

CHAPTER 165

THE MERCHANT SHIPPING ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 165

THE MERCHANT SHIPPING ACT

An Act to repeal the Merchant Shipping Act, 1967 and Inland Waters Transport Ordinance, to provide for the registration and licensing of ships, to regulate proprietary interests in ships and the terms of engagement of seafarers and matters ancillary thereto; to provide for the prevention of collisions at sea, the safety of navigation and of life at sea, the regulation of load lines, the carriage of bulk and dangerous cargoes, unsafe ships, inland waterways, passenger ships, wreck and salvage, the liability of ship owners and others and inquiries and investigations into maritime casualties; to provide for the pollution prevention and protection of marine environment and marine security; to consolidate the law relating to shipping and for connected matters.

[23rd June, 2004]

[GN. No. 212 of 2004]

Acts Nos.
21 of 2003
1 of 2008
11 of 2010
13 of 2019

PART I

PRELIMINARY PROVISIONS

Short title **1.**—(1) This Act may be cited as the Merchant Shipping Act.
(2) The Minister may, pursuant to subsection (1), appoint different dates for coming into operation of different provisions or Parts of this Act.

Interpretation
Act No.
13 of 2019 s. 42 **2.**—(1) In this Act, unless the context otherwise requires—
“artisanal crafts” means locally made canoes including dug out canoes;
“bareboat charter” means hiring or leasing of a ship for a period of time during which the ship owner provides only the ship while the charterer provides the crew together with the stores and bunkers and pays all operating costs;

- “apprentice” means an apprentice to sea service;
- “cargo ship” means a ship which is not a passenger ship;
- “certificate of competency” means a certificate issued to a person under Part VII which entitles the person to be employed in the capacity stated in the certificate;
- “certificate of registration” means a certificate by that name granted pursuant to section 29;
- “coasting trade” means the carriage of goods or passengers on a sea voyage solely from any place on the coast of United Republic to any other place or places on the coast of the United Republic;
- “Collision Regulations” means the International Convention on Regulations for the Prevention of Collisions at Sea, 1972;
- “consular officer” means a person discharging the duties of a consular officer on behalf of the Government of Tanzania and when used in relation to a State other than Tanzania, means the officer recognised by the Government of Tanzania as a consular officer of that other State;
- “contravention” includes failure to comply, and “failure” includes refusal;
- “country of underlying registry” means the registry and flag to which the ship reverts upon termination of the bareboat charter unless provided otherwise;
- “country of original registry” unless the context provides otherwise, shall be construed as the “country of underlying registry”;
- “court” means the High Court of Tanzania, or the Resident Magistrates’ Court;
- “dangerous goods” or “goods of a dangerous nature” shall carry the same meaning as contained in the Safety of Life at Sea Convention;
- “declaration of transfer” means a declaration authenticating the transmission of property under section 74;
- “employer” in relation to a seafarer, means the person who has entered into a crew agreement with the seafarer for the employment of the seafarer on a ship;

- “equipment” in relation to a ship, includes everything or article belonging to or used in connection with, or necessary for the navigation and safety of, the ship;
- “existing ship” means any ship other than a new ship;
- “fishing vessel” means a vessel used or, intended to be used for or in connection with fishing other than a vessel used or intended to be used for fishing otherwise than for profit or a vessel used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;
- “foreign certificate” means a certificate obtained outside Tanzania;
- “foreign country” means any country or place other than Tanzania;
- “foreign going ship” means a ship employed in voyages beyond the limits of a coasting trade voyage;
- “freeboard” means the distance measured vertically downwards amidships, from the upper edge of the deck line to the upper edge of the related load line;
- “freight” includes passage money and hire; (and references to damage or loss caused by the fault of the vessel shall be considered or including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damage);
- “Fund” means the Maritime Education and Training Fund established under section 170;
- “Government ship” means any ship owned by the Government or held by any person on behalf of or for the benefit of the Government;
- “grain” includes millet, wheat, maize (corn), oats, rye, barley, rice, pulses, sesame and seeds;
- “harbour” includes places in lakes, estuaries, navigable rivers, piers, jetties and other works in or at which can obtain shelter or ship and unship goods or passengers;
- “harbour authority” means the body or authority responsible for the provision of harbour services and facilities;

- “internal waters” means Tanzanian waters landward of the baselines for measuring the breadth of its territorial sea;
- “International Convention or Agreement” means the International Convention or Agreement which is ratified by the National Assembly;
- “International voyage” means a voyage from a port or place in the United Republic of Tanzania to a port or place outside the territorial limits of the United Republic of Tanzania, or conversely;
- “islands” means all the islands comprised within the United Republic of Tanzania;
- “lien” means an instrument preserving rights under section 98;
- “Load Line Convention” means the International Convention respecting Load Lines 1966 together with such revision thereto or substitutes therefore as the Minister may, by order in the *Gazette*, declare to be in the effect;
- “Load Line Convention ship” means a Ship that is-
- (a) of a kind to which the Load Line Convention applies; and
 - (b) registered in a country the government of which has accepted or acceded to the Load Line Convention;
- “master” includes every person, except a pilot, having command or charge of a ship, seaplane or other craft when it is on or in close proximity to the water;
- “mile” means an international nautical mile of 1852 metres;
- “Minister” means the Minister responsible for shipping;
- “mortgage” means an instrument of security of the kind referred to in section 88;
- “national flag” means the national flag of Tanzania;
- “new ship” means a ship-
- (a) the keel of which was laid; or
 - (b) that has been substantially-
 - (i) altered; or
 - (ii) reconstructed;

- “IMO” means the International Maritime Organisation;
- “official log-book” means the official log-book required to be kept under section 190;
- “oil tanker” means a ship constructed and used for carriage of petroleum and petroleum products in bulk;
- “owner” in relation to a ship, or “ship owner” means, in respect of a registered ship, the registered owner and includes a demise charterer and a managing owner or a managing agent;
- “passenger” means any person carried on a ship except-
- (a) a person employed or engaged in any capacity on the business of the ship;
 - (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled; and
 - (c) a child under one year of age;
- “passenger ship” means a ship which is constructed for, or which is habitually or on any particular occasion, used for carrying more than twelve passengers and includes a ship that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house, guest house or other establishment;
- “pleasure vessel” means-
- (a) any vessel including a dive boat which at the time it is being used is-
 - (i) wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
 - (ii) owned by a body corporate, one on which the persons are employees, officers or shareholders of the body corporate, or their immediate family or friends;

(b) a vessel on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(c) any vessel wholly owned by or on behalf of a club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club;

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

“Port Authority” includes all persons entrusted with the function of managing, regulating and maintaining a port;

“port of registry” in relation to a ship or sailing vessel, means the port at which she is registered or is to be registered;

“port” means a place, whether proclaimed a harbour or not, and whether natural or artificial, to which ships may resort for shelter or to ship or unship goods or passengers;

“proceeding” in relation to Part XXI and XXII includes any suit, approval or application;

“proper officer” means any officer appointed to perform a certain duty or function when engaged on the performance of that duty or function and includes a consular officer;

“proper return port” in relation to seafarer means-

(a) the port from which he was shipped;

(b) in the case of a seafarer (other than a seafarer shipped in Tanzania), a port in the country to which he belongs; or

(c) in the case of a discharged seafarer, a port agreed by the seafarer at the same time of his discharge;

“property of a seafarer” means any monies due to a seafarer, his personal effects, the proceeds of the sale of such effects and the balance of any wages due to a seafarer;

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- “qualified person” means a person of the kind referred to in section 13;
- “receiver of wrecks” means a person appointed by the Registrar under section 306;
- “register” means the register of ships referred to in section 20;
- “Registrar” means the Registrar appointed under section 31 of the Tanzania Shipping Agencies Act;
- “STCW Convention” means the International Convention on Standards of Training, Certification and Watch-Keeping, as amended;
- “ship” means a floating vessel which is selfpropelled and capable of carrying passengers or cargo and includes every description of vessel used in navigation;
- “small ship” means a ship of less than 24 metres in length or less than 50 gross registered tonnage;
- “Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 as affected by any amendment made hereunder, and includes Protocol, 1978;
- “sailing vessel” means any description of a 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;
- “salvage” includes all expenses properly incurred by a salvor in the performance of salvage services;
- “seagoing” in relation to a vessel, means a vessel proceeding to sea beyond internal waters or beyond waters declared to be smooth or partially smooth waters by the Government by notification in the *Gazette*;
- “seafarer”, includes every person (except a master, pilot or apprentice duly contracted or indentured and registered) employed or engaged in any capacity on board a ship;
- “surveyor” means a person appointed as surveyor under section 382(1);
- “Tanzanian ship” means a ship registered or licensed under the provisions of this Act at a port in the United Republic;

- “Tanzanian waters” means the sea or other waters within the seaward limits of the territorial sea of Tanzania;
- “Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969;
- “tonnage regulations” means regulations made under section 56;
- “charter period” means the period during which the ship is chartered on bareboat charter terms;
- “tonnage certificate” means a certificate granted pursuant to section 56(2);
- “vessel” includes any ship, boat, sailing vessel, ferry, or other vessel, of any description used in navigation;
- “voyage” for purposes of Part III means the whole distance between the ship’s port or place of departure and her final port or place of arrival;
- “wreck” includes flotsam, jetsam, lagan and derelict found in or on the shores of the sea or of any tidal water, the whole or any portion of a ship lost, abandoned, stranded or in distress, any portion of the cargo, stores or equipment of such a ship, and any portion of the personal property on board such a ship when it was lost, stranded, abandoned or in distress, and includes the following when found in the seas or in tidal water or on the shores thereof-
- (a) goods which have been cast into the sea and then sank 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 into 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;
- “young person” means a person under the age of eighteen; and
- “wages” includes emoluments.

Appication of Act
Act No.
13 of 2019 s. 43

3.–(1) Unless otherwise expressly provided, this Act shall apply to-

- (a) all Tanzanian ships wherever they may be;
- (b) all other ships while in a port or place in, or within the territorial sea, lakes, rivers, and cause ways under the jurisdiction of the United Republic of Tanzania; and
- (c) ferries owned by a private person or under the control of and in the service of the Government.

(2) This Act shall not apply to-

- (a) vessels of the Tanzania Police;
- (b) vessels of the Tanzania Peoples' Defence Forces;
- (c) sea aircraft of the Tanzania Peoples' Defence Force.

(3) This Act shall apply to the regulation of shipping in inland water transport.

PART II ADMINISTRATION

Power of Minister
to designate
public authority
Act No.
13 of 2019 s. 44

4.–(1) In the exercise of powers vested in him under this Act, the Minister may, by order published in the *Gazette*, designate a public authority to undertake, regulatory function to maritime, safety, security and prevention of pollution.

(2) The Minister may, in addition to exercising any powers vested in him under this Act, give to any public authority designated as such directions of a specific or general nature on any matter of policy.

(3) Without prejudice to subsection (1), pending the designation of any public authority to perform regulatory functions, all regulatory functions and powers relating to maritime, safety, security and prevention of pollution shall be performed and exercised by the Minister.

(4) For the purpose of this section, “public authority” means any public institution, department or agency designated as such by the Minister.

- Power of Minister to give directions Act No. 13 of 2019 s. 45
- 5.** The Minister may, prior to the establishment of the maritime safety, security and prevention of pollution give the Registrar such general directions, not inconsistent with the provisions of this Act or any regulations made hereunder, on the policy to be pursued in the administration of this Act, as he may consider necessary, and the Registrar shall take steps as are necessary or expedient to give effect thereto.
- Duties and powers of surveyors and inspectors
- 6.** Surveyors and Inspectors of ships shall have the powers and perform the functions and duties prescribed by this Act and any regulations made there under.
- Repealed
- 7.** [Repealed by Act No. 13 of 2019 s. 46.]
- Minister to delegate certain powers
- 8.**—(1) The Minister may, by notice in the *Gazette*, delegate to the Registrar or any other officer appointed under this Act and specified in such notification, the exercise of any powers other than the powers to make regulations or the performance of any duties conferred or imposed on him by or under this Act, subject to such conditions and restrictions as he may specify.
- (2) The delegation under subsection (1) shall not affect the exercise of such powers or the performance of such duties by the Minister.
- (3) Every officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of such delegation.
- General powers to dispense
- 9.** The Registrar may, upon such conditions as he thinks fit to impose, exempt any ship from any requirement prescribed under this Act, or dispense with the observance of any such requirement by any ship, if he is satisfied that-
- (a) the requirement has been substantially complied with by that ship or that compliance with it is unnecessary in the circumstances; and

- (b) the action taken or provision made in respect of the subject matter of the requirement in that ship is as effective as, or more effective than, actual compliance with the requirement.

