended from time to time].

(4) For every certificate issued under sub-sections (*2*) and (*3*) there shall be charged such fee as may be prescribed.

**352-O. Acceptance of certificates issued outside India.—**Any certificate issued by a competent authority in any country outside India to a ship registered in that country or any certificate issued by a competent authority of any country which is a contracting party to the International Convention on Civil Liability for Oil Pollution Damage signed at Brussels on the 29th day of November, 1969 [3][as amended from time to time] to any ship wherever registered, shall be accepted at any port or place in India as if it were issued under this Act.

**352P. Ban on entering or leaving an Indian port without certificate.—**(*1*) No Indian ship, which has on board 2000 tons or more oil in bulk as cargo shall enter or leave or attempt to enter or leave any port or place in India unless it carries on board a certificate issued under sub-section (*2*) of section 352N or a certificate accepted under section 352-O.

(2) No ship other than an Indian ship carrying 2000 tons or more oil in bulk as cargo, wherever registered, shall enter or leave or attempt to enter or leave any port or place in India, unless it carries on board a certificate issued under sub-section (*3*) of section 352N or a certificate accepted under section 352-O.

---

1. Subs. by Act 55 of 1988, s. 5, for clauses (*a*) and (*b*) (w.e.f. 1-7-1989).
2. Ins. by s. 5, *ibid.* (w.e.f. 1-7-1989).
3. Ins. by s. 6, *ibid.* (w.e.f. 1-7-1989).

(3) No customs officer shall grant inward entry or outward clearance to any ship to which sub-section (*1*) or, as the case may be, sub-section (*2*) applies, unless its master produces a certificate required under the respective sub-section.

**352Q. Government ships**.—Nothing in this Part shall apply to any ship of war or any ship for the time being used by the Government of any country for purposes other than commercial purposes.

**352R. Power to make rules**.—The Central Government may make rules prescribing—

(a) the form of certificate to be issued by the Director-General under sub-section (*2*) of section 352N and the particulars which it may contain;

(b) fees which may be charged for issue of certificates under section 352N.]

[1][(*c*) the limits of liability of owner in respect of one or more incident of pollution damage or other requirements having regard to the provisions of the Liability Convention.]

[2][PART XC

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

**352S. Definitions**.—In this Part, unless the context otherwise requires,—

(a) "contributing oil" means crude oil and fuel oil.

*Explanation.*—For the purposes of this clause,—

(i) "crude oil" means any liquid hydro carbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes crude oils from which certain distillate fractions have been removed or to which certain distillate fractions have been added;

(ii) "fuel oil" means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the „American Society for Testing and Materials" Specification for Number Four Fuel Oil (Designation D 396 - 69)', or heavier;

(b) "discharge or escape", in relation to pollution damage, means the discharge or escape of oil carried by the ship;

(c) "Fund" means the International Oil Pollution Compensation Fund established by the Fund Convention;

(d) "Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 as amended from time to time;

(e) "Fund Convention country" means a country in which the Fund Convention is for the time being in force;

(f) "guarantor" means any person providing insurance or other financial security to cover the owner's liability;

(g) "terminal installation" means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated off-shore and linked to such site;

(h) "ton", in relation to oil, means a metric ton.

**352T. Contribution to the Fund**.—(*1*) Contributions to the Fund, in respect of contributing oil carried by sea to ports or terminal installations in India, shall be payable in accordance with Articles 10 and 12 of the Fund Convention.

---

1. Ins. by Act 63 of 2002, s. 26 (w.e.f. 1-2-2003).
2. Ins. by s. 27, *ibid.* (w.e.f. 1-2-2993).

(2) Sub-section (*1*) shall apply whether or not the contributing oil is imported, and notwithstanding that contributions are payable to the Fund in respect of carriage of the same contributing oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of contributing oil when first received in any installation in India after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions to the Fund shall be—

(a) in case of contributing oil which is being imported into India, the importer; or

(b) in any other case, the person by whom the oil is received in India.

(5) A person shall not be liable to pay contributions to the Fund in respect of the contributing oil imported or received by him in any year if the quantity of contributing oil so imported or received in the year does not exceed one hundred and fifty thousand tones or as may be specified from time to time in the Fund Convention.

**352U. Contribution payable by persons to the Fund**.—(*1*) The contributions payable to the Fund by a person for any year shall be,—

(a) such amount as may be determined by the Assembly of the Fund under Articles 10 and 12 of the Fund Convention;

(b) in such installments, becoming due at such dates,

as may be notified and if any amount due from such person remains unpaid after the date on which it became due, it shall from that due date bear interest at a rate determined by the said Assembly until it is paid.

(*2*) The Central Government may require persons, who are or may be liable to pay contributions to the Fund under section 352T, to give financial security for payment of contributions to that Government or the Fund.

**352V. Power to call for information**.—(*1*) The Central Government may, for the purpose of transmitting to the Fund the names and addresses of the persons who under section 352T are liable to make contributions to the Fund every year and the quantity of contributing oil in respect of which they are so liable, by notice require any such person to furnish such information as may be specified therein.

(2) A notice under this section may require a person to give such information as may be required to ascertain whether he is liable to contribute to the Fund.

(3) A notice under this section may specify the manner in which, and the time within which, such notice is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 352T, particulars contained in any list transmitted by the Central Government to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) No person shall disclose any information which has been furnished to or obtained by him under this section unless the disclosure is made,

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the compliance of this section;

(c) for the purpose of any legal proceedings arising out of this section or of any report of such proceedings.

(6) A person who,—

(a) refuses or willfully neglects to comply with a notice under this section; or

(b) makes, while furnishing any information in compliance with a notice under this section, any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence punishable under this Act.

**352W. Liability of the Fund**.—Where any person suffering pollution damage has been unable to obtain the full and adequate compensation for the damage under the terms of the Liability Convention on any of the grounds specified in Article 4 of the Fund Convention, the Fund shall be liable for pollution damage in accordance with the provisions of the Fund Convention.

**352X. Jurisdiction of Courts**.—(*1*) Any action for a claim against the Fund for compensation under section 352W shall be brought before the High Court.

(2) The Fund shall have the right to intervene as a party to any legal proceedings instituted in the High Court against the owner or his guarantor.

(3) Where an action for compensation for pollution damage has been brought against the owner or his guarantor before the High Court each party to the proceedings may notify the Fund of the proceedings.

(4) Where such notice of proceedings has been given to the Fund, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in that judgment may not be disputed by the Fund on the ground that it has not intervened in the proceedings.

**352Y. Extinguishment of claims**.—Notwithstanding anything contained in any other law for the time being in force, no action to enforce a claim against the Fund under this Part shall be entertained by a High Court unless—

(a) the action to enforce is commenced; or

(b) notice of action to enforce a claim against the owner or his guarantor in respect of the same pollution damage is given to the Fund,

within three years from the date when the damage occurred:

Provided that in no case an action to enforce a claim shall be brought after six years from the date of the incident that caused such damage.

**352Z. Subrogation and right of recourse**.—In respect of any sum paid by a public authority in India or the Fund, as the case may be, as compensation for pollution damage, that authority shall acquire by subrogation any rights which the person so compensated would have enjoyed under the Fund Convention.

**352ZA. Power to make rules**.—The Central Government may make such rules as may be required to carry out the purposes of the Fund Convention.]

## PART XI

## NAVIGATION

**353. Method of giving helm orders.—**No person on any Indian ship shall, when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right" unless he intends that the head of the ship shall move to the "right" or give a helm or steering order containing the word "port" or "left" or any equivalent of "port" or "left" unless he intends that the head of the ship shall move to the left.

**354. Duty to report dangers to navigation**.—The master of any Indian ship on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation [1][or on

1. Ins. by Act 21 of 1966, s. 31 (w.e.f. 28-5-1966).

encountering sub-freezing air temperatures associated with gale-force winds, causing severe ice accretions on super structures or strong gales for which no storm warning has been received by him] shall send information accordingly by all means of communication at his disposal and in accordance with such rules as the Central Government may make in this behalf to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

*Explanation.*—For the purpose of this section the expression "tropical storm" means a hurricane typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in the vicinity.

[1][**354A. Communication of intelligence regarding dangers to navigation.**—(*1*) Where an authority prescribed under section 354 receives intelligence from any source of any danger to navigation mentioned in that section, that authority shall, as soon as possible, communicate such intelligence to such ships and authorities as he may deem proper.

(*2*) The intelligence shall be communicated in such manner and subject to such terms and conditions as may be prescribed:

Provided that no fees shall be levied for communicating any intelligence under this section to a ship.]

**355. Obligation to render assistance on receiving signal of distress.**—(*1*) The master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable or in the special circumstances of the case considers it unreasonable or unnecessary to do so or unless he is released from such obligation under the provisions of sub-section (*3*) or sub-section (*4*).

(2) Where the master of any ship in distress has requisitioned any Indian ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress unless he is released from the obligation under the provisions of sub-section (*4*).

(3) The master shall be released from the obligation imposed by sub-section (*1*) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) The master shall be released from the obligation imposed by sub-section (*1*), and if his ship has been requisitioned, from the obligation imposed by sub-section (*2*), if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress that assistance is no longer required.

(5) If the master of an Indian ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress is unable or in the special circumstances of the case considers it unreasonable or unnecessary to go to the assistance of the persons in distress, he shall forth with cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of those persons.

(6) The master of every Indian ship for which an official log is required shall enter or cause to be entered in the official log book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

[2][**355A. Obligation to render assistance to persons in danger.**—(*1*) The master of every Indian ship shall render assistance to every person found at sea in danger of being lost, unless he is unable or, in the special circumstances of the case, considers that such assistance cannot be rendered without serious danger to his ship, or the persons thereon.

1. Ins. by Act 21 of 1966, s. 32 (w.e.f. 28-5-1966).
2. Ins. by s. 33, *ibid.* (w.e.f. 28-5-1966).

(*2*) If the master of an Indian ship is unable or consider it unreasonable to go to the assistance of a person found at sea in danger of being lost, the master shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of that person.]

**356. Power to make rules as to signals**.—The Central Government may, subject to the condition of previous publication, make rules prescribing—

(a) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom, such information is to be communicated;

[1][(*aa*) the manner of communicating intelligence regarding dangers to navigation, the terms and conditions subject to which such intelligence may be communicated and the fees which may be levied for the communication of intelligence;]

(b) the signals which shall be [2][signals of distress, urgency and of safety], respectively;

(c) the circumstances in which, and the purposes for which, any such signal is to be used, and the circumstances in which it is to be revoked; and

(d) the speed at which any message sent by [3][radio telegraphy or telephony] in connection with such signal is to be transmitted.

## [4][PART XIA

### PREVENTION AND CONTAINMENT OF POLLUTION OF THE SEA BY OIL

[5]**[356A. Application.**—(*1*) Save as otherwise provided, this Part shall apply to—

(a) oil tankers of one hundred and fifty tons gross or more, other ships of four hundred tons gross or more and off-shore installations; and

(b) incidents of marine casualty or acts relating to such casualty occurring with grave and imminent danger to Indian coast line or related interests from pollution or threat of pollution in the sea by deliberate, negligent or accidental release of oil, ballast water, noxious liquid and other harmful substances into sea including such incidents occurring on the high seas.

(2) This Part shall not apply to any war ships or other ships owned or operated by the Government and used for the time being on Government non-commercial service.

**356B. Definitions.**—In this Part, unless the context otherwise requires,—

(a) "ballast" means any solid or liquid placed in a ship to increase the draft to change the trim, to regulate the stability, or to maintain stress load within such limits as may be prescribed;

(b) "cargo" includes ballast and ship's stores and fuel;

(c) "coasts" has the meaning assigned to it in section 357;

(d) "coastal waters" means any part of the territorial waters of India, or any marine areas adjacent thereto over which India has, or, may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), or any other law for the time being in force;

(e) "Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including its Protocol of 1978, as amended from time to time in the manner specified therein;

---

1. Ins. by Act 21 of 1966, s. 34 (w.e.f. 28-5-1966).
2. Subs. by s. 34, *ibid.*, for "signals of distress and of urgency" (w.e.f. 28-5-1966).
3. Subs. by s. 34, *ibid.*, for "radio telegraphy" (w.e.f. 28-5-1966).
4. Subs. by Act 12 of 1983, s. 11, for PART XIA (w.e.f. 18-5-1983).
5. Subs. by Act 59 of 2003, s. 2, for sections 356A to 356H (w.e.f. 1-3-2004).

(f) "international pollution prevention certificate" means any certificate issued in accordance with the provisions of Pollution Prevention Conventions and Protocols thereto which are acceded to by India;

(g) "mile" means a nautical mile of 1,852 meters;

(h) "noxious liquid substance" means any substance which has been designated as such by rules made under this Part;

(i) "off-shore installation" means an installation, whether mobile or fixed, which is used or is intended to be used for under-water exploration or exploitation of crude oil, petroleum or other similar mineral oils, under lease, licence or any other form of contractual arrangement and includes—

(a) any installation which could be moved from place to place under its own motive power or otherwise; and

(b) a pipe-line;

(j) "oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(k) "oily mixture" means a mixture with any oil content;

(l) "oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes any combination carrier or any chemical tanker when it is carrying a cargo or part cargo of oil in bulk;

(m) "reception facilities", in relation to a port, means facilities for enabling tankers or ships using the port to discharge or deposit residue or mixture of any substance subject to control by the Convention;

(n) "ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

**356C. Issue of pollution prevention certificate.—**(*1*) No Indian oil tanker or other Indian ship shall proceed to sea unless there is in force, in respect of that ship, a certificate issued by the Central Government, to be called an international oil pollution prevention certificate, in such form, for such duration and subject to such conditions as may be prescribed.

(2) No Indian oil tanker or other Indian ship carrying noxious liquid substances in bulk shall proceed to sea except with a certificate issued by the Central Government, to be called an international pollution prevention certificate, in such form, for such duration and subject to such conditions as may be prescribed for the carriage of noxious liquid substances in bulk.

(3) No Indian oil tanker or other Indian ship to which Annexure IV of the Convention applies shall proceed to sea except with a certificate issued by the Central Government, to be called an international sewage pollution prevention certificate, in such form, for such duration and subject to such conditions as may be prescribed.

*Explanation*.—For the purposes of this sub-section, "sewage" means—

(i) drainage and other waste from any form of toilets, urinals and water closet scuppers;

(ii) drainage from medical premises (dispensary, sick bay and other like places) *via* wash basins, wash tubs and scuppers located in such premises;

(iii) drainage from spaces containing living animals; or

(iv) other waste water when mixed with the drainages specified above.

(4) A valid international pollution prevention certificate issued in respect of an oil tanker or a ship, other than an Indian ship, by the Government of the country to which the ship belongs shall,

subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship has under this Part.

**356D. Issue of certificates for foreign ships in India and Indian ships in foreign countries.—**(*1*) The Central Government may, at the request of the Government of a country to which the Convention applies, cause any international pollution prevention certificate to be issued in accordance with the Convention in respect of an oil tanker or other ship in that country, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been issued on request.

(*2*) The Central Government may request the Government of a country to which the Convention applies, to issue any international pollution prevention certificate in accordance with the Convention in respect of a ship and the certificate issued in pursuance of such a request containing a statement that it has been so issued shall have the same effect as if it had been issued by the Central Government under this Act.

**356E. Requirement for construction and equipment in ships to prevent pollution.—**For the purpose of preventing or reducing discharges of harmful substances or mixtures containing such substances from the oil tankers or other ships, the Central Government may make rules requiring Indian oil tankers and other Indian ships to be fitted with such equipment and to comply with such requirements for construction, survey of equipment and structure of such oil tankers or other ships and specifying conditions for making of surveys of all oil tankers or other ships, as may be prescribed, prior to issuing an international pollution prevention certificate.

*Explanation*.—For the purposes of this section, "harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea, and includes any substance subject to control by the Convention.

**356F. Record books.—**(*1*) Every Indian oil tanker or other Indian ship which carries a substance subject to control by the Convention shall maintain, as may be required, record books in the prescribed forms, on board the oil tanker or other ship.

(2) The manner in which record books shall be maintained, the nature of entries to be made therein, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

**356G. Inspection and control of oil tankers and other ships to which this Part applies.—**(*1*) A surveyor or any person authorised in this behalf may go, at any reasonable time, on board an oil tanker or other ship to which any of the provisions of this Part applies, for the purposes of—

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(b) satisfying himself about the adequacy of the measures taken to prevent pollution;

(c) ascertaining the circumstances relating to an alleged discharge of a substance which is subject to control by the Convention from the oil tanker or other ship in contravention of the provisions of this Part;

(d) inspecting any record required to be maintained on board; and

(e) checking the validity of the international pollution prevention certificate.

(2) The surveyor or any such person may, if necessary, make, without unduly delaying the oil tanker or the other ship, a true copy of any record of the oil tanker or the other ship and may require the master of such tanker or ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

**356H. Information regarding contravention of provisions of Convention.—**(*1*) If, on report from a surveyor or other person authorised to inspect an oil tanker or other ship under section 356G, the Director-General is satisfied that any provision of the Convention has been contravened by such

oil tanker or other ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may—

(a) detain the oil tanker or other ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) proceed against such oil tanker or other ship for recovery of cost of pollution damage, if any, and the cost of prevention of pollution damage and cleaning of such pollution;

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the oil tanker or other ship from proceeding to sea, and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General:

(*2*) On receipt of information from the Government of any country to which the Convention applies that an Indian oil tanker or other ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and if satisfied that sufficient evidence is available to establish contravention of any of the provisions of this Part or the rules made thereunder, take appropriate action against the owner or master of the concerned oil tanker or other ship and intimate the reporting Government of the action so taken.]

**356-I. Oil reception facilities at ports in India**.—(*1*) Notwithstanding anything contained in any other law for the time being in force, in respect of every port in India, the powers of the port authority shall include the power to provide [1][reception facilities].