PART III RESTRICTION ON TRADING

Restriction
on trading in
Tanzanian waters

10.—(1) A ship shall not trade in or from the waters of Tanzania unless the ship-

- (a) is a Tanzanian ship; or
- (b) is provided with a certificate of foreign registry.

(2) Subject to the provisions of any regulation made under this section or of any international agreement, only Tanzanian ships may be engaged in local trade in Tanzanian waters.

(3) The Minister shall make regulations under this section to provide for the circumstances under which foreign ships may engage in local trade in Tanzanian waters.

(4) The owner, agent and master of every ship who contravenes subsections (1) or (2) commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both, and the ship may be liable to be detained.

Requirement for
insurance cover

11.—(1) Every Tanzanian ship shall carry insurance cover against risks of loss or damage to third parties, and in particular-

- (a) in respect of the ship owners liabilities to a crew member under any provision of Part VI;
- (b) in respect of claims of loss or damage caused to any cargo carried on board the ship; and
- (c) in respect to every passenger carried on board.

(2) Every foreign ship anchoring in or trading in or from Tanzanian waters or entering a port in Tanzania shall carry insurance cover against risks of loss or damage to third parties.

(3) The insurance cover against risks of loss or damage to third parties shall be adequate to cover liabilities as referred to under section 352 of this Act.

(4) The owner, master, agent or a representative who permits a ship to sail without insurance as provided for in this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian Shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding five years or to both.

PART IV REGISTRATION AND LICENSING OF SHIP

(a) Registration

Tanzanian ship

12. A ship shall be a Tanzanian ship for purposes of this Act if such ship is registered in Tanzania under this Part.

Qualifications
for owning
and registering
Tanzanian ship
Act No.
13 of 2019 s. 48

13.—(1) Subject to section 45, a ship shall not be registered in Tanzania under this Act unless she is wholly owned by persons qualified to own a Tanzanian ship, namely-

- (a) nationals of Tanzania;
- (b) individuals or corporations owning ships hired out on bareboat charters to nationals of Tanzania;
- (c) individuals or corporations in *bona fide* joint venture shipping enterprise relationships with nationals of Tanzania as may be prescribed; and
- (d) such other persons as the Minister may by order, specify.

(2) Every ship of 50 Gross Tonnage (GT) or over that is owned by persons qualified to be owners of Tanzanian ship shall, unless exempted, be registered as a Tanzanian ship:

Provided that, the Government service ship shall not be required to be registered under this subsection.

Obligations
to register
Tanzanian ship
Act No.
13 of 2019 s. 48

14.—(1) Where a ship is owned wholly by persons qualified to own a registered Tanzanian ship, that ship shall, unless it is registered in a foreign country, be registered in Tanzania in the manner provided in this Part.

(2) Every Tanzanian ship, and every Tanzanian Government ship shall be registered in one of the register books kept pursuant to section 20 and registration shall be effected in accordance with this Act.

(3) Where the master of any ship which is owned wholly by persons qualified to own a registered Tanzanian ship fails, on demand, to produce the certificate of registration of the ship or such other evidence that satisfies the Registrar that the ship complies with the requirements of subsection (1), that ship may be detained until that evidence is produced.

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43 of 1967

(4) A ship which is wholly owned by persons qualified to own a Tanzanian ship, and which immediately before the commencement of this Part, is registered in Tanzania in accordance with the Tanzania Merchant Shipping Act, shall be entitled to be registered under this Act, subject to such conditions as may be prescribed by the Registrar.

Refusal of
registration

15.—(1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Registrar may not register such a ship where he is satisfied that having regard to-

- (a) the condition of the ship in so far as is relevant to safety or to any risk of pollution;
- (b) the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or
- (c) the possibility that the ship is being used for criminal purposes,

it would be detrimental to the interests of Tanzania or of international shipping for the ship to be registered.

(2) Where it appears to the Registrar that a ship in respect of which an application for registration has been made is not entitled to be registered, having regard to the provisions

of subsection (1), he shall inform the applicant, or any representative for the time being appointed in relation to the ship, and the Registrar shall not register the ship.

Termination of
registration

16.—(1) The Registrar may, subject to subsection (5), terminate a ship's registration in the following circumstances, namely-

- (a) where the Registrar is satisfied that-
 - (i) having regard to the provisions of section 15(1) it would be detrimental to the interests of Tanzania or of international shipping for a registered ship to continue to be registered;
 - (ii) a fine imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than three months and there is no pending appeal against the fine; or
 - (iii) a summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the charge or complaint in question and a period of not less than three months has elapsed since that time;
- (b) the owner of the registered ship has failed to pay the annual tonnage fee for a period exceeding two years;
- (c) on application by the registered owner stating that he wishes to terminate the registration of the ship; or
- (d) upon a registered ship becoming a total loss or being otherwise destroyed by, shipwreck, demolition, fire or sinking.

(2) In the event of a registered ship being in any condition referred to in subsection (1)(d), every registered owner of the ship or any shareholder therein shall, immediately upon obtaining knowledge of the event, inform the Registrar who shall make an entry thereof in the register.

(3) Where the registration of a ship is terminated under subsection (1), the Registrar shall notify all registered mortgagees of the termination of the ship's registration.

(4) Where the registration is terminated under subsection (1)(c) or (d), the Registrar shall forthwith issue a closure transcript to the owner of the ship.

(5) On receipt of the closure transcript referred to in subsection (4), the owner shall immediately surrender the ship's certificate of registration to the Registrar for cancellation.

(6) Where the circumstances referred to in subsection (1) (a) apply, and it appears to the Registrar that subsection (1) (b) or (d) apply, he may serve notice on the owner or on any representative for the time being appointed in relation to that ship as the case may be, to produce, within twenty-one days, evidence sufficient to satisfy the Registrar, that the ship is eligible to remain on the register; and if at the expiry of that period the Registrar is not satisfied, he may-

- (a) extend the notice and ask for further information or evidence; or
- (b) serve a final notice informing the owner or the representative of the termination of the ship's registry, and such termination shall take effect seven days after the service of that notice.

(7) Where the Registrar serves a notice under subsection (6) on the owner of a ship in respect of which a mortgage is registered, he shall send a copy of that notice to the mortgagee at the address recorded for him in the register.

(8) Where a ship's registration is terminated under subsection (6), the provisions of subsections (4) and (5) shall apply.

(9) A person who-

- (a) in connection with the making of any representations in pursuance of subsection (6), knowingly or recklessly furnishes information which is false in a material particular, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding two years or to both; or

- (b) fails, without reasonable cause to surrender a certificate of registration when required to do so under subsection (8) commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding two years or to both.

Restriction on de-registration of ship

17. Subject to section 88(6), the Registrar shall not permit the de-registration of a ship, except after giving prior notification in writing to all registered holders of mortgages on the ship registered under this Act.

Certificate of de-registration

18.—(1) Upon de-registration of a ship, the Registrar shall issue to the owners as shown in the register a certificate of de-registration in the prescribed form.

(2) Prior to the issuance of the certificate of de-registration referred to in subsection (1), the owners shall immediately surrender the ship's certificate of registration to the Registrar for cancellation.

(3) A person who fails, without reasonable cause to surrender a certificate of registration when required to do so under this Part, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(b) Procedure for Registration

Repealed

19. [Repealed by Act No. 13 of 2019 s. 47].

Register

20.—(1) There shall be a register of ships for all registrations of ships in Tanzania.

(2) The register may consist of separate register books and shall be so constituted as to distinguish registrations of small ships, pleasure vessels and submersible craft and may otherwise distinguish between classes or descriptions of ships.

(3) The register shall be maintained in accordance with the registration regulations and any directions given by the Registrar.

(4) The register shall be available for public inspection.

(5) Except as provided for under section 60, entries in the register in relation to property in a ship shall be made in accordance with the following provisions-

- (a) the property in a ship shall be divided into 64 shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, no more than 64 individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severally of any interest in a ship, or in any share therein in respect of which they are registered; and
- (e) a body corporate shall be registered as owner by its corporate name.

Survey for
measurement and
identification of
ship

21.-(1) Every ship shall before registration, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations made under this Act, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may be required by the Registrar and such certificate shall be delivered to the Registrar before registration.

(2) Where the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations, that tonnage shall be treated as the tonnage of the ship except so far as those regulations provide in specified circumstances, for the ship to be re-measured and the register amended accordingly.

Marking of ship

22.—(1) Every ship other than small ship shall before registration be marked permanently and conspicuously to the satisfaction of the Registrar as follows—

- (a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, in letters of a contrasting colour which is clearly visible, such letters to be of a length not less than one decimetre, and of proportionate breadth;
- (b) her official number and net tonnage shall be permanently marked on a main part of the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;
- (c) subject to paragraph (e), in the case of every ship built before the date of metric conversion, a scale of feet denoting her draught of water shall be marked on each side of her stern and of her stern post in Roman capital numerals or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters and figures shall be marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Registrar may approve;
- (d) in the case of every ship built after the date of metric conversion, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on each side of her stern and stern post in figures at two-decimetre intervals and at intervening two decimetre intervals, if the scale is in metres and decimetres, the capital letter "M" being placed after each metre figure; the top figure of the scale showing

both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figure, or figures and letters, as the case may be, coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Registrar may approve;

(e) in case of a ship built before the date of metric conversion, it may comply with the requirements of paragraph (d).

(2) Unless in special circumstances, the Registrar directs otherwise, a pleasure vessel of 24 metres in length or over, shall be deemed to be in compliance with subsection (1) (a) if her name and the name of her port of registry are marked on her stern in the manner provided in that subsection.

(3) Where the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(4) The marks required by this section shall be permanently affixed, and no alteration shall be made, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) Where the owner or master of a registered ship neglects to keep his ship marked as required by this section, or if any person conceals, removes, alters, defaces, obliterates or suffers any person under his control to conceal, remove, alter, deface, obliterate any of such marks, except in the event referred to in subsection (4), that owner, master, or person commits an offence, and for each such offence shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both, and on a certificate from a

surveyor of ships that a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

(6) It shall be a defence for the owner, master or person referred to in subsection (5) to prove that-

- (a) he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
- (b) the commission of the offence was for the purpose of escaping capture by an enemy.

(7) Where the owner or master allows or permits the ship to proceed to sea without being marked in accordance with this section, such owner or master commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(8) The Registrar may exempt with reasonable ground in writing any ship or class of ships from all or any of the requirements of this section.

Application for
registration

23. An application for registration of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by someone or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal in accordance with the Companies Act.

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Declaration of
eligibility

24. A person shall not be entitled to be registered as owner of a ship or a shareholder therein until he, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to the ship as

described in the certificate of the surveyor, and containing the following particulars-

- (a) a statement of his qualifications to own a Tanzanian ship, and in the case of a body corporate, of such circumstances of the constitution and business thereof as to prove it to be qualified to own a Tanzanian ship;
- (b) in the case of a foreign ship, a statement of her foreign name; or
- (c) a statement of the number of shares in the ship the legal title to which is vested in him or, as the case may be, the body corporate, whether alone or jointly with any other person or persons.

Evidence of title on first registry **25.** On the first registration of a ship, the evidence of legal title shall be produced as specified in the registration regulations.