(2) A port authority providing [1][reception facilities] or a person providing such facilities by arrangement with the port authority, may make charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof as may be approved, by notification in the Official Gazette, by the Central Government in respect of the port.

(3) Where the Central Government is satisfied that there are no [1][ reception facilities] at any port in India or that the facilities available at such port are not adequate for enabling ships calling at such port to comply with the requirements of the Convention, the Central Government may, after consultation with the port authority in charge of such port, direct, by order in writing, such authority to provide or arrange for the provision of such [1][reception facilities] as may be specified in the order.

(4) The Central Government may, by notification in the Official Gazette, specify the ports in India having [1][reception facilities] in accordance with the requirements of the Convention.

*Explanation*.—For the purpose of this section, "port authority" means,—

(a) in relation to any major port, the Board of Trustees in respect of that port constituted under any law for the time being in force;

(b) in relation to any other port, the Conservator of the Port, within the meaning of section 7 of the Indian Ports Act, 1908 (15 of 1908).

PROVISIONS FOR CONTAINMENT OF ACCIDENTAL POLLUTION

**356J. Power to give a notice to owner, etc., of polluting ship.**—(*1*) Where the Central Government is satisfied that—

(a) [2][oil or noxious liquid substance] is escaping or is likely to escape from a tanker, a ship other than a tanker or any off-shore installation; and

(b) the [2][oil or noxious liquid substance] so escaped or likely to escape is causing or threatens to cause pollution of any part of coasts or coastal waters of India,

it may, for the purpose of minimising the pollution already caused, or, for preventing the pollution threatened to be caused, require—

1. Subs. by Act 59 of 2003, s. 3, for "oil reception facilities" (w.e.f. 1-3-2004).
2. Subs by s. 4, *ibid.*, for "oil" (w.e.f.1-3-2004).

(i) the owner, agent, master or charterer of the tanker,

(ii) the owner, agent, master or charterer of the ship other than a tanker,

(iii) the owner, agent, master, charterer or operator of a mobile off-shore installation,

(iv) the owner, operator, lessee or licensee of off-shore installation of any other type,

or all or any of them, by notice served on him or as the case may be on them, to take such action in relation to the tanker, ship other than a tanker, mobile off-shore installation, or, as the case may be, off-shore installation of any other type or its cargo or in relation to both, as may be specified in such notice.

(2) Without prejudice to the generality of sub-section (*1*), the notice issued under that sub-section may require the person or persons on whom such notice is served to take action relating to any or all of the following matters, namely:—

(a) action for preventing the escape of [1][oil or noxious liquid substance] from the tanker, ship other than a tanker mobile off-shore installation or off-shore installation of any other type;

(b) action for removing [1][oil or noxious liquid substance] from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type in such manner, if any, and to such place, if any, as may be specified in the notice;

(c) action for removal of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type to a place, if any, as may be specified in the notice;

(d) action for removal of the [1][oil or noxious liquid substance] slicks on the surface of the sea in such manner, if any, as may be specified in the notice;

(e) action to disperse the [1][oil or noxious liquid substance] slicks on the surface of the sea in such manner, if any, as may be specified in the notice.

(3) The Central Government may, by any notice issued under sub-section (*1*), prohibit the removal—

(a) of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type, from a place specified in the notice;

(b) from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type, of any cargo or stores as may be specified in the notice,

except with its previous permission and upon such conditions, if any, as may be specified in the notice.

(4) Notwithstanding anything contained in sub-section (*2*), the Central Government may, if it is of the opinion that the pollution caused or likely to be caused has or may present a grave emergency, proceed to take such measures as may be deemed necessary and any measures so taken shall be deemed to have been taken under section 356K.

**356K. Powers to take measures for preventing or containing [1][oil or noxious liquid substance] pollution.**—(*1*) Where any person fails to comply, or fails to comply in part, with any notice served on him under section 356J, the Central Government may, whether or not such person is convicted of an offence under this Part by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for—

(i) carrying out the directives given in the notice issued under section 356J; and

(ii) containing the pollution already caused or preventing the pollution threatened to be caused, of coastal waters or, as the case may be, of any part of the coast of India by [2][oil or noxious liquid substance] escaped or threatening to escape from the tanker, a ship other than a tanker, a mobile off-shore installation or off-shore installation of any other type.

---

1. Subs. by Act 59 of 2003, s. 5, for "oil" (w.e.f.1-3-2004).

(2) Subject to the provisions of Part XB, any expenditure or liability incurred by the Central Government in, or by reason of, the exercise of powers under sub-section (*1*) in relation to any tanker, ship other than a tanker, mobile off-share installation or off-shore installation of any other type in respect of which a notice had been issued under section 356J, or its cargo of [1][oil or noxious liquid substance] that had escaped or was discharged into the sea, shall be a debt due to the Central Government by the person or persons on whom the notice was served and may be recovered from that person, or as the case may be, from all or any of those persons and shall be a charge upon all or any tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type owned by that person or persons which may be detained by the Central Government until the amount is paid:

Provided that provisions of Part XB of this Act shall not apply to measures taken in respect of any off-shore installation which is not a ship within the meaning of this Act except that in the event of pollution damage caused by any such off-shore installation the person who is liable for the damage may claim exoneration from any liability if he proves that such damage—

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause that damage by any other person; or

(c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other nevigational aids in exercise of its functions in that behalf.

**356L. Power of the Central Government to give directions to certain ships to render certain services**.—(*1*) Where for the purposes of taking any measures under sub-section (*1*) of section 356K, services of any Indian ship becomes necessary for—

(i) lightening or transporting any cargo or equipment from or to the polluting ship; or

(ii) providing any assistance to any other ship or equipment engaged in rendering services under clause (*i*),

the Central Government may, if it deems it necessary so do, direct, by an order in writing, the owner of any Indian ship, tug, barge or any other equipment to provide such services or assistance as may be specified in that order.

(2) The owner of any ship, tug, barge or any other equipment with respect to which an order under sub-section (*1*) has been made shall be entitled to tariff rates of freight and charter hire at reasonable rates having regard to current market conditions:

Provided that where tariff rates of freight are not fixed or where there is any dispute about reasonable rate of charter hire, the freight or, the case may be, charter hire, shall be paid at such rates as may be fixed by the Director-General by an order in writing.

(3) Where in pursuance of the proviso to sub-section (*2*), the Director-General makes any order fixing rates of freight or charter hire, he shall determine reasonability of such rates of freight or charter hire by examining such witnesses, documents and accounts as he may deem necessary.

**[356M**. *Oil pollution cess*.**][***Rep. by the Finance Act*, 2016 (28 of 2016), *section* 239 *and the Fifteenth Schedule* **(***w.e.f.***14-5-2016)].**

[**356N**. *Refusal of port clearance*.][*Rep. by the Finance Act*, 2016 (28 of 2016), *section* 239 *and the Fifteenth Schedule* **(***w.e.f.***14-5-2016)].**

**356-O. Power to make rules**.—(*1*) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the purposes of this Part.

1. Subs. by Act 59 of 2003, s. 5, for "oil" (w.e.f. 1-3-2004).

(*2*) In particular and without prejudice to the generality of the provisions of sub-section (*1*), such rules may—

[1][(*a*) prescribe the limits of ballast, and designate noxious liquid substances, under clauses (*a*) and (*h*), respectively, of section 356B;

(b) prescribe the forms in which, the duration for which and the conditions subject to which, various international pollution prevention certificates shall be issued under section 356PC;

(*bb*) prescribe the period within which, the manner in which and the conditions for making surveys of oil tankers or other ships prior to issuing an international pollution prevention certificate and the requirements as to equipment which are to be fitted for prevention of pollution by an oil tanker and other ship under section 356E;]

(c) prescribe the forms of [2][record books] for tankers and other Ships the manner in which such books shall be maintained, the nature of the entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto for the purposes of section 356F;

(d) prescribe the fees which may be levied for inspection of [3][various equipments required under the Convention] and the manner in which such fees may be collected;

[4]* * * * *

[5][(*ee*) any other matter which, for the implementation of the Convention, has to be or may be prescribed.]

[6][PART XIB

CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

**356P. Application.—**(*1*) Save as otherwise provided in this Part, this Part shall apply to—

(a) every Indian ship, wherever it is;

(b) ships not entitled to fly the flag of India, but which operate under the authority of India; and

(c) ships that enter a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976) or any other law for the time being in force.

(2) This Part shall not apply to any warship, naval auxiliary or other ship owned or operated by or under the authority of India and used, for the time being, only on Government non-commercial service:

Provided that in case of such ships, the Government shall ensure by the adoption of appropriate measures not impairing operations or operational capabilities of such ship that such ships are operated in a prescribed manner consistent with this Part.

**356Q. Definitions**.—In this Part, unless the context otherwise requires,—

(a) "anti-fouling system" means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;

---

1. Subs. by Act 59 of 2003, s. 6, for clauses (*a*) and (*b*) (w.e.f. 1-3-2004).
2. Subs. by s. 6, *ibid*., for "oil record books" (w.e.f. 1-3-2004).
3. Subs. by s. 6, *ibid*., for certain words (w.e.f. 1-3-2004).
4. Clause (*e*) repealed by Act 28 of 2016, s. 239 and the Fifteenth Schedule (w.e.f. 14-5-2016).
5. Ins. by Act 59 of 2003, s. 6 (w.e.f.1-3-2004).
6. Ins. by Act 31 of 2014, s. 2 (w.e.f. 9-12-2014).

(b) "authority" means—

(i) the Government of India under whose authority the ship is operating;

(ii) with respect to a ship entitled to fly a flag of any other country, the Government of that country; and

(iii) with respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to Indian coast over which Government of India exercises sovereign rights for the purposes of exploration and exploitation of its natural resources (including Floating Storage Units and Floating Production Storage and Offloading Units), the Government of India;

(c) "Committee" means the Marine Environment Protection Committee of the Organisation;

(d) "Convention" means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;

(e) "gross tonnage" means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(f) "international voyage" means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State;

(g) "length" means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(h) "Organisation" means the International Maritime Organisation;

(i) "port" shall have the same meaning as assigned to it in the Indian Port Act, 1908 (15 of 1908), the Major Port Trusts Act, 1963 (38 of 1963), or under any other law for the time being in force and shall include any terminal, either within the port limits or otherwise;

(j) "ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

**356R. Control of anti-fouling systems**.—(*1*) Every Indian ship and other ships which are not entitled to fly Indian flag but operating under the authority of India, shall comply with the requirements set forth in this Part, including the applicable standards and requirements as prescribed from time to time as well as effective measures to ensure that such ships comply with the requirements, as may be prescribed from time to time.

(*2*) All other vessels to which this Part applies shall comply with requirements of the anti-fouling systems as prescribed from time to time.

**356S. Issuance of International Anti-Fouling System Certificate**.—(*1*) No Indian ship or other ships entitled to fly Indian flag or operating under its authority, which is of 400 gross tonnage and above shall engage in International Voyage unless there is on-board, in respect of that ship, a certificate issued by the Director-General, to be called as International Anti-Fouling System Certificate, in such form, for such duration and subject to such procedures and conditions as may be prescribed, from time to time.

(2) No Indian ship or other ships entitled to fly Indian flag or operating under its authority excluding fixed or floating platforms, Floating Storage Units and Floating Production Storage and Offloading Units which is of 24 meters or more in length, but less than 400 gross tonnage, shall engage in international voyage unless there is onboard a declaration in such form and subject to such procedures and conditions as may be prescribed, from time to time.

(3) Indian ships entitled to fly Indian flag which are of 400 gross tonnage and above, with appropriate conditions as applicable for each type of ships and not engaged in international voyage

and are required to be registered under this Act, shall be issued an Indian Anti-Fouling System Certificate, as may be prescribed from time to time.

**356T. Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in foreign countries**.—(*1*) The Central Government may, at the request of the Government of a country to which the Convention applies, cause an International Anti-Fouling System Certificate to be issued in accordance with the Convention in respect of any ship of that country to which the Convention applies, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been so issued on a request, as per the procedure prescribed in this behalf from time to time.

(*2*) The Central Government may request the Government of a country to which the Convention applies, to issue an International Anti-Fouling System Certificate in accordance with the Convention in respect of a ship to which this Part applies and the certificate so issued in pursuance of such a request shall contain a statement that it has been so issued and shall have the same effect as if it had been issued by the Central Government under this Act.

**356U. Controls of waste materials**.—Taking into account the international rules, standards and requirements, the Central Government shall prescribe the rules and take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system, are collected, handled, treated and disposed of in a safe and environmentally sound manner, by any person in India, to protect human health and the environment.

**356V. Record of anti-fouling systems**.—(*1*) Every ship to which this Part applies shall maintain, a record of anti-fouling systems in the prescribed form.

(2) The manner, in which the record of anti-fouling systems to be maintained shall be prescribed having regard to the provisions of the Convention and this Part.

**356W. Inspection and control of all ships above 400 gross tonnage**.—(*1*) Any person authorised by the Director-General as Surveyor in this behalf may inspect, at any reasonable time, any ship to which any of the provisions of this Part applies, for the purposes of—

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(b) verifying that, where required, there is on-board a valid International Anti-Fouling System Certificate or a declaration on anti-fouling system; or

(c) brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account the procedures as prescribed from time to time; and

(d) verifying any record required to be maintained on-board.

(2) For the purposes of clause (*c*) of sub-section (*1*), the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(3) Any person authorised by the Director-General as surveyor in this behalf, may, certify any matter referred to in sub-section (*1*) in respect of such ship as a copy of the records of the ship to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

**356X. Information regarding contravention of the provisions of Convention**.—(*1*) If, on receipt of a report from a surveyor or other person authorised to inspect a ship, the Director-General is satisfied that any provision of this Part has been contravened by such ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may—

(a) detain the ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) levy penalty on such ship as specified in section 436:

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the ship from proceeding to sea and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(*2*) On receipt of information from the Government of any country to which the Convention applies that a ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and, if satisfied that sufficient evidence is available, conduct investigation of the alleged violations and take appropriate measures in respect thereof.

**356Y. Power to make rules**.—(*1*) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (*1*), such rules may provide for all or any of the following matters, namely:—

(a) appropriate measures for operation of ships under the proviso to sub-section (*2*) of section 356P;

(b) the standards, requirements and measures to ensure compliance under section 356R;

(c) procedure and conditions and the fees which may be levied for inspection and issuance of international Anti-Fouling Systems Certificate under section 356S;

(d) procedure and the fees which may be levied for issuance of Anti-Fouling Systems Certificate for foreign ships in India and Indian ships in foreign countries under section 356T;

(e) procedure for collection, handling and disposal of wastes under section 356U;

(f) the format of record of Anti-Fouling Systems, the manner in which such record shall be maintained under section 356V;

(g) any other matter which is required to be or may be prescribed.]

## PART XII

### INVESTIGATIONS AND INQUIRIES

**357. Definition of "coasts"**.—In this Part, the word "coasts" includes the coasts of creeks and tidal rivers.

**358. Shipping casualties and report thereof**.—(*1*) For the purpose of investigations and inquiries under this Part, a shipping casualty shall be deemed to occur when—

(a) on or near the coasts of India, any ship is lost, abandoned, stranded or materially damaged;

(b) on or near the coasts of India, any ship causes loss or material damage to any other ship;

(c) any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of India;

(d) in any place, any such loss, abandonment, stranding, material damage or casualty as above mentioned occurs to or on board any Indian ship, and any competent witness thereof is found in India;

(e) any Indian ship is lost or is supposed to have been lost, and any evidence is obtainable in India as to the circumstances under which she proceeded to sea or was last heard of.

(*2*) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), the master, pilot, harbour master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship at the time of the shipping casualty, and

in the cases mentioned in clause (*d*) of sub-section (*1*), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in India, give immediate notice of the shipping casualty to the officer appointed in this behalf by the Central Government.

**359. Report of shipping casualties to Central Government**.—(*1*) Whenever any such officer as is referred to in sub-section (*2*) of section 358 receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Central Government; and may proceed to make a preliminary inquiry into the casualty.

(*2*) An officer making a preliminary inquiry under sub-section (*1*) shall send a report thereof to the Central Government or such other authority as may be appointed by it in this behalf.

**360. Application to court for formal investigation**.—The officer appointed under sub-section (2) of section 358, whether he has made a preliminary inquiry or not, may, and, where the Central Government so directs, shall make an application to a court empowered under section 361, requesting it to make a formal investigation into any shipping casualty, and the court shall thereupon make such investigation.

**361. Court empowered to make formal investigation**.—[1][A Judicial Magistrate of the first class] specially empowered in this behalf by the Central Government and a [2][Metropolitan Magistrate] shall have jurisdiction to make formal investigation into shipping casualties under this Part.

**362. Power of court of investigation to inquire into charges against master, mates and engineers**.—(*1*) Any court making a formal investigation into a shipping casualty may inquire into any charge of in competency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(*2*) In every case in which any such charge, whether of in competency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer, in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

**363. Power of Central Government to direct inquiry into charges of in competency or misconduct.—**(*1*) If the Central Government has reason to believe that there are grounds for charging any master, mate or engineer with in competency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Central Government,—

(a) if the master, mate or engineer holds a certificate under this Act, in any case;

(b) if the master, mate or engineer holds a certificate under the law of any country outside India, in any case where the in competency or misconduct has occurred on board an Indian ship;

may transmit a statement of the case to any court having jurisdiction under section 361, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend, and may direct that court to make an inquiry into that charge.

(*2*) Before commencing the inquiry, the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Central Government.

**364. Opportunity to be given to person to make defence**.—For the purpose of any inquiry under this Part into any charge against a master, mate or engineer, the court may summon him to appear, and shall give him an opportunity of making a defence either in person or otherwise.

**365. Power of court as to evidence and regulation of proceedings.—**[3][(*1*)] For the purpose of any investigation or inquiry under this Part, the court making the investigation or inquiry shall in respect of compelling the attendance and examination of witnesses and the production of documents

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "A magistrate of the first class" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, *ibid*., for "presidency magistrate" (w.e.f. 18-5-1983).
3. Section. 365 renumbered as sub-section (*1*) thereof by Act 41 of 1984, s. 19 (w.e.f. 15-7-1985).

and the regulation of the proceedings, have the same powers as are exercisable by that court in the exercise of its criminal jurisdiction.