Entry of particulars in registry **26.** When the requirements for preliminary registration are complied with by the applicant, the Registrar shall register the ship in accordance with the registration regulations.

Documents to be retained by Registrar **27.** On the registration of a ship, the Registrar shall retain in his possession such documents as are specified in the registration regulations.

Port of registry **28.** The port at which a ship is registered shall be deemed to be the port of registry and the port to which the ship belongs.

Certificate of registration **29.** On completion of the registration of a ship, the Registrar shall grant a certificate of registration comprising such particulars respecting the ship as are specified in the registration regulations.

Custody of certificate **30.**-(1) The certificate of registration 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) Where any person, whether interested in the ship or not, refuses on request to deliver the certificate of registration when in his possession or under his control to the person entitled to the custody thereof for purposes of the lawful navigation of the ship, or to the Registrar or any officer of customs, or other person entitled by law to require such delivery, any court capable of taking cognisance of the matter, may summon the person so refusing to appear before such court, and to be examined to such refusal, and unless it is proved to the satisfaction of such court that there was reasonable cause for such refusal, that person shall be guilty of an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(3) Where it is proved to the satisfaction of the court that the certificate is lost, the person summoned shall be discharged, and the court shall certify that the certificate of registration is lost.

(4) Where the person so refusing is proved to have absconded so that the warrant of arrest or process of a court cannot be served on him, or if he persists in not delivering the certificate, the court shall certify the fact, and in the same proceedings, the court may certify that a certificate is mislaid, lost, or destroyed.

Penalty for use of improper certificate

31. A master or owner of a ship who uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, commits an offence, and in respect of each such offence, on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars twenty thousand, or to imprisonment for a term not exceeding five years or to both, and the ship shall be subject to forfeiture under this Act.

Power to grant new certificate

32. Where a ship is de-registered under the provision of section 18, the Registrar may, and upon re-application by the master or owner for the certificate of registration of a ship, grant a new certificate in lieu thereof.

Duplicate
certificate

33.—(1) Where it is proved to the satisfaction of the Registrar that the certificate of registration has been lost, stolen or destroyed or has become defaced or illegible after the event, he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall be of the same effect as the original.

(2) Where a duplicate certificate of registration is issued under subsection (1), the original, if then available or subsequently found or recovered, shall be forthwith surrendered to the Registrar.

(3) Where—

(a) the port at which the ship is at the time of the event or, as the case may be, where it first arrives after the event, is not in the United Republic of Tanzania; and

(b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the proper officer as to the loss, theft, destruction, defacement or illegibility of the certificate,

the proper officer shall notify the Registrar.

(4) On being notified of the event and being satisfied that the ship is entitled to be issued with a duplicate certificate, the Registrar shall—

(a) send by facsimile or any other form of electronic transmission to the proper officer a copy of the duplicate certificate which the proper officer shall endorse with a statement of the circumstances, under which it is granted; or

(b) where there are no facsimile or other electronic transmission facilities, the proper officer shall issue a temporary certificate so endorsed.

(5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Registrar, as soon as the original duplicate certificate referred to in subsection (1) is received by the owner.

(6) A person who fails, without reasonable cause to surrender a certificate of registration when required to do so under subsection (2), commits an offence and on conviction, shall

be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Endorsement
of change of
ownership

34.—(1) Whenever a change occurs in the registered ownership of a ship, the Registrar may endorse the change on the certificate of registration or issue a new certificate of registration.

(2) The master shall, for the purpose of such endorsement by the Registrar, deliver the certificate of registration to the Registrar forthwith after the change.

(3) The master who fails to deliver to the Registrar the certificate of registration as required by this section, commits an offence and on conviction shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Provisional
certificate for ship
becoming entitled
to be registered
while abroad

35.—(1) Where a ship becomes entitled to be registered while at port in a country outside the United Republic of Tanzania, then the proper officer may, on the application of the master of the ship, grant to him a provisional certificate stating—

- (a) the name of the ship;
- (b) the time and place of the purchase of the ship and the names of the purchasers; and
- (c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain,

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

(2) A provisional certificate shall have the effect of a certificate of registration until—

- (a) the expiration of three months from its date of issuance; or
- (b) the ship's arrival at a port of registry,

whichever happens first, and shall then cease to be of any effect.

(3) Where a provisional certificate is granted for a ship under this section, no further provisional certificate shall be granted within one year from the date of that certificate except with the consent of the Registrar.

Provisional
certificate of
registration

36.—(1) Where the owner of a ship intends to apply to have the ship registered as a Tanzanian ship and the Registrar is not immediately available, the proper officer or other appropriate authority designated to act on behalf of the Government may grant to its owner or master, on his application, which shall include a statutory declaration, a provisional certificate stating-

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

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

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

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

(3) A provisional certificate under this section shall have the effect of a certificate of registration until the expiration of six months after the date of issue or until the arrival of the ship at a port in Tanzania, whichever happens first.

(4) The master of every ship in respect of which a provisional certificate is granted under this section shall, within ten days of the first arrival at a port in Tanzania, deliver the certificate to the Registrar.

(5) A master of a ship who fails to comply with subsection (4) commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the

United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Temporary pass in lieu of certificate of registration

37. Where it appears to the Minister that, by reason of special circumstances it is desirable that permission be granted to a ship to pass, without being previously registered, from any port in Tanzania to any other port within or outside Tanzania, he may, in any case in which the ship belongs to a country whose law provides for the issue of temporary passes, direct the Registrar to grant a pass and that pass for the time and within the geographical limits therein mentioned, shall have the same effect as a certificate of registration and the Registrar when so directed shall grant such pass.

Consequences of provisional registration

38. Where a ship is registered pursuant to section 36, it shall-

- (a) be deemed to be a Tanzanian ship for purposes of this Act; and
- (b) not hoist any colours other than Tanzanian national colours specified in section 84.

Provisions relating to ship registered under section 36

39.-(1) Where a certificate of registration is granted in respect of a ship pursuant to section 36(1)-

- (a) the provisions of this Part shall apply to the ship and its registration; and
- (b) any act or thing required to be done or not to be done under this Act by the owner of a ship shall be deemed required to be done or not done by the transferee.

(2) The transferee who does or omits to do any act or thing required to be done or not do be done under this section shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship.

(3) For purposes of this section, a reference to “owner” shall, in the case of such a ship as is mentioned in subsection (1), be deemed to be a reference to “transferee” and the words “registered owner” and” registered ownership” shall be construed accordingly.

Definition of transferee in this part
Act No.
13 of 2019 s. 41

40.—(1) In sections 41 and 44, “transferee” means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 41(1).

(2) Neither the Registrar nor any officer acting in that capacity or discharging any of his functions under this Act shall be liable for any loss or damage accruing to any person by reason of any act, omission or default of such officer.

(c) Name of Ship

Name of ship

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

(2) A Tanzanian ship shall not be described by any name other than the name by which she is registered.

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

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

(5) A person who acts or suffers any person under his control to act in contravention of this section or omits to do or suffers any other person under his control to omit to do, anything required by this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both and the ship may be detained until the provisions of this section are complied with.

Change of name of ship **42.**-(1) A person shall not change the name of the ship without a written permission of the Registrar.

(2) An application to effect a change of ship's name shall be in writing and where the Registrar is of the opinion that the application is reasonable he may grant permission, and thereupon require notice thereof to be published in such form and manner as he thinks fit.

(3) On being granted permission to change the name of the ship, the owner shall forthwith ensure that the change is in the register and in the ship's certificate of registration, and on her bows and stern.

(4) Where it is shown to the satisfaction of the Registrar that the name of any ship has been changed without his permission he shall direct the owner or master of the ship to alter her name to that which she bore before the change and her name shall be altered on her bows and stern accordingly.

Identity marks for fishing vessels **43.**-(1) On the registration of a fishing vessel, the Registrar shall allocate to it a combination and sequence of letters and numerals (hereinafter called the "identity mark") which he shall cause to be entered in the register book and such identity mark shall not be allocated to any other fishing vessel.

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

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

Offences **44.** A person who acts, or suffers any person under his control to act, in contravention of section 41, or omits to do, or suffers any person under his control to omit to do, anything required under that section, commits an offence, and for each such offence on conviction shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment to a term not exceeding two years or to both, and, except in the case of an application being

made under that section with respect to a foreign ship which not having at any previous time been registered as a Tanzanian ship has become a Tanzanian ship, the ship may be detained until there is compliance with that section.

Register book
for ships under
construction

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

(d) Registration of Alterations and Registration Anew

Application and
registration of
alterations

46.—(1) Where a registered ship is altered as not to correspond with 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 having register at which the ship arrives after the alteration, shall, on application made to him, either cause the alteration to be registered or direct that the ship be registered anew.

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

(3) A ship owner who makes a default in registering a ship anew after it has been altered or in registering the alteration, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding three years or to both and, in addition the ship shall be detained until the Registrar directs otherwise.

Rule for
registration of
alteration

47.—(1) A person who, wishes to register alteration on a ship shall within sixty days after alteration produce to the Registrar a certificate of registration, and the Registrar shall either-

- (a) retain the certificate and grant a new certificate of registration containing a description of the ship as altered; or

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

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

Registration anew
on change of
ownership

48. Where the ownership of any ship is changed, the Registrar may, on the application of the owners of the ship, register the ship anew.

Provisional
certificate where
ship is registered
anew

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

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

(3) The master of every ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section shall, within ten days of the ship's arrival at a port in Tanzania or within six months of the date of issue or endorsement of the certificate, whichever is the earlier, deliver that certificate to the Registrar and, if any master of a ship fails to comply with this subsection, he commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars

one thousand or to imprisonment for a term not exceeding six months or to both.

(4) Where any ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section arrives at a port in Tanzania, an application for registration of that ship anew shall be made to the Registrar and the requirements requisite for registration shall be complied with.

(5) The owner of the ship who fails to comply with subsection (4), commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars one thousand and, in addition, to a further fine of the equivalent in Tanzanian shillings of the United States dollars one hundred for everyday during which the offence continues after conviction.

Procedure for
registration anew

50.—(1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of first registry, and on the surrender to him of the existing certificate of registry, and on compliance with the other requirements for registration, or in the case of a change of ownership, compliance with such of them as the Registrar thinks fit, shall register the ship anew, and grant a new certificate.

(2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or 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 registration anew shall not affect the rights of any of those persons.

Restriction on
re-registration of
abandoned ships

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

(e) *Bareboat Charters*

Registration of
bareboat charters

52.—(1) This section applies to any ship which—

- (a) is registered under the law of a country other than Tanzania;
- (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own Tanzanian ships; and
- (c) is chartered in circumstances where the conditions of entitlement to registration prescribed under section 13 read with the requisite modifications, are satisfied, in respect of the charterer and the ship.

(2) A ship to which this section applies is entitled to be registered if an application for registration is duly made under section 23.

(3) The registration of a ship registered by virtue of this section shall remain in force, unless terminated by virtue of registration regulations and subject to any suspension there under, for twenty-four months or until the end of the charter period whichever is the earlier and shall then terminate by virtue of this subsection.

(4) A ship shall not be registered under this Part without documentary proof that her registration in the original registry has been deleted.

(5) The Minister may, by notification in the *Gazette*, exempt any ship or class of ships from the requirements of this Part where such requirements are superfluous.

(6) During the period for which a bareboat charter is registered by virtue of this section, she shall—

- (a) be entitled to fly the Tanzanian flag; and
- (b) subject to subsections (7) and (8) be governed by this Act or any other enactments applicable to Tanzanian ships.

(7) The Minister may, subject to subsection (8), by regulations, provide that any enactment falling within subsection (6)(a) and (b) shall—

- (a) not have effect in accordance with that subsection in relation to a ship registered by virtue of this section; or

(b) have effect subject to any modifications, if any, as may have been specified in the registration.

(8) A provision shall not be made by any regulations under subsection (7), which would have the effect of relaxing the relevant requirements of regulations made under this Act within the provision in their application of this Act to a ship to which this section applies.

(f) *Licensing*

Ships to be licensed

53.—(1) Subject to subsections (2) and (3), every ship under 50 Gross Tonnage (GT) shall be licensed under this Act.

(2) A ship registered under this Act shall be exempted from being licensed under this section.

(3) The Minister may, by notice published in the *Gazette*, exempt certain classes of ships not exceeding 125 tons, to be designated by him, from registration under this Act.

(4) The Minister may exempt artisanal craft from licensing requirements subject to conditions as may be prescribed in the regulations.

Qualifications for owning licensed Tanzanian ship

54.—(1) A ship shall not be licensed in Tanzania unless she is owned by any of the persons referred to in section 13.

(2) More than eight persons shall not be licenced as joint owners of a Tanzanian ship.

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

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

Regulations regarding licensing of ships

55.—(1) The Minister may make regulations regarding licensing of foreign ships and licensed Tanzanian ships and in particular, may provide for the following matters-

(a) the manning of and the life-saving, safety and fire-fighting equipment to be carried on such ships;

- (b) the examination and certification of officers, skippers, mechanics and deckhands;
- (c) surveys and inspections;
- (d) the appointment of surveyors;
- (e) the keeping of records;
- (f) fees;
- (g) discipline; and
- (h) operating permits.

(2) The Minister may make regulations regarding small ships, and without limiting the generality of the foregoing, the regulations may provide for the following matters-

- (a) forms and procedures for licensing;
- (b) registration of change of ownership;
- (c) survey and inspection;
- (d) the keeping of records; and
- (e) fees.

(g) Tonnage Measurement

Tonnage
regulations

56.-(1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with tonnage regulations and whenever the tonnage of any ship has been ascertained and registered under such regulations, such tonnage shall be repeated in every subsequent registration, unless any alteration is made in the form or capacity of the ship, or it is discovered that the tonnage of the ship has been erroneously computed.

(2) The Registrar may issue certificate of tonnage of any ship or of the tonnage which is to be taken for the purpose specified in the regulations as the tonnage of a ship not registered in Tanzania and upon the cancellation and surrender of such certificates in such circumstances as may be prescribed by the regulations.

(3) In making the tonnage regulations, the Minister shall pay due regard to the provisions of the Tonnage Convention, 1969.

(4) Surveyors shall carry out surveys and measurements of ships in accordance with the regulations made under this section.

Tonnage of ships of foreign countries adopting tonnage regulations

57.–(1) Where it appears to the Registrar that the Tonnage Convention has been adopted by a foreign country and is still in force, he may apply the provisions of that convention to the ships of such country as provided for in this section.

(2) The Registrar may order that ships of the foreign country without being re-measured in Tanzania, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent.

(3) An order made under subsection (2) may-

(a) operate for a limited time;

(b) be subject to such conditions and qualifications, as the Registrar may consider necessary.

(4) Where it appears to the Registrar that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, he may order further that any of the ships of that country, be re-measured in accordance with the tonnage regulations.

(h) Declaration and Forms

Provisions relating to infancy or other incapacity

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

(2) All acts done by any person specified under subsection (1), on behalf of the incapacitated person shall be as effectual as if done by the infant, person of unsound mind or incapacitated person.

Notice of trusts, not received

59. Notice of any trust, express, implied or constructive, shall not be entered in the register book or be received by the Registrar, and, subject to any rights and powers appearing in 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 for in this Act and to give effectual receipts for any money paid or advanced by way of consideration.

Definition of beneficial interest and equities not excluded by Act

60.—(1) The expression “beneficial interest”, where used in this Part includes interests arising under contract and other equitable interests.

(2) Without prejudice to the provisions of this Act—

(a) for preventing notice of trusts from being entered in the register book or received by the Registrar;

(b) to the powers of disposition and of giving receipts on registered owners and mortgagees; and

(c) relating to the exclusion of unqualified persons from the ownership of Tanzanian ships,

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

Liability of beneficial owner

61. Where any person has a beneficial interest, other 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 pecuniary penalties imposed by this or any other enactment on the owners of ships or shares therein, and proceedings may be instituted for the enforcement of any such penalties against both or either of the aforesaid parties.

Registration of ships, managing owner or manager

62.—(1) The name and address of the managing owner of every ship registered at a port in Tanzania shall be registered by the Registrar.

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

(3) The owner who makes a default in complying with this section shall be liable, or if there are more owners than one, each owner shall be liable in proportion to his interest in the ship, to a fine not exceeding in the aggregate, the equivalent in Tanzanian shillings of the United States dollars three thousand or imprisonment for a term not exceeding eighteen months and each time the ship leaves any port in Tanzania during the continuance of the default.

Power of Registrar to dispense with declaration

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

Mode of declaration

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

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

Application for fees

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

Omitted

66. [Omitted].

Evidence of register book and certificate of registration

67.—(1) A person may, on application to the Registrar during the hours of his official attendance and on payment of such fee as shall be determined by the Registrar, inspect any register book.

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

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

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

Documents and instruments as to registration

68.—(1) The following instruments and documents shall be in a form prescribed by the Registrar, namely-

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

(2) The Registrar may, make such alterations in the forms prescribed under subsection (1) as he may deem requisite, and

shall give notice in the *Gazette* of his intention to alter such forms.

(3) The Registrar shall receive and enter in the register book any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that required under this Part, or which contains any particulars other than those contained in such form.

(4) The Registrar may, for better carrying into effect of this Part, give such instructions to his officers regarding-

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

Forgery of documents

69. A person who forges, fraudulently alters or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any register book, builder's certificate, certificate of survey, certificate of registration, declaration, bill of sale or instrument of mortgage, under this Part, or any entry or endorsement required by this Part to be made in or on any of those documents, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding three years or to both.

False declaration

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

- (a) wilfully 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

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

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding twelve months or to both.

(2) Without prejudice to the provisions of subsection (1), any person who wilfully makes a false declaration concerning qualification of himself or any other person or of any body corporate to own a Tanzanian ship or any share, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding three years or to both and, that ship or share shall be subject to forfeiture under this Act.

Liabilities of ships
not registered

71. Where a ship is by this Act required to be registered as a Tanzanian ship and is not so registered, such ship shall not be entitled to any benefits, privileges or advantages enjoyed by Tanzanian ships provided that as regards the payment of dues, the liability to fines and forfeitures and the punishment of offences committed on board such ship, or by any person belonging to such ship shall be dealt with in the same manner in all respects as if she were a registered Tanzanian ship.

Fees

72. The Minister may, prescribe the fees payable for the registration, transfer of registration, new registration, mortgage and transfer of mortgage.

(i) Transfers and Transmissions

Transfers

73.—(1) A registered ship or a share therein, when disposed of to a person qualified to own a Tanzanian ship, shall be transferred by a bill of sale.

(2) The bill of sale 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 executed by the transferor in the presence of, and be attested by, a witness or witnesses.

Declaration of transfers

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

- (a) a statement of the qualification of the transferee to own a Tanzanian ship, or if the transferee is a body corporate, of such circumstances of the constitution and business thereof as a proof to be qualified to own a Tanzanian ship; and
- (b) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Tanzanian ships, and the ship is otherwise entitled to be registered.

Registration of transfers

75.-(1) Every bill of sale for the transfer within the Tanzanian registry of a registered ship or a share, when duly executed, shall be produced to the Registrar with the declaration of transfer, and upon being satisfied that the ship remains entitled to be registered in Tanzania, the Registrar shall enter in the register the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the date and time.

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

(3) Upon the transfer being registered in the manner provided for in subsection (1), the Registrar shall issue a new certificate of registration.

Transmission of property in ship on death, bankruptcy and marriage

76.—(1) Where the property in a registered ship or share is transmitted to any person by any lawful means other than a transfer under section 75 and a majority interest remains in the ownership of a person qualified to be the owner of a Tanzanian ship—

- (a) that person shall authenticate the transmission by making and signing a declaration in this Act called a declaration of transmission identifying the ship and containing statements stated in section 74(a) and (b) and a statement of the manner in which the property has been transmitted;
- (b) where the transmission is consequent upon bankruptcy, the declaration of transmission shall be accompanied by such evidence as is acceptable by the court as proof of the title of persons claiming under a bankruptcy;
- (c) where the transmission is consequent upon death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract;
- (d) where the transmission was consequent upon an order of a court, a copy of the order or judgement of that court; and
- (e) where the transmission took place by virtue of marriage the declaration shall be accompanied by a copy of the register of the marriage or other legal evidence of the celebration, and shall declare the identity of the female or male owner.

(2) The Registrar, on receipt of the declaration of transmission under subsection (1), shall enter in the register book the name entitled under the transmission to be registered as owner of the ship or share, a property in which has been transmitted, and where there is more than one person, the names of all those persons, and those persons, however numerous, shall, for the purpose of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale
on transmission
to unqualified
person

77.—(1) Where the property in a registered ship or share is transmitted on marriage, death, bankruptcy or otherwise to a person not qualified to own a Tanzanian ship, the court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses, be paid to the person entitled under such a transmission or otherwise as the court may direct.

(2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every application for sale shall be made within twenty-eight days after the occurrence of the event on which the transmission has taken place, or within such further time as the court, allows.

(4) Where an application is not made within the time specified under subsection (3) or if the court refuses an order for sale, the ship or share transmitted shall be subject to forfeiture under this Act.

Transfer of ship
or sale by order of
court

78. Where the court, whether under section 77 or otherwise, orders the sale of any ship or share, 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 the Registrar shall deal with any application relating to the transfer of the ship or share made by the persons named as if that person were the registered owner.

Power of court to
prohibit transfer

79. The court may, on application of any interested person, make an order prohibiting for specified period, any dealing with a ship or any share, and the court may make the order on any terms or conditions it thinks just, or refuse to make

the order, or discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires and the Registrar without being made a party to the proceedings, shall on being served with the order or an official copy, obey the same.

PART V

NATIONAL CHARACTER AND FLAG

National character of ship to be declared before clearance

80.—(1) An officer of customs shall not grant clearance for any ship until the master of such ship has declared to that officer the name of the nation to which the ship belongs, and that officer shall inscribe that name on the clearance except for the port which has been declared a free port.

(2) Where a ship attempts to proceed to sea without clearance under subsection (1), she may be detained until the master of such ship makes the required clearance.

Offences relating to Tanzanian character of ship

81.—(1) Where the master, owner or charterer, if any, of a ship which is not a Tanzanian ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Tanzanian ship then, except as provided for by subsections (2) and (3), each of the master, owner and charterer, if any, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment not exceeding two years or to both and the ship shall be liable to forfeiture.

(2) Liability shall not arise under subsection (1), where the assumption of Tanzanian national character has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(3) Where the registration of any ship has been terminated by virtue of any provision of this Act or the registration regulations, any marks prescribed by such regulations displayed on the ship within the period of fourteen days beginning with

the date of termination of that registration shall be disregarded for purposes of subsection (1).

(4) Where the master or owner of a Tanzanian ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding two years or to both.

(5) Where a person uses the Tanzanian flag and assumes the Tanzanian character on board a ship owned in whole or in part by any person not qualified to own a Tanzanian ship for the purpose of making it appear to be a Tanzanian ship, the ship shall be liable to forfeiture under this Act, unless the assumption has been made for the purpose prescribed under subsection (2).

(6) In any proceedings for enforcing any forfeiture under subsection (1), the burden of proving the right to use the Tanzanian flag and to assume the Tanzanian national character shall be upon the person using and assuming the same.

Application of sections 81 and 85

82. The provisions of sections 81 and 85 shall apply to things done outside as well as to things done within Tanzania.

Right to fly flag of Tanzania

83.—(1) A ship registered or licensed in accordance with this Act shall be entitled to fly the National flag of Tanzania.

(2) This section shall not be construed to prohibit Tanzanian ships which are exempted from registration under this Act from using on the waters of Tanzania the National flag of Tanzania.