[1][(*2*) Subject to any rules made in this behalf by the Central Government, the court making an investigation or inquiry under this Part may, if it thinks fit, order the payment, on the part of that Government, of the reasonable expenses of any witness attending for the purposes of such investigation or inquiry before such court.]

**366. Assessors.**—(*1*) A court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the court by this Part or any other law for the time being in force shall rest with the court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the Central Government.

**367. Power to arrest witnesses and enter ships.**—If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Central Government, to enter any vessel, and any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

**368. Power to commit for trial and bind over witnesses.**—Whenever, in the course of any such investigation or inquiry, it appears that any person has committed in India an offence punishable under any law in force in India, the court making the investigation or inquiry may (subject to such rules consistent with this Act as the High Court may from time to time make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all its powers as a criminal court.

**369. Report by court to Central Government.**—(*1*) The court shall, in the case of all investigations or inquiries under this Part, transmit to the Central Government a full report of the conclusions at which it has arrived together with the evidence.

(*2*) Where the investigation or inquiry affects a master or an officer of a ship other than an Indian ship who holds a certificate under the law of any country outside India, the Central Government may transmit a copy of the report together with the evidence to the proper authority in that country.

[2][(*3*) The Central Government shall, on receipt of the investigation report from the court, cause it to be published in the Official Gazette.]

**370. Powers of court as to certificates granted by Central Government.**—(*1*) A certificate of a master, mate or engineer which has been granted by the Central Government under this Act may be cancelled or suspended—

(a) by a court holding a formal investigation into a shipping casualty under this Part if the court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

1. Ins. by Act 41 of 1984, s. 19 (w.e.f.15-7-1985).
2. Ins. by Act 9 of 1998, s. 5 (w.e.f. 26-9-1997).

(b) by a court holding an inquiry under this Part into the conduct of the master, mate or engineer if the court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the court cancels or suspends a certificate, the court shall forward it to the Central Government together with the report which it is required by this Part to transmit to it.

**371. Power of court to censure master, mate or engineer**.—Where it appears to the court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 370 is not justified, the court may pass an order censuring the master, mate or engineer in respect of his conduct.

**372. Power of court to remove master and appoint new master.—**(*1*) A [1][Judicial Magistrate of the first class] specially empowered in this behalf by the Central Government or a [2][Metropolitan Magistrate] may remove the master of any ship within his jurisdiction if the removal is shown to his satisfaction to be necessary.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship or of any certificated officer or of one-third or more of the crew of the ship.

(3) The [3][Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within his jurisdiction, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The [3][Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be] may also make such order and require such security in respect of the cost of the matter as he thinks fit.

*Marine Board*

**373. Convening of Marine Boards outside India**.—Whenever—

(a) a complaint is made to an Indian consular officer or a senior officer of any ship of the Indian Navy in the vicinity (hereinafter referred to as naval officer) by the master or any member of the crew of an Indian ship and such complaint appears to the Indian consular officer or naval officer, as the case may be, to require immediate investigation; or

(b) the interest of the owner of an Indian ship or of the cargo thereof appears to an Indian consular officer or naval officer, as the case may be, to require it; or

(c) an allegation of in competency or misconduct is made to an Indian consular officer or a naval officer against the master or any of the officers of an Indian ship; or

(d) any Indian ship is lost, abandoned or stranded at or near the place where an Indian consular officer or naval officer may be or whenever the crew or part of the crew of any Indian ship which has been lost, abandoned or stranded arrives at that place; or

(e) any loss of life or any serious injury to any person has occurred on board an Indian ship at or near that place;

the Indian consular officer or the naval officer, as the case may be, may, in his discretion, convene a Board of Marine Inquiry to investigate the said complaint or allegation or the matter affecting the said

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "magistrate of the first class" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, *ibid.*, for "presidency magistrate" (w.e.f. 18-5-1983).
3. Subs. by s. 17 and the Schedule, *ibid.*, for "magistrate" (w.e.f. 18-5-1983).

interest or the cause of the loss, abandonment or the stranding of the ship or of the loss of life or of the injury to the person.

**374. Constitution and procedure of Marine Board**.—(*1*) A Marine Board shall consist of the officer convening the Board and two other members.

(2) The two other members of the Marine Board shall be appointed by the officer convening the Marine Board from among persons conversant with maritime or mercantile affairs.

(3) The officer convening the Marine Board shall be the presiding officer thereof.

(4) A Marine Board shall, subject to the provisions of this Act, have power to regulate it‟s own procedure.

**375. Decisions of Marine Board to be by majority**.— Where there is a difference of opinion among members of the Marine Board, the decision of the majority of the members shall be the decision of the Board.

**376. Powers of Marine Board**.—(*1*) A Marine Board may, after investigating and hearing the case—

(a) if it is of opinion that the safety of an Indian ship or her cargo or crew or the interest of the owner of an Indian ship or of the owner of the cargo thereof requires it, remove the master and appoint another qualified person to act in his stead;

(b) if it is of opinion that any master or officer of an Indian ship is incompetent or has been guilty of any act of misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348 or that loss, abandonment or stranding of or serious damage to any ship, or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship‟s officer of an Indian ship, suspend the certificate of that master or ship's officer for a stated period:

Provided that no such certificate shall be suspended unless the master or officer concerned has been furnished with a statement of the case in respect of which investigation has been ordered and he has also been given an opportunity of making a defence either in person or otherwise;

(c) discharge a seaman from an Indian ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;

(d) decide any questions as to wages, fines or forfeitures arising between any of the parties to the proceedings;

(e) direct that any or all of the costs incurred by the master or owner of an Indian ship or on the maintenance of a seaman or apprentice while in prison outside India shall be paid out of, and deducted from, the wages of that seaman or apprentice, whether earned or subsequently earned;

(f) if it considers such a step expedient, order a survey to be made of any Indian ship which is the subject of investigation;

(g) order the costs of proceedings before it or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid by any person shall be paid by that person accordingly and may be recovered in the same manner in which wages of seaman are recoverable or may be deducted from the wages due to that person.

(*2*) All orders made by a Marine Board shall, whenever practicable, be entered in the official log book of the ship which is the subject of investigation or on board which the casualty or occurrence or conduct investigated took place, and be signed by the presiding officer of the Board.

*Miscellaneous provisions relating to cancellation and suspension of certificates*

**377. Powers of Central Government to cancel, suspend, etc., certificate of master, mate or engineer.—**(*1*) Any certificate which has been granted by the Central Government under this Act to any master, mate or engineer, may be cancelled or suspended for any specified period, by the Central Government in the following cases, that is to say,—

(a) if, on any investigation or inquiry made by any court, tribunal or other authority for the time being authorised by the legislative authority in any country outside India, the court, tribunal or other authority reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or in a case of collision has failed to render assistance, or to given such information as is referred to in section 348, or that the loss, stranding or abandonment of, or damage to, any ship or loss of life has been caused by his wrongful act or default;

(b) if the master, mate or engineer is proved to have been convicted—

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in India; or

(ii) of an offence committed outside India, which, if committed in India, would be a non-bailable offence;

(c) if (in the case of a master of an Indian ship) he has been superseded by the order of any court of competent jurisdiction in India or outside India.

[1][(*1A*) Any certificate within the meaning of clause (*b*) of section 87A may be cancelled or suspended for any specified period by the Central Government if the person to whom such certificate has been granted has contravened the provisions of sub-section (*1*) or sub-section (*2*) of section 87B:

Provided that no order under this sub-section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.]

(2) The Central Government may at any time, if it thinks the justice of the case so requires,—

(a) revoke any order of cancellation or suspension made by it under [2][sub-section (*1*) or sub-section (*1A*) or] set aside any order of cancellation or suspension made by a court under section 370 or any order of suspension made by a Marine Board under clause (*b*) of sub-section (*1*) of section 376 or any order of censure made by a court under section 371; or

(b) shorten or lengthen the period of suspension ordered by it under [2][sub-section (*1*) or sub-section (*1A*) or] by a court under section 370 or by a Marine Board under clause (*b*) of sub-section (*1*) of section 376 or cancel a certificate suspended by a Marine Board under that clause; or

(c) grant without examination a new certificate of the same or any lower grade in the case of any certificate cancelled or suspended by it under [2][sub-section (*1*) or sub-section (*1A*) or] by a court under section 370 or any certificate suspended by a Marine Board under clause (*b*) of sub-section (*1*) of section 376:

Provided that no order under clause (*b*) either lengthening the period of suspension of or cancelling a certificate shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

(3) A certificate granted under clause (*c*) of sub-section (*2*) shall have the same effect as if it had been granted after examination.

**378. Delivery of Indian certificate cancelled or suspended**.—A master or ship"s officer who is the holder of a certificate issued under this Act shall, if such certificate has been cancelled or suspended by the Central Government or by a court or suspended by a Marine Board, deliver his

1. Ins. by Act 20 of 1979, s. 3 (w.e.f. 4-5-1979).
2. Subs. by s. 3, *ibid.*, for "sub-section (*1*) or" (w.e.f. 4-5-1979).

certificate to the Central Government, court or Marine Board on demand or if it is not so demanded by the Central Government or court or Board, to the Director-General.

**379. Effect of cancellation or suspension of certificate**.—The cancellation or suspension of a certificate by the Central Government or by a court or the suspension of a certificate by a Marine Board, shall—

(a) if the certificate was issued under this Act, be effective everywhere and in respect of all ships; and

(b) if the certificate was issued outside India, be effective—

(i) within India and the territorial waters of India, in respect of all ships; and

(ii) outside India, in respect of Indian ships only.

**380. Suspended certificate not to be endorsed**.—If the certificate of a master or ship's officer is suspended under this Part by the Central Government or by a court or a Marine Board, no endorsement shall be made to that effect on the said certificate.

**381. Power of Central Government to cancel or suspend other certificates**.—Notwithstanding anything contained in this Act, the Central Government may, at any time, without any formal investigation or inquiry, cancel or suspend any certificate granted by it under this Act, other than a certificate granted to a master, mate or engineer, if, in its opinion, the holder is, or has become, unfit to act in the grade for which the certificate was granted to him:

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

*Re-hearing of cases*

**382. Re-hearing**.—(*1*) Whenever an investigation or inquiry has been held by a court or by a Marine Board under this Part, the Central Government may order the case to be reheard either generally or as to any part thereof, and shall so order—

(a) if new and important evidence which could not be produced at the investigation has been discovered, or

(b) if for any other reason there has, in its opinion, been a miscarriage of justice.

(*2*) The Central Government may order the case to be reheard by the court or Marine Board as the case may be consisting of the same members or other members as the Central Government may deem fit.

*Courts of survey*

**383. Constitution of court of survey**.—(*1*) A court of survey for a port shall consist of a Judge sitting with two assessors.

(2) The Judge shall be a District Judge, Judge of a court of small causes, [1][Metropolitan Magistrate, Judicial Magistrate of the first class] or other fit person appointed in this behalf by the Central Government either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering pr other special skill or experience.

(4) Subject to the provisions of Part IX as regards ships other than Indian ships, one of the assessors shall be appointed by the Central Government either generally or in each case and the other shall be summoned by the Judge in the manner prescribed out of a list of persons from time to time prepared for the purpose by the Central Government or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "presidency magistrate, magistrate of the first class" (w.e.f. 18-5-1983).

**384. Appeal from surveyor to court of survey**.—(*1*) If a surveyor authorised to inspect a ship—

(a) makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied, or

(b) gives notice under this Act of any defect in any ship, or

(c) declines to give any certificate under this Act,

the owner, master or agent, as the case may be, may, subject to the provisions of sub-section (*2*) and of section 387, appeal to a court of survey.

(*2*) Whenever a surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the surveyor as to the statement made or the notice given by the surveyor or the refusal by the surveyor to give a certificate, there shall be no appeal to a court of survey from that statement, notice or refusal.

**385. Powers and procedure of court of survey**.—(*1*) The Judge shall on receiving notice of appeal or a reference from the Central Government immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The court of survey shall hear every case in open court.

(3) The Judge may appoint any competent person to survey the ship and report thereon to the court.

(4) The Judge shall have the same powers as the Central Government has to order the ship to be released or finally detained; but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Central Government may attend any inspection or survey made in pursuance of this section.

(6) The Judge shall report the proceedings of the court in each case to the Central Government in the manner prescribed and each assessor shall either sign such report or report to the Central Government the reasons for his dissent.

**386. Power to make rules**.—The Central Government may make rules for carrying out the purposes of this Part with respect to a court of survey and in particular, and without prejudice to the generality of the foregoing power, with respect to—

(a) the procedure of the court;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs

*Scientific referees*

**387. Reference in difficult cases to scientific persons**.—(*1*) If the Central Government is of opinion that an appeal to a court of survey involves a question of construction or design or a scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Central Government as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between a person duly appointed by the Central Government in this behalf and the appellant, or in default of any such agreement, by the Central Government; and there upon the appeal shall be determined by the referee or referees instead of by the court of survey.

(2) The Central Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the court of survey.

*Investigations into explosions or fires on board ships*

**388. Power to investigate causes of explosion or fire on board ship**.—Whenever any explosion or fire occurs on board any ship on or near the coasts of India, the Central Government may direct that an investigation into the causes of explosion or fire be made by such person or persons as it thinks fit.

**389. Report to he made regarding cause of explosion or fire**.—The person or persons referred to in section 388 may go on board the ship on which the explosion or fire has occurred with all necessary workmen and labourers, and remove any portion of the ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Central Government or the person duly appointed by it, as the case may be, what in his or their opinion was the cause of the explosion or fire.

## PART XIII

### WRECK AND SALVAGE WRECK

**390. Definition of "coasts"**.—In this Part, the word "coasts" includes the coasts of creeks and tidal rivers.

**391. Receivers of wreck**.—(*1*) The Central Government may, by notification in the Official Gazette, appoint any person to be a receiver of wreck (in this Part referred to as receiver of wreck) to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as may be specified in the notification.

(*2*) A receiver of wreck may, by order in writing, direct that all or any of his functions under this Part shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be discharged by such person as may be specified therein and any person while discharging any such functions shall be deemed to be a receiver of wreck for the purposes of this Act.

**392. Duty of receiver where vessel is in distress.**—Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of India, the receiver of wreck, within the limits of whose jurisdiction the place is situate, shall, upon being made acquainted with the circumstances, forthwith proceed there, and upon his arrival shall take command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the person's belonging to the vessel and of its cargo and equipment:

Provided that the receiver shall not interfere between the master and the crew of the vessel, in reference to the management thereof unless he is requested to do so by the master.

**393. Power to pass over adjoining lands**.—(*1*) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel or of saving the lives of the shipwrecked persons, or of saving the cargo or equipment of the vessel, unless there is some public road equally convenient, pass and repass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible and may also on the like condition, deposit on these lands any cargo or other article recovered from the ship.

(*2*) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section, shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined by a Magistrate on application made to him in this behalf.

**394. Power of receiver of wreck to suppress, plunder and disorder by force**.—Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or equipment of the vessel, the receiver of wreck may take such steps and use such force as he may consider necessary for the suppression of any such plundering, disorder or obstruction, and may for that purpose command any person to assist him.

**395. Procedure to be observed by persons finding wreck**.—Any person finding and taking possession of any wreck within any local limits for which there is a receiver of wreck, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable—

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

**396. Investigation of certain matters in respect of vessels wrecked, etc**.—Whenever any vessel is wrecked, stranded or in distress as aforesaid, the receiver of wreck within the local limits of whose jurisdiction the vessel is wrecked, stranded or in distress may conduct an investigation into all or any of the following matters, that is to say,—

(a) the name and description of the vessel;

(b) the names of the master and of the owners;

(c) the names of the owners of the cargo;

(d) the ports from and to which the vessel was bound;

(e) the occasion of the wrecking, stranding, or distress of the vessel;

(f) the services rendered; and

(g) such other matters or circumstances relating to the vessel, the cargo or the equipment, as the receiver thinks necessary.

**397. Notice to be given by receiver**.—The receiver of wreck shall as soon as may be after taking possession of any wreck, publish a notification in such manner and at such place as the Central Government may, by general or special order, direct, containing a description of the wreck and the time at which and the place where it was found.

**398. Immediate sale of wreck by receiver in certain cases**.—A receiver of wreck may at any time sell any wreck in his custody if, in his opinion,—

(a) it is under the value of five hundred rupees; or

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value for warehousing;

and the proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

**399. Claims of owners to wreck**.—(*1*) The owner of any wreck in the possession of the receiver upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

(2) Where any articles belonging to or forming part of a vessel other than an Indian vessel which has been wrecked or belonging to and forming part of the cargo of such vessel, are found on or near the coasts of India or are brought into any port in India, the consular officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within one year from the date of sale, the said balance shall become the property of the Central Government.

**400. Prohibition of certain acts in respect of wreck**.—No person shall—

(a) without the leave of the master board or attempt to board any vessel which is wrecked, stranded or in distress as aforesaid, unless the person is, or acts by command of, the receiver of wreck; or

(b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the coasts of India or of any part of the cargo or equipment of the vessel, or of any wreck; or

(c) secrete any wreck or deface or obliterate any marks thereon; or

(d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, on or near the coasts of India, or any part of the cargo or equipment of the vessel or any wreck.

**401. Search warrants where wreck is concealed—**Where a receiver of wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to the nearest [1][Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] for a search warrant, and that [1][Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] shall have power to grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found.

*Salvage*

**402. Salvage payable for saving life, cargo or wreck**.—(*1*) Where services are rendered—

(a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered In India; or

(b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of India; or

(c) by any person other than the receiver of wreck in saving any wreck;

there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.