Nationality and colours

84.—(1) A Tanzanian ship shall hoist the proper National flag—

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

(2) Where default is made in complying with this section, the master of the ship commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand.

(3) Where there are hoisted on board any Tanzanian ship, any colours or pendant usually worn by ships of the Tanzanian Peoples' Defence Force, or the National colours of any other country, the master of the ship or the owner, if he is on board the ship, and every other person hoisting the pendant or colours, commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars fifty thousand or to imprisonment for a term not exceeding seven years or to both and to seizure of the colours or pendant by the Government.

National flag on foreign ship

85.-(1) A person who uses or permits any person to use the Tanzanian flag on board a foreign ship for the purpose of making that ship appear to be a Tanzanian ship, commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars fifty thousand and to imprisonment for one year.

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

Proceedings on forfeiture of a ship

86.-(1) Where any ship has become liable to forfeiture under this Act-

- (a) any commissioned naval or military officer; or
- (b) any person appointed by the Minister for purposes of this section,

may seize and detain the ship and bring the ship for adjudication before the court.

(2) Where a ship is subject to adjudication under this section, the court may-

- (a) order the ship and her equipment to be forfeited to the Government; and
- (b) make any order as deemed fit.

(3) An officer or person bringing proceedings under this section shall not be liable in damages in respect of the seizure or detention of the ship, notwithstanding that, the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.

(4) Where the court is not satisfied with the grounds for seizure or detention under subsection (3), the court may award costs and damages to the party aggrieved and make such other order as it thinks fit.

PART VI

PROPRIETARY INTERESTS IN REGISTERED SHIPS

(a) *General*

Rights of owners
and mortgagees

87.—(1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power to dispose of such ship or share provided that the disposal is made in accordance with this Act.

(2) Subsection (1) shall not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.

(3) The registered owner of a ship or a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

(b) *Mortgages*

Mortgage of ship
or share

88.—(1) A registered ship, or a share in any ship, may be made a security for a loan or the discharge of any other obligation.

(2) The instrument creating any security referred to in this Part as a “mortgage” shall be in the prescribed form.

(3) Where a mortgage executed in accordance with subsection (2) is produced to the Registrar, he shall register the mortgage in the prescribed manner.

(4) The Registrar shall record the mortgages in the order in which they are presented for registration to him, and he shall enter and sign on each mortgage a statement to the effect that it has been registered by him, stating the date and time of the registration.

(5) Where it is stated in the mortgage instrument that it is prohibited to create further mortgages over a vessel without the prior written consent of the mortgagee, the Registrar shall make a note in the register to that effect, and he shall not register any further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him, and any mortgage registered in violation of this provision shall be null and void.

(6) Where it is stated in the mortgage instrument that it is prohibited to transfer the ownership of a ship or terminate the registration of the ship in the manner provided for in section 16(1)(c), without the prior written consent of the mortgagee, the Registrar shall make a note in the register to such effect, and he shall not record a transfer of ownership of the ship or terminate the ship's registration, as the case may be, unless the appropriate consent in writing of the holder of the mortgage is produced to him, and any recording in the register of a transfer of ownership or a termination of the ship's registration in the circumstances referred to in this subsection shall be null and void.

(7) A mortgage may be registered in the register referred to in section 16(1) in respect of a provisionally registered ship, and where a mortgage is so registered, it shall be subject to all relevant provisions relating to mortgages under this Act and the registration regulations.

(8) A mortgage registered pursuant to subsection (7) shall continue to be a registered mortgage until it is discharged, even if the provisional registration of the ship in respect of which the mortgage was registered, ceases to be effective.

(9) A mortgage in respect of a ship under construction shall be entered in the register referred to in section 16(1), and, upon the registration of such ship being transferred to another appropriate part of the register as provided for in section 16 (4), the entries relating to the mortgage shall, unless the mortgage is discharged, be transferred to the same appropriate part of the register.

(10) A mortgage in respect of a ship under construction shall, for purposes of determining priority under this Act or any other law, and in all other respects, be treated as a registered ship mortgage and shall continue to be treated as such until it is discharged, even if the ship under construction ceases to be registered under this Act; and a ship under construction shall, for purposes of a mortgage under this Act or any other law, be treated as maritime property.

(11) For purposes of subsection (1), “ship” includes a ship under construction.

Priority of mortgages

89. Where two or more mortgages are registered in respect of the same ship or share, notwithstanding any express, implied or constructive notice, the mortgages shall be entitled in priority one over the other, according to the date at which each mortgage is recorded in the register book, and not according to the date of each mortgage itself.

Priority of notices

90. Registration regulations may provide for the “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

Authority to sell or mortgage out of Tanzania

91.—(1) Where a registered owner of a Tanzanian ship or a share is desirous of disposing by way of sale or mortgage of that ship or share therein at any place out of Tanzania, he may make application, by declaration in writing, to the Registrar.

(2) In any application under subsection (3), there shall be set forth the following particulars-

- (a) the name and address of the person by whom the power mentioned in the certificate is to be exercised, together with-
 - (i) in the case of a sale, the minimum price at which a sale is to be made if it is intended to fix any such minimum; and
 - (ii) in the case of a mortgage, the maximum amount thereof, if it is intended to fix any such maximum;
- (b) the place where the power is to be exercised, or, if no place is specified, a declaration that the power may be exercised anywhere, subject to this Act; and
- (c) the limit of time within which the power may be exercised.

(3) Subject to section 92(1), in the case of an application to dispose of a ship by way of sale, the Registrar shall enable any such applicant to dispose of the ship or share in the manner provided for under subsection (4).

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

- (5) A certificate of sale and a certificate of mortgage shall-
- (a) each be in the prescribed form;
 - (b) not authorise any sale or mortgage to be made in Tanzania or by any person not named in the certificate; and
 - (c) contain a statement of several particulars directed to be entered in the register book on the application for the certificate, and in addition an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

General rules for
certificate of sale

92.—(1) A certificate of sale shall not be granted except for sale of an entire ship.

(2) The power conferred by any certificate of sale shall be exercised in conformity with the directions contained therein.

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

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

Procedure where
ship under
certificate of
sale granted in
Tanzania

93.—(1) Where in exercise of a power conferred by a certificate of sale granted under this Part, a Tanzanian ship is sold to persons qualified to own a Tanzanian ship-

- (a) a transfer of the ship shall be made by bill of sale in the manner provided by this part; and the bill of sale, when duly executed, and the certificate of sale shall be produced to a proper officer at the place at which the ship is sold, and that officer shall endorse and sign on the certificate of sale a statement of the fact that the ship has been sold, and shall forthwith notify the Registrar;
- (b) the sold ship may be registered anew in the manner provided for by the Act; and
- (c) the Registrar upon receipt of the certificate of sale and the ship's certificate of registration from a proper officer, each of those certificates having endorsed thereon an entry of the fact of the sale having taken place, shall thereupon enter the sale of the ship in the register book.

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

- (a) the certificate of sale and the certificate of registration shall be produced to the proper officer at the place at which the ship is sold, and he shall endorse and sign on each of them a statement of the fact that the ship has been sold to persons not qualified to own a Tanzanian ship;
- (b) the proper officer making the endorsements required by paragraph (a) shall forward the certificates of sale and registration, each being duly endorsed, to the Registrar;
- (c) the Registrar, upon receipt of the certificates of sale and registration, each being endorsed in accordance with paragraphs (a) and (b), shall make an entry of the sale in the register book, and the registration of the ship shall be considered as closed, except as far as it relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(3) Where default is made in the production of the certificates mentioned in this section, the persons to whom the ship is sold shall be considered to have acquired no title to or interest in the ship, and the person on whose application the certificate of sale was granted, and the person exercising the powers conferred by a certificate of sale thereby, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollar three thousand or to imprisonment for a term not exceeding eighteen months or to both.

(4) Where no agreement for sale is entered into in exercise of the powers conferred by a certificate of sale granted under this Part, that certificate shall be delivered to the Registrar, and the Registrar shall there upon cancel the certificate, and enter the fact of the cancellation in the register book, and every certificate so cancelled shall be void.

Registration in Tanzania where ship sold under certificate of sale granted in a foreign state

94.—(1) Where in exercise of a power conferred by a certificate of sale granted under the law of a foreign country, any ship registered in a foreign country is sold to persons qualified to own a Tanzanian ship, that ship may be registered in Tanzania in accordance with this section.

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

(3) Where default is made in the production of the certificates mentioned in subsection (2), the Registrar shall not register the ship.

(4) The Registrar, on registering the ship anew shall—

- (a) retain the certificates of sale and registration, and shall endorse on each of those certificates an entry of the fact of a sale having taken place; and shall forward those certificates, so endorsed, to the Registrar at the ship's former port of registry; and
- (b) enter in the register book such particulars as are, by this Act required to be entered therein in the case of the first registration of a ship in Tanzania, and also a statement of any registered mortgages or certificates of mortgage enumerated on the certificate of sale.

(5) The registration anew shall consist of—

- (a) the description of the ship contained in her former certificate of registration which may be transferred to the new register book, without her being resurveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee; and
- (b) all persons appearing on the register to be interested in that ship as owners or mortgages and shall be deemed to have the same rights, and their rights shall be determined in the same manner, as if that ship had been first registered in Tanzania in the manner provided

for in this Act and as if any unsatisfied mortgages or existing certificates of mortgage had been entered in the register book at that port.

Rules as to
certificate of
mortgage

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

- (a) the power shall be exercised in conformity with the directions contained in the certificates;
- (b) every mortgage executed shall be registered by the endorsement of a record on the certificate by the proper officer at the place at which the mortgage is executed;
- (c) a mortgage executed in good faith there under shall not be impeached by reason of the person by whom the power was given dying at any time between the giving of the power and the execution of the mortgage;
- (d) whenever the certificate contains a specification of the place at which, and a limit at time not exceeding twelve months within which, the power is to be exercised, a mortgage executed in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given;
- (e) every mortgage which is registered on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and where there are more than one mortgages registered, the respective mortgagees claimed shall, notwithstanding any express, implied or constructive notice, be entitled to priority one over the other according to the date and time that each mortgage is registered on the certificate, and not according to the date of the mortgage;
- (f) subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers, and be subject to the same liabilities, as he would have had and been subject to, if his mortgage had been registered in the register book instead on the certificate; and

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

Loss of certificate
of sale or
mortgage

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

Revocation of
certificate of sale
or mortgage

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

(2) Notice given under subsection (1), shall thereupon be transmitted and recorded by the proper officer receiving it, and after it is recorded, the certificate shall be deemed to be revoked in respect of any sale or mortgage to be thereafter made at that place.

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

(4) A proper officer, on recording any such notice, shall inform the Registrar by whom the certificate was granted whether any previous exercise of the power to which the certificate refers has taken place.

(c) *Maritime Liens*

Maritimes liens **98.**—(1) Subject to the provisions of this Act, the following claims may be secured by maritime liens-

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

(2) In subsection (1), "owner" includes, in relation to a ship, the charterer, manager or operator of such ship.

Priority of liens **99.** The maritime liens set out in section 98, shall take priority over mortgages and preferential rights registered under this Part, or arising under the law relating to bankruptcy, and no claim other than those specified under section 100, shall take priority over them.

Order of priority of liens **100.** The maritime liens set out in section 98 shall-

- (a) rank in the order in which they are set out in that section, and maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed;

- (b) in the case of claims arising under paragraph (e) of section 98, rank in the inverse order of the time when the claim secured there by accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average act was performed.

Rights of ship builders and ship repairers

101. Where a preferential rights arises pursuant to the provisions of the law relating to bankruptcy or insolvency in respect of a ship in the possession of-

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

effected during such possession, such rights shall be postponed to all the maritime liens set out in section 98 and may take precedence over any mortgage or other preferential right registered under this Part provided that the ship is in the possession of the ship builder or ship repairer.