(3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Indian Navy [2][or of the Coast Guard] or the commander or crew of any such vessel, the Government, the commander or the crew, as the case may be, shall be entitled to salvage and shall have the same rights and remedies in respect of those services as any other salvor.

[2][*Explanation*.—"Coast Guard" means the Coast Guard constituted under section 3 of the Coast Guard Act, 1978 (30 of 1978).]

(4) Any dispute arising concerning the amount due under this section shall be determined upon application made by either of the disputing parties—

(a) to a [1][Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] where the amount claimed does not exceed ten thousand rupees; or

(b) to the High Court, where the amount claimed exceeds ten thousand rupees.

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "magistrate" (w.e.f. 18-5-1983).
2. Ins. by Act 41 of 1984, s. 20 (w.e.f.15-7-1985).

(5) Where there is any dispute as to the persons who are entitled to the salvage amount under this section, the [1][the Judicial Magistrate of the first class or the Metropolitan Magistrate or the High Court as the case may be,] shall decide the dispute and if the are more persons than one entitled to such amount, [2][such magistrate] or the High Court shall apportion the amount thereof among such persons.

(6) The costs of and incidental to all proceedings before [3][a Judicial Magistrate of the first class or Metropolitan Magistrate] or the High Court under this section shall be in the discretion of [2][such magistrate] or the High Court, and [2][such magistrate] or the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

**403. Savings**.—Nothing in this Part shall—

(a) affect any treaty or arrangement with any foreign country to which India is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or

(b) affect the provisions of section 29 of the Indian Ports Act, 1908 (15 of 1908), or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

**404. Power to make rules respecting wreck and salvage**.—(*1*) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the procedure to be followed by a receiver of wreck in respect of the taking possession of wrecks and their disposal;

(b) the fees payable to receivers in respect of the work done by them;

(c) the procedure to be followed for dealing with claims relating to ownership of wrecks;

(d) the appointment of valuers in salvage cases;

(e) the principles to be followed in awarding salvage and the apportioning of salvage;

(f) the procedure to be followed for dealing with claims for salvage;

(g) the detention of property in the custody of a receiver of wreck for the purpose of enforcing payment of salvage.

## PART XIV

### CONTROL OF INDIAN SHIPS AND SHIPS ENGAGED IN COASTING TRADE

**405. Application of Part**.—This Part applies only to sea-going ships fitted with mechanical means of propulsion of not less than one hundred and fifty tons gross, but the Central Government may, by notification in the Official Gazette, fix any lower tonnage for the purposes of this Part.

**406. Indian ships and Chartered ships to be licensed**.—(*1*) No Indian ship and no other ship chartered by a citizen of India or a company [4][or a co-operative Society] shall be taken to sea from a port or place within or outside India except under a licence granted by the Director-General under this section:

Provided that the Central Government, if it is of opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt any class of ships

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "the magistrate or the High Court, as the case may be" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, *ibid.*, for "the magistrate" (w.e.f. 18-5-1983).
3. Subs. by s. 17 and the Schedule, *ibid.*, for "a magistrate" (w.e.f. 18-5-1983).
4. Ins. by Act 43 of 1981, s. 7 (w.e.f. 28-9-1981).

chartered by a citizen of India or a company [1][or a co-operative Society] from the provisions of this sub-section.

(2) A licence granted under this section may be

(a) a general licence;

(b) a licence for the whole or any part of the coasting trade of India; or

(c) a licence for a specified period or voyage.

(3) A licence granted under this section shall be in such form and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General.

**407. Licensing of ships for coasting trade.—**(*1*) No ship other than an Indian ship or a ship chartered by a citizen of India [1][or a company or a co-operative society which satisfies the requirements specified in clause (*b*) or, as the case may be, clause (*c*) of section 21], shall engage in the coasting trade of India except under a licence granted by the Director-General under this section.

(2) A licence granted under this section may be for a specified period or voyage and shall be subject to such conditions as may be specified by the Director-General.

(3) The Central Government may, by general or special order, direct that the provisions of sub-section (*1*) shall not apply in respect of any part of the coasting trade of India or shall apply subject to such conditions and restrictions as may be specified in the order.

**408. Revocation or modification of licence.—**(*1*) The Director-General may, at any time if the circumstances of the case so require, revoke or modify a licence granted under section 406 or section 407.

(*2*) No licence shall be revoked or modified under this section unless the person concerned has been given a reasonable opportunity of making a representation against such revocation or modification, as the case may be.

**409. Licences to be surrendered when they cease to be valid.—**When a licence under section 406 or section 407 ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Director-General.

**410. No port clearance until licence is produced.—**No customs collector shall grant a port clearance to a ship in respect of which a licence is required under this Part until after production by the owner, master or agent of such a licence.

**411. Power to give directions.—**The Director-General may, if he is satisfied that in the public interest or in the interests of Indian shipping it is necessary so to do, give, by order in writing, such directions as he thinks fit—

(a) in the case of a ship which has been granted a licence under section 406, with respect to all or any of the following matters:—

(i) the ports or places whether in or outside India, to which, and the routes by which, the ship shall proceed for any particular purpose;

(ii) the diversion of any ship from one route to another for any particular purpose;

(iii) the classes of passengers or cargo which may be carried in the ship;

(iv) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside India;

1. Subs. by Act 43 of 1981, s. 8, for "or a company which satisfies the requirements specified in clause (*b*) of section 21" (w.e.f. 28-9-1981).

(b) in the case of a ship which has been granted a licence under section 407 with respect to the order of priority in which passengers or, cargo may be taken on the ship at any port or place in India from which she is about to proceed for any port or place on the continent of India at which she is to call in the course of her voyage.

[1]**[411A. Powers of the Central Government to protect interests of Indian shipping from undue foreign intervention.—**(*1*) If it appears to the Central Government**—**

(a) that measures have been taken by or under the law of any foreign country for regulating or controlling the terms or conditions upon which goods or passengers may be carried by sea, or the terms or conditions of contracts or arrangements relating to such carriage; and

(b) that such measures, in so far as they apply to things done or to be done outside the territorial jurisdiction of that country by persons carrying on lawful business in India, constitute an infringement of the jurisdiction which belongs to India,

it may, by an order in writing, direct that this section shall apply to those measures either in whole or to such extent as may be specified in the order.

(2) Where an order issued under sub-section (*1*) is in force in relation to any measures, it shall be the duty of every person in India who carries on business consisting or comprising of the carriage of goods or passengers by sea to give notice to the Central Government of any requirement or prohibition imposed or threatened to be imposed on him pursuant to such measures so far as this section applies to him, including any requirement to submit any contractor other document for approval thereunder.

(3) Where a notice under sub-section (*2*) is received from any person or there are grounds to believe that a notice is likely to be received; the Central Government may, by an order in writing, give to such person directions prohibiting compliance with any such requirement or prohibition as it considers proper for maintaining the jurisdiction of India.

(4) Any directions given by the Central Government under sub-section (*3*) may be either general or special and may prohibit compliance with any requirement or prohibition either absolutely or in such cases or subject to such conditions, as to consent or otherwise, as may be specified in the order.

(5) If it appears to the Central Government that any person in India has been or may be required to produce or furnish to any court, tribunal or authority of a foreign country any commercial document which is not within the territorial jurisdiction of that country or any commercial information to be compiled from documents not within the territorial jurisdiction of that country and that the requirement constitutes or would constitute an infringement of the jurisdiction which belongs to India, the Central Government may, by an order in writing, give directions to that person, prohibiting him from complying with the requirement except to such extent or subject to such conditions as may be specified in the order.]

***412.*** [*Power to fix shipping rates.*] *Omitted by the Merchant Shipping* (*Amendment*) *Act,* (68 *of* 1993), *s*. 6 (*w.e.f.* 27-10-1993).

**413. Power of Director-General to call for information**.**—**The Director-General may, by notice, require—

(a) the owner, master or agent of any ship in respect of which a licence granted by the Director-General under this Act is in force; or

(b) the owner, master or agent of any ship in respect of which any directions have been or may be given under clause (*b*) of section 411;

to furnish within the period specified in the notice information as to—

(i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any specified period;

1. Ins. by Act 12 of 1983, s. 12 (w.e.f. 18-5-1983).

(ii) the rates of passenger fares and freight charges applicable to the ship;

(iii) any other matter which may be prescribed.

**414. Power to make rules**. (*1*) The Central Government may make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which, the period or voyage for which, and the conditions subject to which licences under this Part may be granted, the particulars to be included therein and the fees payable therefor;

[1]* * * * *

(*d*) the matters regarding which information may be required to be furnished under section 413.

## PART XV

### SAILING VESSELS

**415. Application of Part**.—Save as otherwise provided, this Part applies to every sea-going sailing vessel owned by a citizen of India [2][or a company or a co-operative society which satisfies the requirements specified in clause (*b*) or, as the case may be, clause (*c*) of section 21.]

**416. Decision of question whether a vessel is a sailing vessel**.—If any question arises whether a vessel is a sailing vessel or not for the purposes of this Part, it shall be decided by the Director-General and his decision thereon shall be final.

**417. Certificate of registry**.—(*1*) Every sailing vessel [3][(other than a sailing vessel solely engaged in fishing for profit)] shall be registered in accordance with the provisions of this section.

(2) The owner of every sailing vessel shall make an application in the prescribed form to a registrar for the grant to him of a certificate of registry in respect of the vessel.

(3) The owner of every sailing vessel in respect of which an application under sub-section (*2*) is made, shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as sailing vessels register) the following particulars in respect of the vessel, namely:—

(a) the name of the sailing vessel, the place where she was built, and the port to which she belongs;

(b) the right type and tonnage of the vessel;

(c) the name, occupation and residence of the owner of the vessel;

(d) the number assigned to the vessel;

(e) the mortgages, if any, effected by the owner in respect of the vessel;

(f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the sailing vessels register under sub-section (*4*), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

---

1 Clauses (*b*) and (*c*) omitted by Act 68 of 1993, s. 7 (w.e.f. 27-10-1993).

2. Subs. by Act 43 of 1981, s. 9, for "or a company which satisfies the requirements specified in clause (*b*) of section 21" (w.e.f. 28-9-1981).

3. Ins. by Act 12 of 1983, s. 13 (w.e.f. 18-5-1983).

(6) The owner of every sailing vessel shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government, having regard to the tonnage of the vessel, but in no case exceeding one rupee per ton of its gross tonnage.

(7) A sailing vessel requiring to be registered under this Part but not so registered may be detained by a proper officer until the owner or tindal produces a certificate of registry in respect of the vessel.

**418. Particulars relating to sailing vessel to be painted**.—The owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the sailing vessel, the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs, and shall take all steps to ensure that the vessel remains painted as required by this section.

**419. Change of name of sailing vessel**.—A change shall not be made in the name of a sailing vessel registered under this Part except in accordance with the rules made in this behalf.

**420. Prevention of overloading or overcrowding**.—(*1*) The Central Government may make rules regulating the carriage of cargo or passengers in sailing vessel and the protection of life and property on board such vessels.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the assignment of free board to sailing vessel;

(b) the marking of such free board on such vessels and the maintenance of such markings;

(c) the survey of the space allotted to passengers on board such vessels;

(d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to ply or proceed to sea without free board markings or any sailing vessel which has been so loaded as to submerge such marking may be detained by a proper officer until free board markings are made in accordance with the rules made in this behalf or the vessel is so loaded that such markings are not submerged.

(4) Nothing in this section relating to free board, shall apply to any sailing vessel in respect of which a load line has been assigned under Part IX.

**421. Certificate of inspection**.—(*1*) No sailing vessel shall ply or proceed to sea unless there is in force in respect of that vessel a certificate of inspection granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

(2) A certificate of inspection in respect of a sailing vessel shall specify—

(a) the name and tonnage of the vessel;

(b) the names of the owner and tindal of the vessel;

(c) the maximum number of the crew and the maximum number of passengers which the vessel is fit to carry;

(d) the limits within which the vessel may be used for the purpose of trading and the terms and conditions subject to which she may be used for such trading;

(e) the particulars of the free board assigned to the vessel;

and shall contain a statement to the effect that her hull, rigging and equipment (including auxiliary machinery, if any) are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein:

Provided that where a sailing vessel is on a voyage outside India at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port in India after the expiry of such period.

(4) No customs collector shall grant a port clearance to a sailing vessel registered under this Part until after the production by the owner or tindal thereof of a certificate of inspection granted under this Part in respect of the vessel.

**422. Cancellation, re-issue, etc. of certificate of inspection**.—(*1*) Where at any time subsequent to the issue of a certificate of inspection in respect of a sailing vessel, the Director-General has reason to believe that the vessel is not fit to ply or proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(*2*) Where at any time subsequent to the issue of a certificate of inspection a sailing vessel has undergone material alteration or has met with accident or, where the certificate of inspection of a sailing vessel has been cancelled under sub-section (*1*) and an application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to ply or proceed to sea or that her hull, rigging and equipment (including auxiliary machinery, if any) are defective, such certificate shall not be re-issued or issued until the vessel is, in the opinion of such authority, fit to ply or proceed to sea or the defect is rectified to the satisfaction of such authority.

**423. Registry of alterations**.—When a sailing vessel is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such vessel shall make a report of such alteration to the registrar of the port where the vessel is registered, and the registrar shall either cause the alteration to be registered, or direct that the vessel be registered anew, in accordance with such rules as may be made in this behalf.

**424. Transfer of registry**.—The registry of a sailing vessel may be transferred from one port to another in India on the application of the owner or tindal of the vessel in accordance with such rules as may be made in this behalf.

**425. Closure of registry**.—If a sailing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall with the least practicable delay report the fact to the registrar of the port where the vessel is registered and also forward to him along with the report, the certificate of registry in respect of the vessel; and thereupon the registrar shall have the registry of the vessel closed.

**426. Restrictions on transfer of sailing vessel**.—No person shall transfer or acquire any sailing vessel registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

**427. Mortgages of sailing vessels**.—(*1*) Every mortgage of a sailing vessel or of any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of a sailing vessel or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months of that date.

(3) The registrar shall enter every such mortgage in the sailing vessels register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same sailing vessel or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself:

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the

same vessel or interest therein effected before such date which are registered in accordance with the provisions of sub-section (*2*).

**428. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited**.—(*1*) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of a sailing vessel for any purpose other than the lawful navigation of the vessel.

(2) No person shall use or attempt to use for the navigation of a sailing vessel a certificate of registry or a certificate of inspection not granted in respect of that vessel.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of a sailing vessel shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the vessel.

**429. Statement relating to crew of sailing vessel to be maintained**.—(*1*) Every owner or tindal of a sailing vessel shall maintain or cause to be maintained in the prescribed a form a statement of the crew of the vessel containing with respect to each member thereof—

(a) his name;

(b) the wages payable to him;

(c) the names and addresses of his next-of-kin;

(d) the date of commencement of his employment; and

(e) such other particulars as may be prescribed.

(2) Every change in the crew of the vessel shall be entered in the statement under sub-section (*1*).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port of registry of the vessel concerned.

**430. Inquiry into jettisoning of cargo**.—(*1*) If any owner or tindal of a sailing vessel in the course of her voyage, has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port in India give notice of such jettisoning to the proper officer at such port; and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.

(*2*) When any such officer receives notice under sub-section (*1*) or has reason to believe that the cargo of any sailing vessel in his port has been jettisoned, he shall forthwith report in writing to the Central Government the information he has received and may proceed to make an inquiry into the matter.

**431. Non-Indian sailing vessels not to engage in coasting trade without permission**.—(*1*) A sailing vessel not owned by a citizen of India [1][or a company or a co-operative society which satisfies the requirements specified in clause (*b*) or, as the case may be, clause (*c*) of section 21,] shall not engage in the coasting trade of India without the written permission of the Director-General.

(2) The Director-General may, when granting such permission, impose such terms and conditions as he thinks fit and may require the owner or other person in charge of the vessel to deposit with him such amount as he thinks necessary for the due fulfilment of such terms and conditions.

(3) No customs collector shall grant a port clearance to a sailing vessel not registered under this Part which engages or attempts to engage in the coasting trade of India until after the production by the owner or person in charge thereof of the written permission of the Director-General.

1. Subs. by Act 43 of 1981, s. 10, for "or a company which satisfies the requirements specified in clause (*b*) of section 21" (w.e.f. 28-9-1981).

**432. Detention of overloaded non-Indian sailing vessels**.—(*1*) If any sailing vessel registered in any country outside India arrives in or proceeds from a port or place in India in an overloaded conditions, the person in charge of the vessel shall be guilty of an offence under this section.

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section—

(a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or

(b) in case no such certificate has been issued in respect of the vessel, where the actual free board of the vessel is less than the free board which would have been assigned to her had she been registered under this Part.

(3) Any sailing vessel which is in an overloaded condition and is about to proceed from a port or place in India may be detained until she ceases to be in an overloaded conditions; but nothing herein contained shall affect the liability of the person in charge of the vessel in respect of such overloading under any other provision of this Act.

**433. Power of courts to rescind contracts between owner and tindal**.—Where a proceeding is instituted in any court in respect of any dispute between the owner of a sailing vessel and the tindal arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case it thinks it just to do so, may rescind any contract between the owner and the tindal upon such terms as the court may think just and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

**434. Application to sailing vessels of other provisions relating to ships**.—The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to sailing vessels shall also apply to sailing vessels subject to such conditions, exceptions and modifications as may be specified in the notification.

[1][**434A. Insurance of members of crew of a sailing vessel.**—(*1*) Subject to the other provisions of this section and the scheme framed under sub-section (*3*), the owner of every sailing vessel shall take and keep in force, in accordance with the provisions of the said scheme, a policy of insurance whereby all the members of the crew of such vessel are insured against death or personal injury caused by accident in the course of employment as such members.

(2) It shall be the responsibility of the owner of every sailing vessel to bear the expenses incidental to the taking of the policy of insurance referred to in sub-section (*1*) and to pay the premiums for keeping it in force:

Provided that the maximum amount which the owner of the sailing vessel shall be liable to pay by way of premiums per year shall not exceed—

(a) where the number of members of the crew is not more than ten, one hundred and fifty rupees.

(b) where the number of members of the crew is more than ten, a sum calculated at the rate of fifteen rupees for each member of the crew.

(3) The Central Government may, by notification in the Official Gazette, frame a scheme providing for the insurance of all persons employed as members of the crew of sailing vessels against death or personal injury caused by accident arising in the course of their employment as such members.

(4) Without prejudice to the generality of the provisions of sub-section (*3*), a scheme framed under that sub-section may provide for—

1. Ins. by Act 41 of 1984, s. 21 (w.e.f. 15-7-1985).

(a) the amount which should be payable in the case of personal injury resulting in the death of a member of the crew of a sailing vessel due to accident and in the case of other injuries:

Provided that different amounts may be provided in respect of different personal injuries not resulting in death;

(b) the procedure for payment of such amounts; and

(c) all other matters necessary for giving effect to the scheme.

(5) Where, under the provisions of any other law for the time being in force compensation is payable in respect of death or personal injury sustained by a member of the crew of a sailing vessel as a result of an accident in the course of his employment as such member, then if the amount payable in respect of such death or personal injury in accordance with the scheme framed under this section—

(a) is equal to or more than, the compensation payable under such other law, no compensation shall be payable under such other law;

(b) is less than the compensation payable under such other law, the compensation payable under such other law shall be reduced by the said amount.

(6) Every scheme framed by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

**434B. Policy of insurance**.—(*1*) No sailing vessel shall ply or proceed to sea unless there is in force in respect of the members of the crew of the vessel a policy of insurance complying with the requirements of section 434-A and the scheme framed thereunder.

(*2*) No customs collector shall grant a port clearance to a sailing vessel until after production by the owner of such a policy of insurance.]

**435. Power to make rules respecting sailing vessels**.—(*1*) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which the tonnage of sailing vessels shall be ascertained;

(c) the manner in which free board is to be assigned to sailing vessels and the free board markings are to be made;

(d) the form in which certificates of registry and certificates of inspection may be issued;

(e) the issue of duplicate copies of certificates of registry and certificates of inspection where the originals are destroyed, lost, mislaid, mutilated or defaced;

(f) the manner in which, and the time within which, applications for the registry of alterations in the certificates of registry of sailing vessels shall be reported, the endorsement of the particulars of alteration on the certificates of registry, the grant of provisional certificates in cases where sailing vessels are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(g) the manner in which applications for the transfer of registry of sailing vessels from one port to another in India shall be made and the procedure to be followed by the registrar in connection with such transfer;

(h) the authorities by which sailing vessels are to be inspected and certificates of inspection are to be issued under this Part;

(i) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading;

(j) the fixing of the rates of freight which may be charged by sailing vessels for specified goods or for any class of goods in relation to the coasting trade of India;

(k) the equipment which sailing vessels or any class of sailing vessels should carry including equipment relating to life saving and fire appliances, lights, shapes and signals required by the collision regulations;

(l) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers;

(m) the authority to which information regarding certificates of registry, registry of alterations and issue of fresh certificates of registry under this Part is to be sent by registrars;

(n) the qualifications to be possessed by tindals and other members of the crew of sailing vessels, the issue of permits to tindals and of identity cards to other members of the crew, the conditions for the issue of such permits and identity cards and the cancellation or suspension thereof;

[1][(*o*) the fees which may be levied for the issue or re-issue of certificates of registry, for the survey or inspection of sailing vessels before issue of such certificates, for the inspection of sailing vessels and for all other purposes of this Part and the manner in which such fees may be recovered.]

(p) the form in which a contract of chartering a sailing vessel shall be executed;

(q) the form in which a contract for the carriage of goods by sailing vessels shall be executed;

(r) the reservation, in the public interest or in the interest of sailing vessels, of specified commodities for transport by sailing vessels either generally or in specified sectors of the coasting trade or between specified ports and the conditions subject to which such reservation may be made;

(s) any other matter which has to be or may be prescribed.

## [2][PART XVA

## FISHING BOATS

**435A. Application of Part**.—Save as otherwise provided, this Part applies to every Indian fishing boat.

**435B. Definition**.—For the purposes of this Part, "Indian fishing boat" means—

(a) every fishing vessel as defined in clause (12) of section 3;

(b) every sailing vessel, whether or not fitted with mechanical means of propulsion, solely engaged in fishing for profit;

(c) every boat or craft of any other type used solely for fishing which the Central Government may, by notification in the Official Gazette, specify to be a fishing boat for the purpose of this section,

---

1. Subs. by Act 12 of 1983, s. 14, for clause (*o*) (w.e.f.18-5-1983).
2. Ins. by s. 15, *ibid*. (w.e.f. 18-5-1983).

which is owned wholly by persons to each of whom any of the descriptions specified in clause (*a*) or in clause (*b*) or in clause (*c*), as the case may be, of section 21 applies or which satisfies such other requirements as the Central Government may, by notification in the Official Gazette, specify.

**435C. Obligation to register**.—Every Indian fishing boat shall be registered under this Part:

Provided that any Indian fishing boat registered at the commencement of this Part under Part V or Part XV of this Act or any other law for the time being in force in India shall be deemed to have been registered under this Part:

Provided further that every Indian fishing boat so deemed to have been registered shall be re-registered under this Part within such period from the commencement of this Part as the Central Government may, by notification in the Official Gazette, specify:

Provided also that registration of non-mechanised sailing vessels will commence in different ports on such dates as the Central Government may, by notification in the Official Gazette, specify.

**435D. Port of registry**.—(*1*) The ports at which registration of Indian fishing boats shall be made shall be such ports or places in India as the Central Government may, by notification in the Official Gazette, declare to be ports or places of registry under this Part.

(*2*) The port or place at which an Indian fishing boat is registered for the time being under this Part, shall be deemed to be her port or place of registry and the port or place to which she belongs.

**435E. Registrars of Indian fishing boats**.—The Central Government may, by notification in the Official Gazette, appoint an officer to be registrar of Indian fishing boats (hereafter in this Part referred to as registrar) at every port or place declared as a port or place of registry under sub-section (1) of section 435D.

**435F. Application for registry**.—An application for the registry of an Indian fishing boat shall be made—

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

(b) in the case of more than one individual requiring to be so registered, by one or more of the persons so requiring or by his or their agent or agents, as the case may be; and

(c) in the case of a company or a co-operative society requiring to be so registered, by its agents;

and the authority of the agent shall be testified in writing, if appointed by an individual under the hand of the person appointing him and, if appointed by a company or a co-operative society under its common seal.

**435G. Certificate of registry**.—(*1*) The owner of every Indian fishing boat required to be registered under this Part shall make an application in the prescribed form to the registrar for the grant to him of a certificate of registry in respect of the fishing boat.

(2) The owner of every Indian fishing boat in respect of which an application under sub-section (*1*) is made, shall cause the tonnage of the fishing boat to be ascertained in the prescribed manner.

(3) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as fishing boats register) the following particulars in respect of the Indian fishing boat, namely:—

(a) the name of the fishing boat, the place where she was built and the port to which she belongs;

(b) the rig, type and tonnage of the fishing boat;

(c) the number assigned to the fishing boat;

(d) the name, occupation and residence of the owner of the fishing boat;

(e) the mortgages, if any, effected by the owner in respect of the fishing boat; and

(f) such other particulars as may be prescribed.

(4) After the particulars in respect of the Indian fishing boat have been entered in the fishing boats register under sub-section (*3*), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(5) The owner of every Indian fishing boat shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government having regard to the tonnage of the fishing boat, but in no ease exceeding one rupee per ton of its gross tonnage.

(6) An Indian fishing boat required to be registered under this Part but not so registered may be detained by a proper officer until the owner, skipper, tindal or other person in charge of the fishing boat produces a certificate of registry in respect of the fishing boat.

**435H. Particular relating to Indian fishing boats to be painted**.—The owner of every Indian fishing boat so registered shall, before commissioning the fishing boat into service, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the fishing boat, the name by which the fishing boat has been registered, the number assigned to the fishing boat by the registrar and the port or place to which she belongs, and shall take all steps to ensure that the fishing boat remains painted as required by this section.

**435-I. Change of name of Indian fishing boat**.—A change shall not be made in the name of an Indian fishing boat registered under this Part except in accordance with rules made in this behalf.

**435J. Special provision for Indian fishing boats**.—Every Indian fishing boat registered under this Part shall carry on board such life sauing appliances and fire appliances as are prescribed by rules made under sections 288, 289 and 457 or under any other provision of this Act, subject to such exemptions as may be specially granted in respect of such fishing boat.

**435K. Certificate of inspection**.—(*1*) No Indian fishing boat shall ply or proceed to sea unless there is in force in respect of that fishing boat a certificate of inspection granted under this Part.

(2) A certificate of inspection in respect of an Indian fishing boat shall specify—

(a) the name and tonnage of the fishing boat;

(b) the name of skipper, tindal or other person in charge of the fishing boat;

(c) the maximum number of members of crew the fishing boat is certified to carry;

(d) the safety equipments and appliances the fishing boat is required to carry on board;

(e) such other matters as the Central Government may think fit to specify,

and shall contain a statement to the effect that her hull, rigging, equipment and machinery where fitted are in good condition.

(3) Every certificate or inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein:

Provided that when an Indian fishing boat is at sea at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port or place in India.

**435L. Cancellation, re-issue, etc., of certificate of inspection**.—(*1*) Where at any time subsequent to the issue of a certificate of inspection in respect of an Indian fishing boat, the registrar has reason to believe that the fishing boat is not fit to proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(*2*) Where at any time subsequent to the issue of a certificate of inspection an Indian fishing boat has undergone material alteration or has met with accident or, where the certificate of inspection has been cancelled under sub-section (*1*) and the application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such fishing boat to be inspected; and if the authority inspecting the fishing boat reports that she is not fit to proceed to sea or that her hull, rigging or equipment are

defective, such certificate shall not be re-issued or issued until the fishing boat is in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of that authority.

**435M. Inspection of safety equipments and appliances**.—(*1*) Any surveyor appointed under section 9, any registrar appointed under section 435E or any other officer appointed by the Central Government in this behalf by notification in the Official Gazette may at any reasonable time inspect any Indian fishing boat for the purpose of seeing the she is properly provided with safety equipments and appliances in conformity with the rules referred to in section 435J.

(2) If the surveyor, or, as the case may be, the registrar or other officer appointed under sub-section (*1*) finds that the Indian fishing boat is not provided with the aforesaid equipments and appliances, he shall give to the owner, skipper or tindal or any other person in charge of the fishing boat a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No Indian fishing boat served with a notice under sub-section (*2*) shall proceed to sea until it obtains a certificate signed by the surveyor, registrar or other officer appointed under sub-section (*1*) to the effect that it is properly provided with safety equipments and appliances in conformity with the aforesaid rules.

**435N. Registration of alteration**.—When an Indian fishing boat is so altered us not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such fishing boat shall make a report of such alterations to the registrar of the port or place where the fishing boat is registered, and the registrar shall either cause the alterations to be registered, or direct that the fishing boat may be registered anew, in accordance with such rules as may be made in this behalf.

**435-O. Transfer of registry**.—The registry of an Indian fishing boat may be transferred from one port or place to another port or place in India on the application of the owner of the fishing boat, in accordance with such rules as may be made in his behalf.

**435P. Closure of registry**.—If an Indian fishing boat is lost, destroyed or rendered permanently unfit for service, the owner of such fishing boat shall, with the least possible delay, report the fact to the registrar of the port or place where the fishing boat is registered and also forward to him certificate of registry in respect of the fishing boat; and thereupon the registrar shall have the registry of the fishing boat closed.

**435Q. Restriction on Transport of Indian fishing boats**.—No person shall transfer or acquire any Indian fishing boat registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

**435R. Mortgage of Indian fishing boats**.—(*1*) Every mortgage of an Indian fishing boat or any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of an Indian fishing boat or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months from that date.

(3) The registrar shall enter every such mortgage in the fishing boats register in the order in which it is registered with him.

(4) If there arc more mortgages than one recorded in respect of the same Indian fishing boat or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself:

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the

same fishing boat or interest therein effected before such date which are registered in accordance with the provisions of sub-section (*2*).

**435S. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited**.—(*1*) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of an Indian fishing boat for any purpose other than the lawful operation of that fishing boat.

(2) No person shall use or attempt to use for the operation of an Indian fishing boat, a certificate of registry or a certificate of inspection not granted in respect of that fishing boat.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of an Indian fishing boat shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the fishing boat.

**435T. Statement relating to crew of Indian fishing boat to be maintained**.—(*1*) Every owner, skipper, tindal or other person in charge of a mechanised Indian fishing boat of 25 registered tons and above shall maintain or cause to be maintained in the prescribed form a statement of the crew of the fishing boat containing the following particulars with respect to each member thereof, namely:—

(a) his name

(b) the wages payable to him;

(c) the names and addresses of his next-of-kin;

(d) the date of commencement of his employment; and

(e) such other particulars as may be prescribed:

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do, and for reasons to be recorded in writing, exempt, by general or special order, any Indian fishing boat or class of Indian fishing boats from the provisions of this sub-section.

(2) Every change in the crew of the Indian fishing boat shall be entered in the statement under sub-section (*1*).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port or place of registry of the Indian fishing boat concerned.

**435U. Power to make rules respecting Indian fishing boats**.—(*1*) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which tonnage of an Indian fishing boat shall be ascertained;

(c) the form in which fishing boats register shall be maintained;

(d) the forms in which certificates of registry and certificates of inspection may be issued;

(e) the fees which may be levied for the issue or re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;

(f) the manner in which the name, number assigned to the Indian fishing boat and name of the port or place to which she belongs shall be painted;

(g) the manner in which any change may be made in the name of an Indian fishing boat;

(h) any exemption from the requirements relating to carriage of safety equipment and appliances by an Indian fishing boat that may be specially granted under section 435J in respect of such fishing boat;

(i) the manner in which alterations in Indian fishing boats shall be reported and applications for the registry of such alterations in the certificates of registry of Indian fishing boats shall be made, the endorsement of the particulars of alterations on the certificates of registry, the grant of provisional certificates in cases where Indian fishing boats are directed to be registered anew, cases in which Indian fishing boats shall be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(j) the manner in which registry of an Indian fishing boat may be transferred from one port or place in India to another port or place in India;

(k) the form in which statement of members of crew of an Indian fishing boat may be maintained;

(l) any other matter which has to be or may be prescribed.

**435V. Application to Indian fishing boats of other provisions relating to ships**.—The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to Indian fishing boats shall also apply to Indian fishing boats subject to such conditions, exceptions and modifications as may be specified in the notification.

**435W. Fishery data to be furnished by Indian fishing boats**.—The Central Government may, by notification in the Official Gazette, require every Indian fishing boat or any specified class of Indian fishing boats to furnish such fishery data to the registrar in such form and at such periodical intervals as may be specified in that notification.

**435X. Power to exempt**.—Notwithstanding anything contained in this Part, the Central Government may, by order in writing and upon such conditions as it may think fit to impose, exempt any Indian fishing boat or class of Indian fishing boats or skipper, tindal or member or crew of such fishing boat or class of fishing boats from any specified requirement contained in or prescribed by any rules made in pursuance of any provision of this Part or from any other requirement of this Act extended to Indian fishing boats or to personnel employed on Indian fishing boats by a notification issued under section 435 V, if it is satisfied that the requirement is substantially complied with or the compliance with the requirement may be impracticable or unreasonable in the circumstances attending the case.]

## PART XVI

## PENALTIES AND PROCEDURE

### *Penalties*

**436. Penalties**.—(*1*)Any person who contravenes any provision of this Act or fails to comply with any provision thereof which it was his duty to comply with, shall be guilty of an offence and if in respect of any such offence no penalty is specially provided in sub-section (*2*), he shall be punishable with fine which may extend to two hundred rupees.