Overriding nature of maritime liens

102. The maritime liens set out in section 98 shall arise whether the claims secured by such liens are against the owners, the demise or other charterer, manager or operator of the ship and such liens shall, subject to the provisions of section 76 remain attached to the ship, notwithstanding any change of ownership or of registration.

Claims arising from radioactive products

103. A maritime lien shall not attach to a ship to secure a claim under section 98(1)(c) or (d) where such claim arises out of or results from the radioactive properties or a combination of the radioactive properties with toxic, explosive or other hazardous properties of nuclear, fuel or of radioactive products or waste.

Limitation period

104.-(1) The maritime liens relating to a ship set out in section 98 shall be extinguished after a period of one year from the time when the claims arose unless, prior to the expiry of such

period, the ship has been detained and the detention has led to a forced sale pursuant to the order of court or any other law in force relating to the sale of property in admiralty proceedings.

(2) The one year period referred to in subsection (1) shall not be subject to interruption or suspension and the time shall not run during the period the lien holder is legally prevented from detaining the vessel.

Notice of sale to be given

105.—(1) Prior to the forced sale of a ship as described in section 104, the executing officer shall give or cause to be given thirty days' written notice of the time and place of such sale to-

- (a) all holders of mortgages and other preferential rights registered under this Part which have not been issued to bearer;
- (b) the holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to the officer;
- (c) the holders of maritime liens set out in section 98, whose claims have been notified to the officer; and
- (d) the Registrar.

(2) The notice provided for under subsection (1), shall be published in a daily newspaper.

Effect of sale on mortgages

106.—(1) In the event of the forced sale of a ship as described in section 104 and in accordance with this Part-

- (a) all mortgages and other preferential rights registered under this Part, except those assumed by the purchaser with the consent of the holders; and
- (b) all liens and other encumbrances of whatsoever nature but not including a charter party or contract for the use of the ship,

shall cease to attach.

(2) A Charter party or contract for the use of the ship shall not be deemed to be a lien or encumbrance for the purpose of this section.

Disposition of
proceeds of sale

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

- (a) the holders of maritime liens under section 98;
- (b) the holders of preferential rights under section 101; and
- (c) the holders of mortgages and other preferential rights registered under this Part,

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

Issue of certificate
that ship is free of
mortgages liens

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

PART VII

ENGAGEMENT AND WELFARE OF SEAFARERS

(a) Interpretation and Application of Part VII

Interpretation

109.-(1) In this Part-

“crew agreement” has the meaning assigned to it by section 111;

“Maritime Institute” means the Institute established under the Dar es Salaam Maritime Institute Act;

“relief and maintenance” includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) which cannot be postponed without impairing efficiency; and

“ship’s boat” includes a life-raft.

Act No.
13 of 2019 s. 49
Cap. 253

(2) In this Part, going to sea include references to going to sea from any foreign country.

(3) For purposes of this Part, a seafarer is discharged from a ship when his employment in that ship is terminated.

(4) For purposes of this Part, a seafarer discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.

Functions
of Registrar
in respect of
seafarers
Act No.
13 of 2019 s. 50

110.—(1) The functions of the Registrar shall be-

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

(2) A person shall not either as principal or as agent, engage or recruit a Tanzanian seafarer for employment on board a Tanzanian or foreign ship, without first obtaining a licence in the prescribed form from the Registrar authorising such person to engage or recruit Tanzanian seafarers for the sea service.

(3) A person who, contravenes subsection (2), commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding six months or to both.

Contents of crew
agreements

111.—(1) Except as provided for under subsection (5), a person employed as a seafarer in any Tanzanian ship and a person employing him shall enter into a crew agreement which shall be signed by both parties or by persons acting on their behalf.

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

- (a) the name of the ship in which the seafarers undertakes to serve;
- (b) either the nature and the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, which shall not exceed twelve months, and the port at which it is intended the crew to be discharged, and the places or ports of the world, if any, to which the voyage or engagement is not to extend;
- (c) the number and description of the crew;
- (d) the place and date at which each seafarer is to be on board or to begin work;
- (e) the capacity in which each seafarer is to serve;
- (f) the amount of wages which each seafarer is to receive;
- (g) the prescribed scale of the provisions which are to be furnished to seafarers;
- (h) the time that is to expire after arrival at the port of discharge before the seafarer is discharged;
- (i) any regulations as to conduct on board and as to fines, and other lawful punishment for misconduct which have been made by the Minister which the parties agree to adopt; and

(j) a list of persons under the age of eighteen years and the dates of their births.

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

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

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

(5) The Minister shall make regulations providing for exemptions from the requirements of this section.

Offences
relating to crew
agreement

112. Where a ship goes to sea or attempts to go to sea in contravention of the requirements of section 111, the master or the person employing the crew shall be liable on summary conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding three years or to both, and if the ship is in the United Republic of Tanzania, may be detained.

Regulations for
disciplinary
offences

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

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

Offence of same nature

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

Procedures relating to certain crew agreements

115.—(1) Any crew agreement made in the case of ships trading from and beyond the waters of Tanzania shall—

- (a) subject to the provisions of this Act, be signed by each seafarer;
- (b) be read over and explained to each seafarer or otherwise ascertain that each seafarer understands the agreement before he signs it and shall attest each signature;
- (c) be signed in duplicate, and one copy shall be forwarded to the owner and the other shall be retained by the master and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequent to the first departure of the ship;
- (d) be made for a voyage or, if the voyage of the ship average is less than six months in duration, may be made to extend over two or more voyages which in this Act is referred to as a “running agreement”;
- (e) not extend beyond the twelve months’ period of time following the date of the making of the agreement or the first arrival of the ship at her port of destination after the termination of the period;
- (f) on every return to the port where the crew was engaged before the final termination of a running agreement, be endorsed by the master of a ship as to the engagement or discharge of seafarers, or that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master of the ship willfully makes a false statement in any such endorsement commits an offence;
- (g) have its duplicate retained by the owner on the first engagement of the crew and be kept by the owner

for a period of seven years after the expiration of the agreement and shall be produced on demand made by the Registrar or other proper officer; and

(h) except as provided for in section 133, not purport to deprive any court of its jurisdiction to hear and determine disputes respecting the agreement.

(2) Where a substitute is engaged in the place of a seafarer who duly signed the agreement and whose services are, within twenty-four hours of the ship proceeding to sea, lost by death, desertion or other unforeseen cause, the master shall before the ship proceeds to sea if practicable, and if not, as soon as possible thereafter, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness and the witness shall attest the signature.

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

(4) Every erasure, amendment or alteration in any crew agreement, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall have no effect unless proved to have been made with the consent of all persons interested in the erasure, amendment or such alteration.

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

(6) Every person who fraudulently alters, makes any false entry in, or delivers a false copy of, any crew agreement, commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars three thousand or to imprisonment for a term not exceeding eighteen months or to both.

Stipulation not to be contrary to law of flag state

116.—(1) In no case shall stipulations adopted by the parties be contrary to the laws of the flag state of the ship in matters relating to wages and conditions of employment of seafarers and master on board ships.

(2) Notwithstanding subsection (1), this Part shall not preclude a seafarer from referring a dispute on wages to the Ministry responsible for Labour.

Seafarer's certificate of discharge

117.—(1) Subject to section 129, the master shall sign and give to a seafarer discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in an approved form specifying the period of his service and the time and place of discharge.

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

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

Character report

118.—(1) When a seafarer is discharged from a Tanzanian ship, the master thereof shall make and sign a report known as a “character report” in the prescribed form, in which the master-

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

(2) The master before whom the discharge of a seafarer is being made shall, subject to section 175, and if the seafarer so desires, give the seafarer a copy of the character report on him.

(3) A person commits an offence if he-

- (a) makes a false report of character knowing the same to be false;
- (b) forges or fraudulently alters any certificate of discharge or character report or copy of a character report;

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

and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Discharge on
change of ship's
registry

119. Where a Tanzanian ship ceases to be registered as such, any seafarer employed in the ship shall be discharged from the ship, unless he consents in writing to continue his employment in the ship and, in such a case, the provisions of this Part relating to the payment of a seafarer's wages and the power of the Registrar or other proper officers to decide disputes about wages shall apply in relation to his wages as if the ship had remained registered in Tanzania.

Employment of
persons under
age of eighteen
years

120.—(1) A person under the age of eighteen years shall not be employed in any Tanzanian ship except-

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

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

- (3) Every medical certificate issued under subsection (2)-
 - (a) shall be valid for one year from the date of issue, unless earlier revoked; and
 - (b) may at any time be revoked by a duly qualified medical practitioner if he is satisfied that the person is no longer fit for the work.

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

Changes in crew
of certain ships.

121.—(1) The master of every ship trading from and beyond Tanzanian waters shall, before leaving Tanzania, sign and send to the Registrar a full and accurate statement, in the prescribed form of every change which takes place in his crew before finally leaving and that statement shall be admissible in evidence.

(2) A master who without reasonable cause fails to comply with this section commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Change of master

122.—(1) Where, during the progress of a voyage of a ship, the master is removed, superseded or for any other reason ceases to have command or charge of the ship by some other person, he shall deliver to his successor the certificate of registration and the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and if he fails without reasonable cause to do so, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars three thousand or to imprisonment for a term not exceeding eighteen months or to both.

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

Regulation for
conditions of
service

123.—(1) The Minister may make regulations to provide for—
(a) appropriate social security measures;
(b) terms and the conditions of service of persons serving in Tanzanian ships and of Tanzanian nationals serving in foreign ships including hours of work and leave; and

- (c) matters relating to-
 - (i) apprenticeship to the sea service;
 - (ii) engagement on board foreign ships of Tanzanian nationals;
 - (iii) articles of agreement;
 - (iv) the implementation of any convention relating to the employment, welfare, security, certification and status of seafarers;
 - (v) medical care, sickness and injury benefits for seafarers;
 - (vi) the avoidance of agreements made contrary to such regulations as shall be prescribed;
 - (vii) wages in general, and the rights related thereto of persons employed in Tanzanian ships and Tanzanian nationals employment in foreign ships, securing safe working conditions, health and welfare for seafarers and apprentices on board;
 - (viii) the accommodation to be provided for seafarers and apprentices on board ships, the locations and standard of accommodation and all questions in relation to accommodating seafarers and apprentices on board;
 - (ix) food and catering for ships crew; and
 - (x) repatriation of seafarers.

(2) In making regulations under subsection (1), the Minister shall have regard to the provisions of-

- (a) the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- (b) the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and
- (c) the freedom of association and collective bargaining in accordance with the labour laws of Tanzania.

Use of English
language

124.-(1) Except where otherwise provided for in this Act, all correspondence, documents, forms or other writings shall be in English language, and in the case of the crew agreement,

official log book and muster lists, in a prescribed form save that a foreign language version of any document may be appended to the English language version.

(2) All written signs displayed on board a Tanzanian ship shall be in English and *Kiswahili* languages.

Crew's knowledge
of English

125.—(1) Where in the opinion of the Registrar the crew of a Tanzanian ship consists of, or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting orders in a language of which they have sufficient knowledge, the Registrar shall inform the master of his opinion and the ship, shall not proceed to sea until the Registrar is satisfied that the situation has been rectified.

(2) Where a ship goes to sea or attempts to proceed to sea in contravention of this section, both the owner and the master commits an offence.

Discharge of
seafarers

126.—(1) The Minister may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from Tanzanian ships.

(2) Regulations made under this section may make a contravention of any provision an offence punishable, on conviction to a fine of not exceeding the equivalent in Tanzanian shillings of the United States dollars two hundred thousand or such less amount as may be specified in the regulations or to imprisonment for a term not exceeding seven years or to both.

Seafarer left
behind abroad
otherwise than on
discharge

127. Regulations made under section 123, may apply to any provision, with such modifications as appear to the Minister to be appropriate, to cases where a seafarer employed in a Tanzanian ship is left behind outside Tanzania otherwise than on being discharged from the ship.