(*2*) The offences mentioned in the second column of the following table shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively.

| Serial No. | Offences | Section of this Act to which offence has reference | Penalties |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1. | If the owner or master of an Indian ship fails to comply with or contravenes sub-section (*2*) of section 28. | 28(*2*) | Fine which may extend to one thousand rupees. |
| 2. | If a person willfully makes a false statement in the builder's certificate referred to in section 30. | 30 | Fine which may extend to one thousand rupees. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 3. | If a person contravenes sub-section (*2*) of section 35. | 35(*2*) | Fine which may extend to one thousand rupees. |
| 4. | If the owner or master of an Indian ship commits an offence under sub-section (*4*) of section 35. | 35(*4*) | Fine which may extend to one thousand rupees. |
| 5. | If a master, without reasonable cause, fails to comply with sub-section (*4*) of section 36. | 36(*4*) | Fine which may extend to five hundred rupees. |
| 6. | If a person makes illegal use of a certificate of registry stated to have been mislaid, lost or destroyed or if a person entitled to the certificate of registry obtains it at any time afterwards but fails to deliver the said certificate to the registrar as required by sub-section (*5*) of section 36. | 36(*5*) | Fine which may extend to one thousand rupees. |
| 7. | If a master fails to deliver to the registrar the certificate of registry as required by sub-section (*2*) or sub-section (*3*) of section 38 | 38 (*2*), 38 (*3*) | Fine which may extend to one thousand rupees. |
| 8. | If an owner fails to comply with sub-section (*1*) of section 39 or if a master fails to comply with sub-section (*2*) of that section. | 39 (*1*), 39 (*2*) | Fine which may extend to one thousand rupees. |
| 9. | If any person contravenes sub-section (*1*) of section 42. | 42(*1*) | Fine which may extend to one thousand rupees. |
| 10. | If any person acts or suffers any person under his control to act in contravention of section 55 or omits to do or suffers any person under his control to omit to do anything required under that section. | 55 | Fine which may extend to one thousand rupees; but nothing herein shall affect the power to detain the ship under sub-section (*4*) of that section. |
| 11. | If an owner fails to make an application for registering anew a ship or for registering an alteration of a ship under section 56. | 56 | Fine which may extend to one thousand rupees; and in addition, a fine which may extend to fifty rupees for every day during which the offence continues after conviction. |
| 12. | If any distinctive national colours except those declared under sub-section (*1*) of section 63 are hoisted on board any Indian ship. | 63(*1*) | The master, owner and every other person hoisting the colours shall be liable to fine which may extend to five thousand rupees. |
| 13. | If a person contravenes section 64. | 64 | Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both. |
| 14. | If an owner or master contravenes section 65. | 65 | Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both. |
| 15. | If default is made in complying with section 66. | 66 | The master shall be liable to fine which may extend to one thousand rupees. |
| 16. | If any person in the case of any declaration made in the presence of or produced to a registrar under Part V or in any document or other evidence produced to such registrar—<br>(a) willfully makes or assists in making or procures to be made, any false statement concerning the title to or ownership of or the interest existing in any ship or any share in a ship; or<br>(b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false. | General | Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| [1][17 | If—<br>(a) any person causes a ship or fishing vessel to proceed to sea without the required certificated personnel. | General | Imprisonment which may extend to six months or fine which may extend to ten thousand rupees, or both. |
| | (b) any person having been engaged as one of the officers referred to in section 76 goes to sea a such officer without being duly certificated. | 76 | Imprisonment which may extend to six months or fine which may extend to five thousand rupees, or both. |
| | (c) any master fails to submit the required crew list or fails to report the changes made in the list before commencing the relevant voyage. | 84(*1*)(*c*) | Fine which may extend to five thousand rupees and in addition, a fine which may extend to one thousand rupees for everyday during which the offence continues after conviction.] |
| 18. | If a master or owner fails to comply with any of the requirements of section 93. | 93 | Fine which may extend to two hundred rupees. |
| 19. | If a master fails without reasonable cause to comply with any of the requirements of section 94. | 94 | Fine which may extend to one hundred rupees. |
| 20. | If any person acts in contravention of sub-section (*2*) of section 95 or section 96 or section 97. | 95(*2*), 96, 97 | Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed. |
| 21. | If a person engages or carries any seaman to sea in contravention of sub-section (*2*) of section 98 or section 99. | 98 (*2*), 99 | Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed. |
| 22. | If a master carries any seaman to sea without entering into an agreement with him in accordance with this Act. | 100 | Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed. |
| 23. | If a master enters into an agreement with any seaman for a scale of provisions less than the scale fixed under clause (*g*) of sub-section (*2*) of section 101. | 101(*2*)(*g*) | Fine which may extend to two hundred rupees. |
| 24. | If a master fails without reasonable cause, to comply with any of the requirements of section 105, sub-section (*4*) of section 106 or section 107. | 105, 106(*4*),107 | Fine which may extend to fifty rupees. |
| 25. | If any person— | | |
| | (a) is carried to sea to work in contravention of section 109 [2]*** or section 111; or | 109, [2]*** 111 | The master shall be liable to a fine which may extend to fifty rupees; |
| | (b) is engaged to work in any capacity in a ship in contravention of section 109 [2]*** or section 111 on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections. | | The parent or guardian shall be liable to a fine which may extend to fifty rupees. |
| 26. | If a master refuses or neglects to produce for inspection any certificate of physical fitness delivered to him under section 111 when required to do so by a shipping Master. | General | Fine which may extend to fifty rupees. |

1. Subs. by Act 13 of 1987, s. 9 (w.e.f. 1-7-1989).
2. The figures "110" omitted by Act 32 of 2014, s. 17 (w.e.f. 1-4-2015).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 27. | If the master of a ship, where there is no agreement with the crew, fails to keep the register of young persons required to be kept under section 112 or refuses or neglects to produce such register for inspection when required so to do by a shipping master. | General | Fine which may extend two hundred rupees. |
| 28. | If the master of a ship other than an Indian ship engages a seaman in India otherwise than in accordance with section 114. | 114 | Fine which may extend to one hundred rupees for every seaman so engaged. |
| 29. | If any owner, master or agent willfully disobeys any order under section 115. | 115 | Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both. |
| 30. | If a master fails to comply with section 116. | 116 | Fine which may extend to one hundred rupees. |
| 31. | If any person obstructs any officer referred to in section 117 in the exercise of his powers under that section. | General | Fine which may extend to one hundred rupees. |
| 32. | If a master or owner acts in contravention of sub-section (*1*) or sub-section (*2*) of section 118. | 118(*1*), 118(*2*) | Fine which may extend to one hundred rupees. |
| 33. | If a master fails to comply with the provisions of sub-section (*1*) of section 119 or, without reasonable cause, fails to return the certificate of competency to the officer concerned as required by sub-section (*2*) of that section. | 119(*1*), 119(*2*). | Fine which may extend to two hundred rupees. |
| 34. | If a master fails to comply with section 120 | 120 | Fine which may extend to one hundred rupees. |
| 35. | If any person— | General | Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both. |
| | (a) forges or fraudulently alters any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate; or | | |
| | (b) fraudulently uses any certificate of discharge or a certificate as to the work of a seaman or a continuous discharge certificate or a copy of any such certificate which is forged or altered or does not belong to him. | | |
| 36. | If any person acts in contravention of sub-section (*1*) of section 121. | 121(*1*) | Fine which may extend to one thousand rupees. |
| 37. | If a master— | | |
| | (a) fails without reasonable cause to comply with sub-section (1) or sub-section (*3*) of section 122; or | 122(*1*), 122(*3*). | Fine which may extend to two hundred rupees. |
| | (b) delivers a false statement for the purpose of sub-section (*2*) of section 122. | 122 (*2*) | |
| 38. | If a master fails, without reasonable cause, to comply with section 125. | 125 | Fine which may extend to fifty rupees. |
| 39. | If a master or owner pays the wages of a seaman in a manner contrary to sub-section (*1*) of section 128. | 128(*1*) | Fine which may extend to one hundred rupees. |
| 40. | If a master fails to comply with section 131 | 131 | Fine which may extend to one hundred rupees. |
| 41. | If any person fails, without reasonable cause, to comply with any requisition under section 133. | 133 | Fine which may extend to fifty rupees. |
| 42. | If a seaman contravenes sub-section (*3*) of section 135. | 135(*3*) | Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both, but nothing herein shall take away or limit any other remedy which any person would otherwise have for breach of contract or refund of the money advanced or otherwise. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| [1][42A. | If the master or owner contravenes the provisions of section 138A | 138A | Fine which may extend to double the average wages per hour payable to the seaman for working beyond forty-eight hours.] |
| 43. | If any person commits a breach of any term of any award which is binding on him under sub-section (*5*) of section 150 | General | Imprisonment which may extend to one month, or fine which may extend to one thousand rupees, or both. |
| 44. | If a seaman or an owner contravenes section 151. | 151 | Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both. |
| 45. | If a master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice or to making in the official log book the proper entries relating thereto or to the payment or delivery of such property as required by sub-section (*1*) of section 154. | 154(*1*) | Fine which may extend to three times the value of the property not accounted for or if such value is not ascertained, to five hundred rupees, but nothing herein shall affect his liability under sub-section (*1*) of section 154 to account for the property not accounted for. |
| 46. | If the master of an Indian ship fails or refuses without reasonable cause to receive on board, his ship or to give a passage or subsistence to, or to provide for, any seaman contrary to sub-section (*1*) of section 163. | 163(*1*) | Fine which may extend to one thousand rupees in respect of each such seaman. |
| 47. | (a) If a master fails to comply with, or contravenes any provision of sub-section (*3*) of section 168; | 168 (*3*) | Fine which may extend to two hundred rupees, but nothing herein shall affect the power to detain the ship under sub-section (*2*) of section 168; |
| | (b) if a master or any other person having charge of any provisions or water on board a ship liable to inspection under section 168 refuses or fails to give the person making the inspection reasonable facility for the purpose. | 168 (*6*) | Fine which may extend to two hundred rupees. |
| 48. | If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him and the court considers the failure to be due to the neglect or default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for use. | General | Fine which may extend to five hundred rupees, but nothing herein shall affect the claim for compensation under sub-section (*1*) of section 169. |
| 49. | If a master fails without reasonable cause to comply with section 171. | 171 | Fine which may extend to one hundred rupees. |
| 50. | (a) If any requirement of section 172 is not complied with in the case of any ship; or | 172 | The owner shall be liable to fine which may extend to two hundred rupees unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default; |
| | (b) if obstruction is caused to the port health officer in the discharge of his duty. | | The owner or master shall be liable to fine which may extend to two hundred rupees unless he can prove that the obstruction was caused without his knowledge or connivance. |

1. Ins. by Act 9 of 1998, s. 6 (w.e.f. 26-9-1997).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 51. | If any foreign-going ship referred to in sub-section (*1*) of section 173 does not carry on board a duly qualified medical officer. | 173(*1*) | The owner shall be liable for each voyage of the ship made without having on board a duty qualified medical officer, a fine which may extend to two hundred rupees. |
| 52. | If a muster fails, without reasonable cause, to comply with section 184. | 184 | Fine which may extend to one hundred rupees. |
| 53. | If any person fails to comply with sub-section (*1*) of section 187. | 187(*1*) | Fine which may extend to one hundred rupees. |
| 54. | If any person contravenes section 188. | 188 | Fine which may extend to fifty rupees. |
| 55. | If any person goes on board a ship contrary to section 189. | 189 | Fine which may extend to two hundred rupees. |
| 56. | If a master, seaman or apprentice contravenes section 190. | 190 | Imprisonment which may extend to two years or fine which may extend to one thousand rupees, or both. |
| 57. | If a seaman or apprentice — | 191(*1*) (*a*) | |
| | (a) deserts his ship; | | He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the desertion takes place at any place not in India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also to imprisonment which may extend to three months; |
| | (b) contravenes clause (*b*) of sub-section (*l*) of section 191. | 191 (*1*) (*b*) | he shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days pay and in addition for every twenty-four hours of absence either a sum not exceeding six days" pay or any expenses properly incurred in hiring a substitute and also to imprisonment which may extend to two months |
| 58. | If any person contravenes sub-section (*3*) of section 193. | 193 (3) | Fine which may extend to two hundred rupees. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 59. | If a seaman or apprentice is guilty of the offence specified in— | 194 | |
| | (i) clause (*a*) of section 194; | | Forfeiture out of his wages of a sum not exceeding one month‟s pay. |
| | (ii) clause (*b*) of section 194; | | forfeiture out of his wages of a sum not exceeding two days‟ pay; |
| | (iii) clause (*c*) of section 194; | | imprisonment which may extend to one month and also for every twenty-four hours of continuance of such disobedience or neglect, forfeiture out of his wages of a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute; |
| | (iv) clauses (*d*) and (*e*) of section 194; | | imprisonment which may extend to three months, or fine which may extend to five hundred rupees, or both; |
| | (v) clause (*f*) of section 194. | | forfeiture out of his wages of a sum equal to the loss sustained and also imprisonment which may extend to three months. |
| 60. | If any master fails to comply with section 197. | 197 | Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both. |
| 61. | If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name | General | Fine which may extend to fifty rupees. |
| 62. | If a master or owner neglects or refuses to pay over the fine under sub-section (*1*) of section 202. | 202 | Fine which may extend to six times the amount of the fine retained by him. |
| 63. | If any person contravenes section 203. | 203 | Fine which may extend to one hundred rupees. |
| 64. | If any person contravenes section 204. | 204 | Fine which may extend to one hundred rupees. |
| 65. | If any person goes to sea in a ship contrary to sub-section (*1*) of section 205. | 205 (1) | Imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both. |
| 66. | (*a*) If any person willfully disobeys the prohibition obtained in clause (*a*) of section 206; | 206 (*a*) | Imprisonment which may extend to three months, or fine which may extend to one thousand rupees; or both; |
| | (*b*)If any master or owner refuses or neglects to deposit any wages, money, or other property or sum in the manner required by clause (*b*) of section 206. | 206 (*b*) | Fine which may extend to five hundred rupees. |
| 67. | If a master fails to deliver or transmit the documents referred to in sub-section (*1*) of section 208 or section 209 as provided therein. | 208 (*1*), 209 | Fine Which may extent to five hundred rupees. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 68. | If a master contravenes sub-section (*1*) of section 210. | 210(*1*) | Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both. |
| 69. | If any person harbours or secretes any deserter knowing or having reason to believe that he has deserted | General | Fine which may extend to two hundred-rupees. |
| 70. | If a master fails to comply with sub-section (*2*) of section 214. | 214(*2*) | Fine which may extend to one hundred rupees. |
| 71. | (a) If sub-section (*1*) of section 215 is not complied with; | 215(*1*) | The master shall be liable to fine, which may extend to fifty rupees, if no other penalty is provided in this Act; |
| | (b) If any person contravenes sub-section (*2*) of section 215. | 215(*2*) | Fine which may extend to three hundred rupees. |
| 72. | If any person willfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log book. | General | Imprisonment which may extend to one year. |
| 73. | If a master fails, without reasonable cause, to comply with section 216. | 216 | Fine which may extend to two hundred rupees. |
| 74 | If a master or owner fails, without reasonable cause, to comply with section 217. | 217 | Fine which may extend to one hundred rupees. |
| 75. | If an owner, agent or master without reasonable cause neglects to give the notice required by sub-section (*1*) of section 229. | 229(*1*) | Fine which may extend to five hundred rupees. |
| 76. | If an owner or master, without reasonable cause, fails to deliver a certificate under section 230. | 230 | Fine which may extend to one hundred rupees |
| 77. | If a certificate or survey is not affixed or kept affixed as required by section 231. | 231 | The owner or master shall be liable to fine which may extend to two hundred rupees. |
| 78. | If a ship carries or attempts to carry passengers in contravention of sub-section (*1*) of section 220 or has on board a number of passengers in contravention of sub-section (*1*) of section 231. | 220(*1*), 232(*1*) | The owner, agent or master shall be liable to fine which may extend to one thousand rupees. |
| 79. | (a) If a person is guilty of any offence specified in sub-section (1) of section 233; | 233(*1*) | The person concerned shall be liable to fine which may extend to fifty rupees; but this liability shall not prejudice the recovery of the fare, if any, payable by him; |
| | (*b*) If a person contravenes sub-section (*2*) of section 233. | 233(*2*) | Fine which may extend to three hundred rupees. . |
| 80. | If [1][a special trade passenger] or pilgrim. ship departs or proceeds on a voyage from or discharges [2][special trade passengers] or pilgrims at any port or place within India in contravention of sub-section (*1*) of section 237, or if a person is received as [1][a special trade passenger] or pilgrim on board any such ship in contravention of sub-section (*2*) of that section.] | 237(*1*), 237(*2*) | The master-owner or agent shall be liable to fine which may extend to one thousand rupees. |
| 81. | If the master, owner or agent of [3][a special trade passenger] or pilgrim ship fails to give the notice required by sub-section (*1*) of section 238 | 238(*1*) | Fine which may extend to two hundred rupees. |

1. Subs. by Act 69 of 1976, s. 2, for "an unberthed passenger ship" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid*., for "unberthed passengers" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid*., for "an unberthed passenger" (w.e.f. 1-12-1976).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 82. | If a person impedes or refuses to allow any entry or inspection authorised by sub-section 239. | 239 | Fine which may extend to five hundred rupees. |
| 83. | If a master or owner fails to comply with section 246. | 246 | Fine which may extend to two hundred rupees. |
| 84. | If the master, owner or agent of [1][a special trade passenger] or pilgrim ship, after having obtained any of the certificates mentioned in Part VIII, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, or [2][special trade passengers] or pilgrims or other matters to which the certificate relates. | General | Imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both. |
| 85. | If the master of [1][a special trade passenger] or pilgrim ship or any contractor employed by him for the purpose contravenes section 247. | 247 | Fine which may extend to thirty rupees for every [3][special trade passenger] or pilgrim, who has sustained detriment by the omission to supply the prescribed provisions. |
| 86. | If [1][a special trade passenger] or pilgrim ship carries [2][special trade passengers] or pilgrims in contravention of sub-section (*1*) section 248. | 248(*1*) | The master, owner or agent shall be liable to fine which may extend to two thousand rupees. |
| 87. | If a master, owner or agent contravenes section 249. | 249 | Fine which may extend to one thousand rupees. |
| 88. | If an owner, agent or master contravenes section 252. | 252 | Fine which may extend to one thousand rupees. |
| 89. | If the master, owner or agent fails to comply with sub-section (*1*) of section 255. | 255(*1*) | Fine which may extend to two hundred rupees |
| [4][89A. | If a master, owner or agent contravenes sub-section (*6*) of section 255. | 255(*6*) | Fine which may extend to two thousand rupees.] |
| 90. | If medical officers or medical attendants are not carried on [1][a special trade passenger ship] as required by sub-section (*1*) or sub-section (*2*) of section 259 as the case may be; or if the ship is not provided with a hospital, medical stores and equipment as required by sub-section (*3*) of that section. | 259 | The master, owner or agent shall be liable for each voyage made in contravention of section 259 to fine winch may extend to five hundred rupees. |
| [4][90A. | (*a*) If medical officers and attendants are not carried on a pilgrim ship in accordance with clause (*a*) of sub-section (*4*) section 259; or | 259(*4*)(*a*) | The master, owner or agent shall be liable for each voyage made in contravention of clause (*a*) of sub-section (*4*) of section 259 to fine which may extend to three hundred rupees. |
| | (*b*) If a medical officer or attendant or a pilgrim ship contravenes clause (*c*) of sub-section (*4*) of section 259. | 259(*4*)(*c*) | fine which may extend to two hundred rupees.] |

1. Subs. by Act 69 of 1976, s. 2, for "an unberthed passengers" (w.e.f. 1-12-1976).
2. Subs. by s. 2, *ibid.*, for "unberthed passengers" (w.e.f. 1-12-1976).
3. Subs. by s. 2, *ibid.*, for "unberthed passenger" (w.e.f. 1-12-1976).
4. Ins. by s. 25, *ibid.* (w.e.f. 1-12-1976).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 91. | If an owner, agent or master contravenes section 260. | 260 | Fine which may extend to one thousand rupees. |
| [1]* | * | * | * |
| 94. | If section 291 is not complied with in the case of a ship. | 291 | The master or owner shall be liable to fine which may extend to one thousand rupees. |
| 95. | If section 292 is not complied with in the case of a ship. | 292 | The master or owner shall be liable to fine which may extend to two hundred rupees. |
| 96. | If any ship proceeds or attempts to proceed to sea in contravention of section 297. | 297 | The master or owner shall be liable to fine which may extend to two hundred rupees. |
| 97. | If any ship proceeds or attempts to proceed to sea without carrying on board the information required by [2]* * * section 298. | 298 [3]*** | The master or owner shall be liable to fine which may extend to one thousand rupees. |
| 98. | If any ship proceeds or attempts to proceed to sea in contravention of section 307. | 307 | The master or owner shall be liable to fine which may extend to—<br>(a) in the case of a passenger ship, to one hundred rupees for every passenger carried on board the ship but without prejudice to any other remedy or penalty under this Act; and<br>(b) in the case of a ship other than a passenger ship, to one thousand rupees. |
| [4][98A. | If the owner, agent or master fails to comply with section 309A. | 309A | Fine which may extend to five hundred rupees.] |
| 99. | If any ship proceeds or attempts to proceed to sea in contravention of section 312. | 312 | The master or owner shall be liable to fine which may extend to one thousand rupees. |
| 100. | If any ship is loaded in contravention of section 313. | 313 | The master or owner shall be liable to fine which may extend to ten thousand rupees and to such additional fine not exceeding [5][five thousand rupees] for every inch or fraction of an inch by which the appropriate load lines on each side of the ship are submerged or would have been submerged if the ship had been in salt waters and had no list, as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship is or would have been increased by reason of the submersion: |

1. Serial Nos. 92 and 93 omitted by Act 69 of 1976, s. 25 (w.e.f. 1-12-1976).
2. The words, brackets and figure "sub-section (*1*) of" omitted by Act 21 of 1966, s. 35 (w.e.f. 28-5-1966).
3. The brackets and figure "(*1*)" omitted by s. 35, *ibid.* (w.e.f. 28-5-1966).
4. Ins. by s. 35, *ibid*. (w.e.f. 28-5-1966).
5. Subs. by Act 12 of 1983, s. 16, for "one thousand rupees" (w.e.f. 18-5-1983).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| | | | Provided that it shall be a good deference for the master or owner to prove that a contravention was due solely to deviation or delay caused solely by stress of whether or other circumstance which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled. |
| 101. | (a) If the owner or master of an Indian ship contravenes sub-section (*1*) of section 314; or | 314(*1*) | Fine which may extend to one thousand rupees; |
| | (b) If any person contravenes sub-section (*2*) of section 314. | 314(*2*) | |
| 102. | If a master or owner fails to deliver the certificate as required under sub-section [1][(*8*)] of section 317. | 317 [1][(*8*)] | Fine which may extend to one hundred rupees.] |
| 103. | If a master proceeds or attempts to proceed to sea in contravention of sub-section (*1*) of section 318. | 318(*1*) | Fine which may extend to one thousand rupees. |
| 104. | (a) If the owner of an Indian ship fails to comply with clause (a) of sub-section (*1*) of section 319, or | 319(*1*)(*a*) | Fine which may extend to two hundred rupees. |
| | (b) If a master fails to comply with clause (b) of sub-section (*1*), or clause (*a*) or clause (*b*) of sub-section (*2*) of section 319. | 319(*1*)(*b*)<br>319(*2*) | |
| 105. | If a master fails to comply with sub-section (*1*) of section 320. | 320(*1*) | Fine which may extend to one hundred rupees. |
| [2][105A. | If the owner, agent or master fails to comply with sub-section (*1*) of section 331A. | 331A | Fine which may extend to one thousand rupees.] |
| 106. | (a) If a master, owner or agent is guilty of an offence under sub-section (*1*) of section 332; or | 332(*1*) | Fine which may extend to three thousand rupees. |
| | (b) If the owner or master of a ship is guilty of an offence under sub-section (*2*) of section 332; or | 332(*2*) | Fine which may extend to one thousand rupees. |
| | (c) If a master fails to deliver any notice required by sub-section (*3*) of section 332 or if in any such notice he makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular. | 332(*3*) | |
| 107. | If a ship is loaded in contravention of sub-section (*1*) of section 333. | 333(*1*) | The master or owner shall be liable to fine which may extend to ten thousand rupees and to an additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate sub-division load line on each side was submerged or would have been submerged if the ship had no list, as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion. |

1. Subs. by Act 25 of 1970, s. 18, for "(*5*)" (w.e.f.19-12-1970).
2. Ins. by Act 21 of 1966, s. 35 (w.e.f. 28-5-1966).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 108. | If a person is guilty of an offence under sub-section (*1*) or if a master is guilty of an offence under sub-section (*2*) of section 334. | 334(*1*), 334(*2*) | Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both. |
| [1][108A. | If an Indian nuclear ship proceeds or attempts to proceed to sea in contravention of sub-section (*1*) of section 344C. | 344C | The master or owner shall be liable to fine which may extend to ten thousand rupees. |
| 108B. | If an Indian nuclear ship, fails to comply with sub-section (*1*) of section 344D. | 344D | The master or owner or agent shall be, liable to imprisonment which may extend to six months or fine which may extend to ten thousand rupees or both. |
| 108C. | If a nuclear ship other than an Indian ship enters the territorial waters of India in contravention of section 344E | 344E | The master shall be liable to fine which may extend to ten thousand rupees. |
| 108D. | If the master of a nuclear ship fails to give the notice required by sub-section (*1*) of section 344F. | 344F | Fine which may extend to ten thousand rupees. |
| 108E. | (*a*) If the master of a nuclear ship fails to give the notice required by sub-section (*1*) or sub-section (*2*) or sub-section (*5*) of section 344G; | 344G(*1*), (*2*) and (*5*) | Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both. |
| | (*b*) if the master of a nuclear ship fails to comply with any directions issued under sub-section (*3*) or sub-section (*5*) of section 344G. | 344G(*3*) and (*5*) | Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both.] |
| 109. | If a master or person in charge of a ship fails, without reasonable cause to comply with section 348. | 348 | Imprisonment which may extend to three months or fine which may extend to three thousand rupees, or both. |
| 110. | If a master fails to comply with section 349. | 349 | Fine which may extend to two hundred rupees. |
| 111. | If the owner or master fails, without reasonable cause, to comply with section 350. | 350 | Fine which may extend to five hundred rupees. |
| 112. | If the owner or agent fails, without reasonable cause, to comply with section 351 | 351 | Fine which may extend to five hundred rupees. |
| 113. | If any person contravenes section 353. | 353 | Fine which may extend to five hundred rupees. |
| 114. | If a master fails to comply with section 354. | 354 | Fine which may extend to five hundred rupees. |
| 115. | (*a*) If a master fails to comply with sub-section (*1*) or sub-section (*2*) of section 355; or | 355(*1*), 355(*2*) | Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both. |
| | (*b*) If a master fails to comply with sub-section (*5*) of section 355. | 355(*5*) | Fine which may extend to one thousand rupees. |
| [1][115A. | If a master fails to comply with section 355A. | 355A | Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.] |

1. Ins. by Act 21 of 1966, s. 35 (w.e.f. 28-5-1966).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| [1][115B. | (*a*) If oil or oily mixture is discharged in contravention of sub-section (*1*) of section 356C— | | |
| | (*i*) where such discharge is made from an Indian tanker anywhere into the sea; | 356C(*1*) | The master of the tanker shall be liable to fine which may extend to five lakh rupees. |
| | (*ii*) where such foreign tanker anywhere within the coastal waters of India. | 356C(*1*) | The master of the tanker or, if the tanker is unmanned, the person in charge of its operation shall be liable to fine which may extend to five lakh rupees. |
| | (*b*) If oil or oily mixture is discharged in contravention of sub-section (*2*) of section 356C— | | |
| | (*i*) where such discharge is made by an Indian ship other than a tanker anywhere into the Sea | 356C(*2*) | The master, or if the ship is unmanned; the person in charge of the operation shall, be liable to fine which may extend to five lakh rupees. |
| | (*ii*) where such discharge is made by a foreign ship oilier than a tanker anywhere within the coastal waters of India. | 356C(*2*) | The master of the ship shall be liable to fine which may extend to five lakh rupees. |
| | (*c*) If oil or oily mixture is discharged in contravention of sub-section (*3*) of section 356C. | 356C(*3*) | The master of the offshore installation if it be a mobile craft or the owner, operator, lessee or licence of an offshore insulation of any other type shall be liable to fine which may extend to five lakh rupees. |
| 115C. | If an Indian ship is not fitted with equipment prescribed under section 356E. | 356E | The owner, master or agent of Indian ship shall be liable to fine which may extend to ten thousand rupees. |
| 115D. | (*i*) If the master of an Indian tanker or other ship fails to maintain an oil record book as required by section 356F or contravenes any rule made under that section. | 356F | The master of the Indian tanker or other Indian ship shall be liable to fine which may extend to five thousand rupees. |
| | (*ii*) If any person wilfully destroys or mutilates or renders illegible or prevents the making of any entry in the oil record book or makes or causes to be made a false entry in such book in contravention of any rule made under section 356F. | 356F | The offender shall be liable to penalty of imprisonment which may extend to six months or fine" which may extend to ten thousand rupees or both. |
| 115E. | If master of any ship refuses to certify copy of any entry in the oil record book to be a true copy of such entry as required under sub-section (*2*) of section 356G. | 356G(*2*) | The master of the ship shall be liable to fine which may extend to one thousand rupees. |
| 115F. | If any person fails to take action as required by a notice served on him under sub-section (*1*) of section 356J. | 356J(*1*). | The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to ten lakh rupees or both. |

1. Subs. by Act 12 of 1983, s. 16, for Serial Numbers 115B, 115C and 115D and the entires relating thereto (w.e.f. 18-5-1983).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 115G. | If owner of any Indian ship, tug, barge or any other equipment fails to comply with any order issued under sub-section (l) of section 356L. | 356L(*1*) | The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to one lakh rupees, or both and if the offence is a continuing one the offender shall be liable to a further fine which may extend to ten thousand rupees per day for every day during which the offence continues after conviction.] |
| [1][115H. | If the owner of an Indian ship fails to comply with section 356R | 356R | Fine which may extend to fifteen lakh rupees. |
| 115-I. | If a master proceeds or attempts to proceed to sea in contravention of section 356S | 356S | Fine which may extend to three lakh rupees. |
| 115J. | If the owner of an Indian ship or any person fails to comply with the rules made or measures taken by the Central Government under section 356U | 356U | Fine which may extend to one Lakh and fifty thousand rupees. |
| 115K. | If the master of a ship fails to maintain records as required by section 356V | 356V | Fine which may extend to one lakh and fifty thousand rupees. |
| 115L. | If the master of a ship fails to comply with sub-section (*1*) of section 356W | 356W(*1*) | Fine which may extend to one lakh and fifty thousand rupees.] |
| 116. | If any person bound to give notice under sub-section (*2*) of section 358 fails to give such notice. | 358(*2*) | Fine which may extend to five hundred rupees and in default of payment, simple imprisonment which may extend to three months. |
| 117 | If a master or ship"s officer fails to comply with section 378. | 378 | Fine which may extend to five hundred rupees. |
| 118. | If any person wilfully disobeys any direction of the receiver of wreck under section 392. | 392 | Fine which may extend to five hundred rupees. |
| 119. | If the owner or occupier of any land impedes or in any way hinders any person in the exercise of the rights given by section 393. | 393 | Fine which may extend to five hundred rupees. |
| 120. | (*a*) If any person omits to give notice of the finding of any wreck to the receiver of wreck as required by clause (*a*) of section 395; or | 395(*a*) | Fine which may extend, to one thousand rupees; |
| | (*b*) if any person omits to deliver any wreck as required by clause (*b*) of section 395. | 395(*b*) | Fine which may extend to one thousand rupees and in addition forfeiture of all claims to salvage and payment to the owner of such wreck, if the same is claimed, or if the same is unclaimed, to the Government, a penalty, not exceeding twice the value of such wreck. |
| 121. | If any person contravenes any of the provisions of section 400. | 400 | Fine which may extend to five hundred rupees. |

1. Ins. by Act 31 of 2014, s. 3 (w.e.f. 1-4-2015).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 122. | (a) If a ship is taken to sea in contravention of sub-section (*1*) of section 406 or if a ship engages in the coasting trade in contravention of sub-section (*1*) of section 407; or | 406(*1*), 407(*1*) | The master or owner of the ship or in the case of a ship other than an Indian ship the master, agent in India of the owner or the charterer of the ship in respect of which the contravention has taken place shall be liable to imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both. |
| | (b) if, without reasonable excuse, any limitation or condition contained in a licence granted under section 406 or section 407 is contravened. | 406, 407 | |
| 123. | If a person to whom a licence under section 406 or section 407 has been granted fails to comply with section 409. | 409 | Fine which may extend to one hundred rupees. |
| 124. | (a) If any directions given under section 411 are not complied with; or | 411 | The owner, master or agent shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees, or both. |
| | (b) if the provisions of sub-section (*3*) of section 412 are contravened. | 412(*3*) | |
| 125. | If the owner, master or agent on whom a notice has been served under section 413 fails to furnish the information required within the time specified or furnishing the information makes any statement which he knows to be false on any material particular. | 413 | Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both. |
| 126. | If a selling vessel required to be registered under section 417 is not registered in accordance with the provisions of that section. | 417 | The owner or tindal shall be liable to fine which may extend to five hundred rupees. |
| 127. | If the owner fails to comply with section 418. | 418 | Fine which may extend to two hundred rupees. |
| 128. | If the provisions of section 419 are contravened. | 419 | The owner or tindal shall be liable to fine which may extend to two hundred rupees. |
| 129. | If any sailing vessel attempts to ply or proceed to sea without free board markings or is so loaded as to submerge such markings, or plies or proceeds to sea without a certificate of inspection as required by sub-section (*1*) of section 421, or if any of the terms and conditions specified in such certificate are contravened. | 420(*3*), 421 | The owner or tindal shall be liable to imprisonment which may extend to six months, or to fine which may extend to five hundred rupees, or both. |
| 130. | If the owner fails to comply with section 423. | 423 | Fine which may extend to two hundred rupees and in addition a fine which may extend to twenty rupees for every day during which the offence continues after conviction. |
| 131. | If the owner fails to comply with section 425. | 425 | Fine which may extend to two hundred rupees. |
| 132. | If any person contravenes section 426. | 426 | Fine which may extend to five hundred rupees. |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 133. | If any person contravenes any of the provisions of section 428. | 428 | Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both. |
| 134. | If the owner or tindal fails to comply with any of the provisions of section 429. | 429 | Fine which may extend to two hundred rupees. |
| 135. | If the owner or tindal fails to comply with sub-section (*1*) of section 430. | 430(*1*) | Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both |
| 136. | (a) If a sailing vessel is engaged in the coasting trade in contravention of sub-section (*1*) of section 431; or | 431(*1*) | The owner, tindal or agent shall be liable to imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both. |
| | (b) if any of the terms and conditions imposed under sub-section (*2*) of section 431 are contravened | 431(*2*) | |
| [1][136A.] | If any person is guilty of an offence under sub-section (*1*) of section 432. | 432(*1*) | Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both. |
| [2][137. | If the owner fails to comply with sub-section (*1*) of section 434-A | 434A(*1*) | Imprisonment which may extend to six months or fine which may extend to five thousand rupees, or both.] |
| [3][137A. | If an Indian fishing boat required to be registered under section 435C is not registered in accordance with the provisions of that section. | 435C | The owner shall be liable to fine which may extend to one thousand rupees. |
| 137B. | If the owner of an Indian fishing boat fails to comply with the provisions of section 435-H. | 435H | The owner shall be liable to fine which may extend to two hundred rupees. |
| 137C. | If the provisions of section 435-1 are contravened. | 435-I | The owner shall be liable to fine which may extend to two hundred rupees. |
| 137D. | If the provisions of section 435J are contravened. | 435J | The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction. |
| 137E. | If the provisions of section 435K are contravened. | 435K | The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction. |
| 137F. | If the provisions of section 435M are contravened. | 435M | The owner shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction. |

1. Serial No. 137 renumbered as serial No. 136A by Act 41 of 1984, s. 22 (w.e.f. 15-7-1985).
2. Ins. by s. 22, *ibid.* (w.e.f. 15-7-1985).
3. Ins. by Act 12 of 1983, s. 16 (w.e.f. 15-7-1985).

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| 137G. | If the provisions of section 435N are contravened. | 435N | The owner shall he liable to fine which may extend to two hundred rupees and in addition to fine which may extend to twenty rupees for every day during which the offence continues after conviction. |
| 137H. | If the provisions of section 435P are contravened. | 435P | The owner shall be liable to fine which may extend to two hundred rupees. |
| 137-I. | If any person contravenes the provisions of section 435Q. | 435Q | The offender shall be liable to fine which may extend to five hundred rupees. |
| 137J. | If any person contravenes the provisions of section 435S. | 435S | The offender shall be liable to imprisonment which may extend to three months or fine which may extend to two hundred rupees or both. |
| 137K. | If the provisions of section 435T are contravened. | 435T | The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to two hundred rupees.] |
| 138. | (a) If the master is guilty of an offence under sub-section (*2*) of section 444; or | 444(*2*) | Fine which may extend to one thousand rupees. |
| | (b) if the owner, master or agent is guilty of an offence under sub-section (*3*) of section 444. | 444(*3*) | |
| 139. | If' any person exercises the profession of a ship surveyor in contravention of section 450; | 450 | Fine which may extend to one thousand rupees. |
| 140. | If any person does any act in contravention of sub-section (*2*) of section 454 in respect of which no other penalty is provided. | 454(*2*) | Fine which may extend to two hundred rupees. |
| 141. | If any person is guilty of an offence under sub-section (*2*) of section 456. | 456(*2*) | Fine which may extend to five hundred rupees |

*Procedure*

**437. Place of trial.—**Any person committing any offence under this Act or any rule or regulation thereunder may be tried for the offence in any place in which he may be found or which the Central Government may by notification in the Official Gazette, direct in this behalf, or in any other place in which the might be tried under any other law for the time being in force.