(b) Wages

Payment of
seafarer's wages

128. The master or owner of every foreign-going Tanzanian ship shall pay to each seafarer belonging to that ship his wages, if demanded, within two days after the arrival of the ship at the port where the crew is to be discharged or upon the seafarer's discharge, whichever first happens.

Accounts of
seafarers wages

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

(2) The account shall be delivered—

(a) where the seafarer is not to be discharged before a Registrar, to the seafarer himself not less than twenty-four hours before his discharge or payment off; or

(b) where the seafarer is to be discharged before the Registrar, either to the seafarer himself at or before the time of his leaving the ship or to the Registrar, not less than twenty-four hours before the discharge or payment off.

Deductions from
wages

130.—(1) A deduction from the wages of a seafarer shall not be allowed unless it is included in the account delivered to the proper officer when a seafarer is left behind on foreign port, except in respect of a matter happening after the delivery.

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

Settlement of
wages

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

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

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

Registrar's
decision as to
wages

132.—(1) Where any dispute, between a master or owner and any of his crew is raised before the Registrar and both parties agree in writing to submit the same to him, the Registrar, shall hear and decide the question so submitted and issue an award.

(2) An award issued under subsection (1), shall be conclusive as to the rights of the parties, and a document purporting to be an award shall be admissible in evidence in the manner provided for by this Act.

Registrar may
require ship's
documents

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

(2) All travelling and other expenses incurred by the Registrar shall be met by the owner or master of the ship in dispute.

Rate of exchange

134. Where a seafarer has agreed with the master of a Tanzanian ship for payment of his wages or any part of payment in a specific currency, any payment of or on account of his wages if made in any other currency than that stated in the agreement shall, notwithstanding anything in the agreement, be made in United States Dollars or its equivalent in Tanzanian shillings.

Registrar may refer claims as to wages

135.—(1) Where, a question of wages is raised between the master or owner of a ship and a seafarer, the Registrar or a proper officer may, on the application of either party, decide the question.

(2) A person aggrieved by the decision made under subsection (1), may appeal to the court.

(3) Where the Registrar or a proper officer is of the opinion that the question is one which ought to be decided by a court of law, he may refuse to decide it and refer the case to the Resident Magistrates' Court.

Resident Magistrates' Court may award interest on wages

136. In any proceedings by the master of a ship or person employed in a ship for the recovery of any sum due to him as wages, the Resident Magistrates' Court, unless it appears to it that the delay in paying the sum was due to-

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act of default of the person claiming the amount; or
- (d) any other cause not being the wrongful act or default of the person liable to make the payment on their servants or agents,

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

Allotment notes

137.—(1) The seafarer may, by means of an allotment note issued in accordance with regulations, allot a part of the wages to which he will become entitled in the course of his employment in a Tanzanian ship.

(2) The Minister may make regulations-

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

Wages where services are terminated

138.—(1) Where the service of a seafarer terminates before the date contemplated in the agreement by reason of his being left on shore at a place abroad for reasons of his unfitness or inability to proceed on the voyage except injury at work, such seafarer shall be entitled to wages for time served up to such termination and his travel expenses to his homeport.

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

(3) Where a Tanzanian ship is sold while outside Tanzania or ceases to be a Tanzanian ship and a seafarer's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date and travel expenses to his home port.

(4) A seafarer shall not be entitled to receive wages under this section in respect of any day or any period if the owner shows that the seafarer was able to obtain suitable employment on that day or for that period.

Protection of seafarer's rights and remedies

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

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

(3) The provisions of subsection (1) shall not affect any term of an agreement made with the seafarers belonging to a ship, which in accordance with the agreement, are to be employed on salvage service which relates to the remuneration to be paid to them for salvage services rendered by that ship.

Claims against
seafarer's wages
for maintenance

140.—(1) Where, during a seafarer's employment in a ship, expenses are incurred by a proper officer for the benefit of any of his dependants, and the expenses are of a kind specified in the regulations and such further conditions as may be so specified are satisfied, the public officer may, by notice in writing, require the persons employing the seafarer-

- (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
- (b) to give to the public officer notice in writing of the seafarer's discharge from the ship, and the persons employing the seafarer shall comply with the notice, subject to subsection (3), and give notice in writing of its contents to the seafarer.

(2) For purposes of this section, seafarer's dependants, include, his spouse and any person under the age of eighteen years for whom he is liable for purposes of any enactment to maintain.

(3) Expenses incurred for the benefit of any person, shall include in addition to any payments made to him or on his behalf, expenses incurred for providing him with accommodation, care or for exercising supervision over him, but no expenses shall be specified in the regulations unless they are such that a competent court has power under any enactment in force in Tanzania to order the making of payments in respect thereof.

(4) More than the following proportion of a seafarer's net wages shall not be retained under subsection (1), whether in pursuance of one or more notices, that is to say-

- (a) one-third, if the notice or notices relate to one dependent only; or

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

(5) Where a public officer has served a notice under subsection (1) to persons employing a seafarer, and has made application to the court, the court may on order for the payment of such sum, not exceeding the proportion of the seafarer's wages which the employing persons were required to retain, as the court having under this section regard to the expenses incurred by the officer and the seafarer's means, thinks fit.

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

(7) An application for an order made under subsection (5) for the payment of any sum by the persons who employed a seafarer, shall be deemed, for purposes of any proceedings, to be an application for an order against the seafarer; and the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

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

(9) The Minister may make regulations specifying-

- (a) the expenses in respect of which a notice may be served by a public officer under subsection (1);
- (b) any conditions that must be satisfied if such a notice is to be served;
- (c) the period that may be specified in such a notice being a period beginning with the service of the notice and ending with a specified number of days after the seafarer's discharge from the ship;
- (d) the form of such a notice and the information to be contained therein;

- (e) the amounts to be deducted from a seafarer's wages in computing his net wages for purposes of this section, and may include amounts allotted by allotment notes issued under section 137.

Master's remedies for remuneration and disbursements

141.—(1) The master of a Tanzanian ship, where circumstances permit, shall have the same rights, liens and remedies for the recovery of his wages as a seafarer has for his wages under this Act or any other law.

(2) The master of a Tanzanian ship and every person lawfully acting as master of a ship by reason of the death or incapacity from illness of the master of a ship, shall 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 the recovery of his wages.

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

Wages not to depend on freight

142.—(1) The right to wages shall not depend on the earning of freight, and every seafarer and apprentice who would be entitled to demand and recover any wages if the ship in which he has served has earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand the same notwithstanding that the freight has not been earned; but in the event of wreck, or loss of the ship, proof that the seafarer has not exerted himself to the utmost to save the ship, cargo and stores, shall bar his claim for wages.

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

Refusal to work **143.** A seafarer shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for him to begin work, or for any period during which he is lawfully imprisoned for any offence committed by him, unless the court hearing the case otherwise directs.

Illness caused by own fault **144.**—(1) Where a seafarer is, by reason of illness, incapable of performing his duty, and it is proved that the illness had been caused by his own wilful act or default, or his sickness or infirmity was wilfully concealed at the time of engagement, he shall not be entitled to wages for the period during which he is, by reason of the illness, incapable of performing his duty.

(2) This section shall not be deemed to remove the right of any master, seafarer or apprentice to any payments or other benefits to which he may be entitled under the provisions of any law providing for compensation to injured or sick workmen.

Costs of procuring conviction **145.** Where in any proceeding relating to a seafarer's wages it is shown that the seafarer has, in the course of the voyage, been convicted of an offence and punished by imprisonment, the court hearing the case may direct any part of the wages due to the seafarer, not exceeding one month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Improper discharge **146.** Where a seafarer who has signed an agreement is discharged in violation of the terms of the agreement without fault and consent, he shall be entitled to receive from the master or owner, in addition to any wages he might have earned, due compensation for the damage caused to him by the discharge, not less than the total amount of the outstanding wages of remaining period of the crew agreement; and he may recover that compensation as if it were wages duly earned.

Attachment or sale of wages to be invalid **147.**—(1) The following provisions shall apply in respect to wages due or accruing to a seafarer or apprentice, namely-

(a) they shall not be subject to attachment by any court;

- (b) an assignment or sale of wages made prior to the accruing, shall not bind the person making the same;
- (c) a power of attorney or authority for the receipt of wages shall not be irrevocable;
- (d) a payment of wages to the seafarer or apprentice shall be valid in law, notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(2) This section shall not affect the provisions of this Act with respect to allotment notes.

Leave and
holidays

148.-(1) Every person shall be entitled after ten months of continuous service in a Tanzanian ship, or for the same employer, to an annual leave with pay, or to a proportionate part of the annual leave with pay, the duration of which shall be in the case of-

- (a) officers, not less than seventy-two working days; and
- (b) crew members, not less than forty-eight working days.

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

- (a) periods between consecutive crew agreements shall be included in the reckoning of continuous service referred to in subsection (1);
- (b) short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks in any twelve months shall not break the continuity of the periods of service that precede and follow them; and
- (c) continuity of service shall not be interrupted by any change in the management or ownership of the ships in which the person concerned has served.

(3) Subject to the provisions of subsection (2), an annual leave with pay shall not include the following-

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

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

Seafarers may sue
for wages

149.—(1) Subject to section 139, a seafarer or a person duly authorised on his behalf, may, as soon as any wages due to him become payable, sue for them in a Resident Magistrates' Court having jurisdiction in the place at which his service has terminated or discharged, or at which any master or owner or other person upon whom the claim is made, resides.

(2) Where a complaint on oath is made for purposes of proceedings under this section, Resident Magistrates' Court may summon the master, owner or other person to appear before it to answer the complaint.

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

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

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

(6) Where sufficient distress cannot be found, the Resident Magistrates' Court may cause the amount of the wages, charges and expenses to be levied on the ship in respect of which the

wages were earned or on the tackle and apparel, save that if the ship is not within the jurisdiction of the court, no levy may be made on the ship but the court may cause the person upon whom the order for payment is made to be arrested and committed to prison for a term not exceeding three months.

Jurisdiction of
High Court in
recovery of wages

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

- (a) the owner of the ship is bankrupt;
- (b) the ship is under arrest or is sold by the authority of court;
- (c) a Resident Magistrates' Court refers the claim to the Court; or
- (d) neither the owner nor the master resides in or within twenty miles of the place where the seafarer or apprentice is discharged or put ashore.

Power to rescind
contracts

151. Where proceedings are instituted in a court in relation to a dispute arising out of or incidental to the relationship between the owner or master of a ship and a seafarer, the court may, if, having regard to all the circumstances it thinks just to do so, rescind any contract between the owner or master and the seafarer, or any contract or articles of apprenticeship, upon such terms as the court thinks just.

(c) Property of Deceased Seafarer

Property of
deceased seafarer

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

- (2) The master shall enter in the official log book-
 - (a) a statement of the amount of money and a description of the effects; and
 - (b) a statement of the wages due to the deceased, the amount of deductions, if any, to be made from the wages and the balance of the wages due.

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

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

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

(6) The money, effects and balance of wages mentioned in subsections (1), (2) and (3) and the proceeds of the sale mentioned in subsection (4) are in this Act referred to as the “property of the deceased seafarer”.

Delivery of
deceased
seafarers property

153.—(1) Subject to subsection (2), the property of the deceased seafarer shall be delivered, by the master of a ship by the most practicable means, to the next of kin of the deceased or, if there is no next of kin, the master shall deliver such property to the Registrar or to the proper officer as the case may be, for disposal in accordance with-

- (a) the law for determining the distribution or succession of personal property of deceased persons of the place in which the deceased was last resident; or
- (b) the order of a court having jurisdiction to determine the distribution of the property of the deceased.

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

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

Forgery of
documents

154. A person who, for the purpose of obtaining, either for himself or for any other person, any property of the seafarer-

- (a) forges or fraudulently alters any document purporting to show or assist in showing any right to that property;
- (b) makes use of any document that has been forged or fraudulently altered as described in paragraph (a);

- (c) gives or assists in giving or procures to be given any false evidence knowing the same to be false;
 - (d) makes any false representation knowing the same to be false; or
 - (e) assists in procuring any false evidence or representation to be given or made knowing the same to be false,
- commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or imprisonment to a term of not less than six months.