**438. Cognizance of offences**.—The penalties to which masters and owners of [1][special trade passenger] and pilgrim ships are made liable by section 436 shall be enforced only on information laid at the instance of the certifying officer, or, at any port or place where there is no such officer at the instance of such other officer as the Central Government may specify in his behalf.

**439. Jurisdiction of Magistrate**.—No court inferior to that of [2][Metropolitan Magistrate or a, Judicial Magistrate of the first class] shall try any offence under this Act or any rule or regulation thereunder.

1. Subs. by Act 69 of 1976, s. 2, for "unberthed passenger" (w.e.f.1-2-1976).
2. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "presidency magistrate or a magistrate of the first class" (w.e.f.18-5-1983).

**440. Special provision regarding punishment**.—Notwithstanding anything contained in [1][section 29 of the Code of Criminal Procedure, 1973 (2 of 1974),] it shall be lawful for a [2][Metropolitan Magistrate or a Judicial Magistrate] to pass any sentence authorised by or under this Act on any person convicted of an offence under this Act or any rule or regulation thereunder.

**441. Offences by companies.—**(*1*) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation*.— For the purposes of this section,—

(a) [3]["company" includes a co-operative society, a firm] or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

**442. Depositions to be received in evidence when witness cannot be produced**.—(*1*) Whenever, in the course of any legal proceeding under this Act instituted at any place in India before any [4][court or Judicial Magistrate of the first class or Metropolitan Magistrate] or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the [5][court or Judicial Magistrate of the first class or Metropolitan Magistrate] or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court,[6][or justice or Judicial Magistrate of the first class or Metropolitan Magistrate] in any other place in India or, if elsewhere before a Marine Board or before any Indian consular officer, shall be admissible in evidence—

(a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the [7][justice or Judicial Magistrate of the first class or Metropolitan Magistrate] or Marine Board or consular officer, before whom it is made;

(b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;

(c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition; and a certificate by such person that the defendant or

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "section 32 of the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, *ibid.*, for "presidency magistrate or a magistrate of the first class" (w.e.f. 18-5-1983).
3. Subs. by Act 43 of 1981, s. 11, for "Company includes a firm" (w.e.f. 28-9-1981).
4. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "court or magistrate" (w.e.f.18-5-1983).
5. Subs. by s. 17 and the Schedule, *ibid.*, for "court, magistrate"(w.e.f.18-5-1983).
6. Subs. by s. 17 and the Schedule, *ibid.*, for ", justice or magistrate" (w.e.f.18-5-1983).
7. Subs. by s. 17 and the Schedule, *ibid.*, for "justice, magistrate" (w.e.f.18-5-1983).

person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

**443. Power to detain foreign ship that has occasioned damage**.—(*1*) Whenever any damage has in any part of the world been caused to property belonging to the Government or to any citizen of India or a company by a ship other than an Indian ship and at any time thereafter that ship is found within Indian jurisdiction, the High Court may, upon the application of any person who alleges that the damage was caused by the misconduct or want of skill of the master or any member of the crew of the ship, issue an order directed to any proper officer or other officer named in the order requiring him to detain the ship until such time as the owner, master or consignee thereof has satisfied any claim in respect of the damage or has given security to the satisfaction of the High Court to pay all costs and damages that may be awarded in any legal proceedings that may be instituted in respect of the damage, and any officer to whom the orders directed shall detain the ship accordingly.

(2) Whenever it appears that before an application can be made under this section, the ship in respect of which the application is to be made will have departed from India of the territorial waters of India, any proper officer may detain the ship for such time as to allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage aforesaid, the person giving security shall be made a defendant and shall for the purpose of such proceeding be deemed to be the owner of the ship that has occasioned the damage.

**444. Power to enforce detention of ship**.—(*1*) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer of the Indian Navy or any port officer, pilot, harbour master, conservator of port or customs collector may detain the ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention proceeds to sea before she is released by competent authority, the master of the ship shall be guilty of an offence under this sub-section.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any person authorised under this Act to detain or survey the ship, the owner, master or, agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this sub-section.

(4) When any owner, or master or agent is convicted of an offence under sub-section (*3*), the convicting magistrate may inquire into and determine the amount payable on account of expenses by such owner, master or agent under that sub-section and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

**445. Levy of wages, etc., by distress of movable property or ship**.—(*1*) When an order under this Act for the payment of any wages or other sums of money is made by a [1][court or Judicial Magistrate of the first class or Metropolitan Magistrate] or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the movable property of the person directed to pay the same under a warrant to be issued for that purpose by [2][such a magistrate.]

(*2*) Where any [3][court or Judicial Magistrate of the, first class or Metropolitan Magistrate or other officer] or authority has power under this Act, to make an order directing payment to be made of any seaman‟s wages, fines or other sums of money, then if the person so directed to pay the same is the

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for “court, magistrate” (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, for “a magistrate” (w.e.f. 18-5-1983).
3. Subs. by s. 17 and the Schedule, for “court, magistrate or other officer” (w.e.f. 18-5-1983).

master, owner or agent of a ship and the same is not paid at the time or in the manner directed by the order of the [1][court or Judicial Magistrate of the first class or Metropolitan Magistrate or officer] or authority may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipment.

**446. Notice to be given to consular representative of proceedings taken in respect of foreign ship.—**If any ship other than an Indian ship is detained under this Act, or if any proceedings are taken under this Act against the master, owner or agent of any such ship, notice shall forthwith be served on the consular officer of the country in which the ship is registered, at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

**447. Application of fines.—**[2][A Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be,] imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

**448. Service of documents.—**Where for the purposes of this Act, any document is to be served on any person, that document may be served**—**

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or by post; and

(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 same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master and the ship is in India, on the owner of the ship, or if such owner is not in India, on some agent of the owner residing in India, or, where no such agent is known or can be found, by affixing a copy thereof to the master of the ship.

## PART XVII

## MISCELLANEOUS

**449. Power to appoint examiners and to make rules as to qualifications of ship surveyors**.**—**The Central Government may appoint persons for the purpose of examining the qualifications of persons desirous of practicing the profession of a ship surveyor at any port in India and may make rules**—**

(a) for the conduct of such examinations and qualifications to be required;

(b) for the grant of certificates to qualified persons;

(c) for the fees to be paid for such examinations and certificates;

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates; and

(e) for the cancellation and suspension of such certificates.

**450. No person to practise as ship surveyor unless qualified**.**—**No person shall in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 449 exercise such profession in such port unless he holds a certificate granted under that section:

---

1. Subs. by Act 12 of 1983, s. 17 and the Schedule, for "court, magistrate, officer" (w.e.f. 18-5-1983).
2. Subs. by s. 17 and the Schedule, for "A Magistrate" (w.e.f. 18-5-1983).

Provided that nothing herein contained shall prevent any person employed exclusively by Lloyd‟s Register of Shipping or Bureau Veritas or any other classification society specified by the Central Government in the Official Gazette in this behalf from discharging any of the duties of such employment or apply to any person specially exempted by the Central Government from the operation of this section.

**451. Power of ship surveyor to inspect ship**.—Any person holding a certificate granted under section 449 and exercising the profession of a ship surveyor at any port in India may in the execution of his duties go on board a ship and inspect the same and every part thereof and the machinery, equipment and cargo and may require the unloading or removal of any cargo, ballast or tackle.

**452. Inquiry into cause of death on board Indian ship**.—(*1*) if any person dies on board a foreign-going Indian ship, the proper officer at the port where the crew of the ship is discharged, or the proper officer at any earlier port of call in India, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log book an endorsement to the effect, either that the statement of the cause of death in the book is in his opinion true, or the contrary, according to the result of the inquiry.

(*2*) If, in the course of any such inquiry, it appears to the proper officer that a death has been caused on board the ship by violence or other improper means, he shall either report the matter to the Director-General or, if the emergency of the case so requires, shall take immediate steps for bringing the offender to trial.

**453. Certain persons deemed to be public servants**.—The following persons shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860), namely:—

(a) every surveyor;

(b) every judge, assessor or other person acting under Part XII;

(c) every person appointed under this Act to report information as to shipping casualties;

(d) every person authorised under this Act to make any investigation or inquiry under Part X and all persons whom he calls to his aid;

(e) every person directed to make an investigation into an explosion or fire on a ship under section 388;

(f) every other officer or person appointed under this Act to perform any functions thereunder.

**454. Powers of persons authorised to investigate, etc**.—(*1*) Every judge, assessor, officer or other person who is empowered by this Act to make an investigation or inquiry or to board, survey, inspect or detain a ship—

(a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, equipment or articles on board thereof, or any certificates of the master or other officer to which the provisions of this Act or any of the rules or regulations thereunder apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any incident to the ship or for any other reason it is considered necessary so to do, may require the ship to be taken into dock for the purpose of inspection or survey;

(b) may enter and inspect any premises, the entry and inspection of which appears to be requisite for the purpose aforesaid;

(c) may, by summons under his hand, requires the attendance of all such persons as he thinks fit to call before him and examine them for the purpose aforesaid, and may require answers or returns to any enquiries he thinks" fit to make;

(d) may require and enforce the production of all relevant books, papers, or documents;

(e) may administer oaths or may in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination; and

(f) may muster the crew of any such ship.

(*2*) No person shall hinder or obstruct any officer or person referred to in sub-section (*1*) from going on board any ship or otherwise impede him in the execution of his duties or the exercise of his powers under this Act.

*Explanation*.— In this section, "ship" includes a sailing vessel.

[1][**454A. Power to prescribe alternative fittings, etc.**—Where this Act requires that a particular fitting, material, appliances or apparatus or any type thereof shall be fitted or provided for in a ship or that any particular provision shall be made in a ship, the Central Government after satisfying itself by trials or otherwise that any other fitting, material, appliance or apparatus or type thereof or provision is as effective as that so required, may permit, by general or special order, such other fitting, material, appliance or apparatus or type thereof or provision to be used or provided.]

**455. Exemption of public ships, foreign and Indian.**—(*1*) This Act shall not except where specially provided, apply to ships belonging to any foreign prince or State and employed, otherwise than for profit in the public service of the foreign prince or State.

(*2*) The Central Government may, by notification in the Official Gazette, direct that the, provisions of this Act or any of them shall not apply to ships belonging to the Government or to any class of such ships.

**456. Power to exempt.**—(*1*) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any ship or sailing vessel or any master, tindal or seaman from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any ship or sailing vessel or any master, tindal or seaman, if it is satisfied that requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case.

[2][Provided that no exemption which is prohibited by the Safety Convention shall be granted under this sub-section.]

(*2*) Where an exemption is granted under sub-section (*1*) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

**457. General power to make rules.**—Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

**458. Provisions with respect to rules and regulations.**—(*1*) All rules and regulations made under this Act shall be published in the Official Gazette.

(2) In making a rule or regulation under this Act, the Central Government may direct that a breach thereof shall be punishable—

(a) in the case of a rule made under [3][section 331 or section 344-I] with imprisonment which may extend to two years, or with fine which may extend to ten thousand rupees, or with both;

(b) in the case of any other rule or regulation made under any other provision of this Act, with fine which may extend to one thousand rupees;

and in either case if the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

[4][(*3*) Every rule or regulation made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be

1. Ins. by Act 21 of 1966, s. 36 (w.e.f. 28-5-1966).
2. Added by s. 37, *ibid.* (w.e.f. 28-5-1966).
3. Subs. by s. 38, *ibid.*, for "section 331" (w.e.f.28-5-1966).
4. Subs. by s. 38, *ibid.*, for sub-section (*3*) (w.e.f.28-5-1966).

comprised in one session or in [1][two or more successive sessions, and if, before the expiry of the session immediately following, the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or the regulations, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.]

**459. Power to constitute committees to advise on rules, regulations and scales of fees.—**(*1*) The Central Government may, if it thinks fit, constitute one or more committees consisting of such number of persons as it may appoint thereto representing the interests principally affected or having special knowledge of the subject-matter, for the purpose of advising it when considering the making or alteration of any rules, regulations or scales of fees under this Act or for any other purpose connected with this Act.

(2) There shall be paid to the members of any such committee such travelling and other allowances as the Central Government may fix.

(3) Committees may be constituted under this section to advise the Central Government either generally as regards any rules, regulations or scales of fees or as regards any class or classes of rules, regulations or scales of fees in particular or for any other purpose connected with this Act.

**460. Protection of persons acting under Act.—**No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

[2]**[460A. Removal of difficulties.—**(*1*) If any difficulty arises in giving effect to the provisions of this Act, in so far as they relate to the Safety Convention or to the Load Line Convention or to the Convention referred to in clause (*a*) of section 356B, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty and giving effect to the provisions of such Convention:

Provided that no order shall be made under this section after the expiry of three years from the date of publication of the Merchant Shipping (Amendment) Act, 1970 (25 of 1970), in the Official Gazette.

(*2*) Every order made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions.]

## PART XVIII

### REPEALS AND SAVINGS

**461. Repeals and savings.—**(*1*) The enactments specified in Part I of the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) The enactments specified in Part II of the Schedule, in so far as they extend to and operate as part of the law of India, are hereby repealed.

(3) Notwithstanding the repeal of any enactment by sub-section (*1*) or sub-section (*2*),—

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, until revoked, have effect as if it had been issued, made or granted under the corresponding provision of this Act;

1. Subs. by Act 69 of 1976, s. 26, for "two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following"(w.e.f.1-12-1976).
2. Subs. by Act 25 of 1970, s.19, for section 460A (w.e.f.19-12-1970).

(b) any officer appointed and anybody elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under this Act;

(c) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act;

(d) any fine levied under any enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) sailing vessels registered under any enactment hereby repealed shall be deemed to have been registered under this Act;

(g) mortgages of ships recorded in any register book maintained at any port in India under any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

(h) any licence, certificate of competency or service, certificate of survey, A or B certificate, safety certificate, qualified safety certificate, radio telegraphy certificate, radio telephony certificate, safety equipment certificate, exemption certificate, international or Indian load line certificate or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

THE SCHEDULE

ENACTMENTS REPEALED

PART I

[*See* section 461 (*1*)]

| Year | No. | Short title | Extent of repeal |
|---|---|---|---|
| 1838 | 19 | The Coasting Vessels Act, 1838. | In so far as it applies to sea-going ships fitted with mechanical means of propulsion and to sailing vessels. |
| 1841 | 10 | The Indian Registration of Ships Act, 1841 | The whole. |
| 1850 | 11 | The Indian Registration of Ships Act (1841) Amendment Act, 1850. | The whole. |
| 1923 | 21 | The Indian Merchant Shipping Act, 1923. | The whole. |
| 1946 | 21 | The Merchant Seamen (Litigation) Act, 1946. | The whole. |
| 1947 | 26 | The Control of Shipping Act, 1947. | The whole. |
| 1949 | 18 | The Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949. | The whole. |

PART II

[*See* section 461 (*2*)]

| Year | Short title |
|---|---|
| 1823 | Lascars Act (4 Geo. 4 c. 80). |
| 1894 | Merchant Shipping Act (57 and 58 Vict., c. 60). |
| 1897 | Merchant Shipping Act (60 and 61 Vict., c. 59). |
| 1898 | Merchant Shipping (Liability of Ship-owners) Act (61 and 62 Vict., c. 14). |
| 1898 | Merchant Shipping (Mercantile Marine Fund) Act (61 and 62 Vict., c. 44). |
| 1900 | Merchant Shipping (Liability of Ship-owners and others) Act (63 and 64 Vict., c. 32). |
| 1906 | Merchant Shipping Act (6 Edw. 7, c. 48). |
| 1907 | Merchant Shipping Act (7 Edw. 7, c. 52). |
| 1911 | Merchant Shipping (Seamen's Allotment) Act (1 and 2 Geo. 5, c. 8). |
| 1911 | Merchant Shipping Act (1 and 2 Geo. 5, c. 42). |
| 1911 | Maritime Conventions Act (1 and 2 Geo. 5, c. 57). |
| 1914 | Merchant Shipping (Certificate) Act (4 and 5 Geo. 5, c. 42). |
| 1916 | Merchant Shipping (Salvage) Act (6 and 7 Geo. 5, c. 41). |

| Year | Short title |
|---|---|
| 1919 | Merchant Shipping (Wireless Telegraphy) Act (9 and 10 Geo. 5, c. 38). |
| 1921 | Merchant Shipping Act (11 and 12 Geo. 5, c. 28). |
| 1923 | Merchant Shipping Act (Amdt.) Act (13 and 14 Geo. 5, c. 40). |
| 1925 | Merchant Shipping (Equivalent Provisions) Act (15 and 16 Geo. 5, c. 37). |
| 1932 | Merchant Shipping (Safely and Load Line Conventions) Act (22 and 23 Geo. 5, c. 9). |
| 1936 | Merchant Shipping (Carriage of Munitions to Spain) Act (1 Edw. 8 and 1 Geo. 6, c. 1), |
| 1937 | Merchant Shipping (Spanish Frontiers Observation) Act (1 Edw. 8 and 1 Geo. 6, c. 19). |
| 1937 | Merchant Shipping Act (1 Edw. 8 and 1 Geo. 6, c. 23). |
| 1937 | Merchant Shipping (Superannuation Contributions) Act (1 Geo. 6, c. 4). |
| 1940 | Merchant Shipping (Salvage) Act (3 and 4 Geo. 6, c. 43). |