(d) Safety, Health and Welfare

Obligation of ship owners as to seaworthiness

155.—(1) In every contract of employment between the owner of a Tanzanian ship and the master of or any seafarer employed in the ship there shall be implied an obligation that the owner of the ship, the master of the ship and every agent charged with-

- (a) the loading of the ship;
- (b) the preparing of the ship for sea; or
- (c) the sending of the ship to sea,

shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition during the voyage.

(2) The obligation imposed under subsection (1) shall apply notwithstanding any agreement to the contrary.

Ship owners relief from liability for unseaworthiness

156. Liability shall not arise against the owner of the ship under section 155(1) in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances upon proof, the sending of the ship to sea in such a state was reasonable and justifiable.

Regulations in respect of medical examination

157. The Minister may, subject to the provisions of this Act, make such regulations as may appear to him to be necessary in respect of the following matters, namely-

- (a) for medical examination of all persons seeking employment in any capacity on board ships and the issue of medical certificates in respect of such person; and
- (b) for the examination and granting of certificates to persons qualifying to be employed as ships' cooks.

Crew
accommodation,
living and
working
conditions of
seafarers

158.—(1) The Minister may make regulations with respect to-

- (a) the crew accommodation to be provided in Tanzanian ships; and
- (b) living and working conditions of seafarers on board Tanzanian ships.

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

- (a) prescribe the minimum space per person which must be provided by way of sleeping accommodation for seafarers and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
- (c) require the submission to a surveyor of ships, plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works;
- (d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed;
- (e) provide for exemption of ships of any description from any requirements of the regulations;
- (f) provide for inspections of the crew accommodation as may be prescribed by the Minister; and

(g) provide for fines to be imposed for contravening the provisions made there under.

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

Complaints about provisions of water

159.—(1) Where three or more crew employed in a Tanzanian ship consider that the provisions of water for the use of the crew are at anytime of bad quality, unfit for use or deficient in quantity, they may complain to the master or officer concerned who may examine the provisions of water complained of or cause the water to be examined.

(2) Where the seafarers are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action, they may state their dissatisfaction to him and their intention to complain to the Registrar or proper officer; and thereupon, the master shall make adequate arrangements to enable the seafarers to do so as soon as the service of the ship permits.

(3) Where the officer or person making the examination finds that the provisions of water for use are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship, and where-

- (a) the master does not provide proper provisions of water in lieu of those which have been condemned, commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of United States dollars two thousand or to imprisonment for a term not exceeding six months or to both;
- (b) they are not replaced within a reasonable time, the master or owner commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of United States dollars three

- thousand or imprisonment for a term not exceeding twelve months or both unless he proves that the failure to replace them was not due to his neglect or default; or
- (c) the master, without reasonable excuse, permits them to be used, commits an offence and on conviction, shall be liable to a penalty of not less than the equivalent in Tanzanian shillings of United States dollars four thousand or to imprisonment for a term not exceeding eighteen months or to both.

Expenses of medical and other treatment during voyage

160.—(1) Where a person, while employed in a Tanzanian ship, receives outside Tanzania any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses shall be borne by the persons employing him.

(2) Where a person dies while employed in a Tanzanian ship and is buried or cremated outside Tanzania, the expenses of his burial or cremation shall be borne by persons employing him.

(3) The reference in subsection (2), to a ship includes a reference to dying in a ship's lifeboat.

(4) Where a person dies while employed in a Tanzanian ship, his next of kin shall be entitled to compensation of not less than the equivalent in Tanzanian shillings of United States dollars twelve thousand.

(e) Manning, Qualifications and Training

Application of sections 162 to 166

161. Sections 162 to 166 shall apply to every Tanzanian ship operating anywhere in the world and to any ship registered under the law of a country outside Tanzania to which STCW Convention apply and which applies-

- (a) between places in Tanzania; or
- (b) on a voyage which begins, stops and ends at the same place in Tanzania.

Training,
manning and
certification

162.—(1) The Minister may make regulations referred to in this Act as the “Manning, Training and Certification Regulations” to meet the requirements of STCW Convention.

(2) Subject to subsection (3), and without prejudice to the generality of subsection (1), the Minister may make regulations-

- (a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seafarers or qualified seafarers of any description as may be specified in the regulations;
- (b) specifying standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seafarers of any description in order to be qualified for purposes of this section; and
- (c) prescribing medical fitness requirements for seafarers.

(3) The Minister shall not exercise his power to make regulations requiring ships to carry seafarers other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.

(4) Regulations made under this section may make different provisions for different descriptions of ship or for ships of the same description in different circumstances.

(5) Without prejudice to the generality of subsection (2)(b), the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for purposes of that paragraph shall make provision, or enable the Minister to make provision, for-

- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
- (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and

(c) the issue, printing, form and recording of certificates and other documents, and different provisions may be so made or enabled to be made for different circumstances.

(6) Where a person makes a statement which he knows to be false, or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of United States dollars two thousand or to imprisonment for a term not exceeding six months or to both.

(7) Without prejudice to the a foregoing subsections, the Minister may make regulations prescribing the qualifications, manning and welfare of crew on board fishing vessels.

Power to exempt from manning requirements

163.—(1) The Minister may exempt any ship or description of ship from any requirements of regulations made under section 162.

(2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

Prohibition on going to sea under-manned

164. Subject to section 163, where a ship goes to sea or attempts to go to sea without carrying such officers and other seafarers as it is required to carry under section 162, the owner or master commits an offence and on conviction, shall be liable to a fine equivalent in Tanzanian shillings of United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Production of certificates and other documents of qualifications

165.—(1) Where a person with a foreign certificate is engaged to work on a Tanzanian registered vessel, the Registrar shall cause such foreign certificates to be verified and approved.

(2) A person, who serves or is engaged to serve in any ship to which this section applies, and he holds any certificate or other document which is evidence that he is qualified for

purposes of section 162 shall, on demand, produce it to the Registrar, any surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.

(3) A person who, without reasonable cause fails to comply with subsection (2), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollar two thousand or imprisonment for a term of not exceeding six months or to both.

Crew's knowledge
of English

166.—(1) Where in the opinion of the Registrar or proper officer the crew of a ship consists of persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English, and in the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—

- (a) where the Registrar or proper officer has informed the master of that opinion, the ship shall not go to sea; and
- (b) where the ship is in Tanzania, it may be detained.

(2) Where a ship goes to sea or attempts to go to sea in contravention of this section, the owner or master commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding six months or to both.

Unqualified
seafarers going to
sea as qualified
persons

167. A person, who goes to sea as a qualified officer or seafarer of any description without being such a qualified officer or seafarer, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding six months or to both.

Special
certificates of
competence

168. The Registrar may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 162(2)(b).

Young persons

169.—(1) A person under eighteen years of age shall not be employed in any Tanzanian ship unless he is permitted by regulations under this section.

(2) Subject to the provisions of subsection (1), the Minister may make regulations—

- (a) prescribing circumstances under which persons under eighteen years of age or as may be specified in the regulations, may be employed in a ship in such capacities as may be so specified;
- (b) prescribing circumstances and capacities in which persons under the age of eighteen or under such lower age as may be specified in the regulations shall not be employed in a Tanzanian ship or may be so employed only subject to such conditions as may be specified in the regulations.

(3) Regulations made for purposes of this section may make different provisions for different employments and different descriptions of ship and any other different circumstances.

(4) Where any person is employed in a ship in contravention of this section, or, if any condition subject to which a person may be employed under regulations made for purposes of this section is not complied with, the owner or master commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Establishment,
sources and
management of
Fund

170.—(1) For the purpose of implementing the provisions of this Part, the Minister shall establish a fund to be known as the Maritime Education and Training Fund.

(2) The sources of the Fund shall be—

- (a) such sums as may be paid as levy imposed by the Regulations;
- (b) such sums as may be paid to the Fund by way of grants or donations from any source within or outside United Republic; and
- (c) such sums as may be appropriated by the Parliament.

(3) The Minister shall, subject to the provisions of this Act, appoint a Board of Trustees to administer and manage the Maritime Education and Training Fund.

(4) The provisions of the Schedule to this Act shall have effect as to the composition and tenure of members of the Board of Trustees.

(5) The Maritime Institute shall maintain with such bank as the Board of Trustees may approve, a designated account into which shall be paid the levy and all the money paid into the Fund.

(6) The Board of Trustees shall cause to be provided and to be kept proper books of account of the payment made into and out of the Fund.

(7) The accounts relating to the Fund shall be audited annually by such authorised auditor duly registered under the Auditors and Accountants (Registration) Act, as the Board of Trustees may approve.

(8) The Board of Trustees shall within six months after the close of every financial year of the Maritime Institute, cause to be prepared and submitted to the Minister, a report of the activities and operations of the Maritime Institute during that year together with-

- (a) statement of the Maritime Institute's income and expenditure during the financial year; and
- (b) statement of the auditors report on the accounts.

(9) The Minister shall, as soon as practicable and in any case not later than twelve months after the closing of the financial year of the Maritime Institute, lay before the National Assembly-

- (a) a copy of the annual report of the Maritime Institute;
- (b) statement of the Maritime institute's income and expenditure during the financial year; and
- (c) statement of the audited report.

(10) The Minister in consultation with the Board of Trustees may make regulations for purposes of sourcing and administering the Maritime Education and Training Fund and matters related to practical sea training.

Practical sea training

171.-(1) Every ship owner of a Tanzanian registered vessel shall have an obligation to provide a minimum of two berths for purposes of practical sea training of Tanzanian trainee seafarers on each registered vessel.

(2) The practical sea training shall be at no cost to the seafarers.

(3) The duration of the practical sea training shall be as specified in the STCW Convention for seafarers.

(4) A person engaged on board a Tanzanian ship for practical sea training shall be entitled to allowance of at least half the salary of junior navigating or engineering officer.

(5) The owner, master, agent or representative who fails without reasonable cause to comply with this section commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian Shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding three years or to both.

(f) Offences by Seafarers

Conduct endangering ship and persons

172.-(1) In this section-

“breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;

“duty” means-

(a) in relation to a master or seafarer, any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

“structure” means any fixed or movable structure (of whatever description) other than a ship.

(2) Where a master, seafarer or apprentice belonging to a Tanzanian ship by willful breach of duty or by neglect of duty or by reason of drunkenness-

(a) does any act tending to cause the immediate loss, destruction or serious damage of the ship or tending to endanger the life or limb of a person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from any immediate danger to life or limb, commits an offence and on conviction, shall be liable to imprisonment for a term not exceeding twelve months.

(3) In proceedings for an offence under subsection (2), it shall be a defence to prove-

(a) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;

(b) that at the time of the act or omission alleged against the accused, he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;

(c) that he could have avoided committing the offence only by disobeying a lawful command; or

(d) that in all the circumstances the loss, destruction, damage, death or injury in question, or as the case may be, the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.

Concerted
disobedience and
neglect of duty

173.-(1) Where a seafarer employed in a Tanzanian ship joins other seafarers in that ship-

(a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;

- (b) to neglect any duty which is required to be discharged at such time; or
- (c) to impede the progress of a voyage or the navigation of the ship,

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months, or to both.

(2) For purposes of this section, a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

Regulations for codes of conduct

174.—(1) In this section “Disciplinary Board” means the office of the Registrar.

(2) The Minister may make regulations for the purpose of maintaining discipline on board Tanzanian ships.

(3) The Regulations made under subsection (2), shall not be construed as affecting any power to institute, prosecute, entertain or determine proceedings, including criminal proceedings, under any other enactment or at common law.

(g) Disqualification of Seafarers and Inquiries

Inquiry into fitness or conduct of seafarer

175.—(1) Where it appears to the Registrar that a seafarer-

- (a) is unfit to discharge his duties, whether by reason of incompetence, misconduct or for any other reason;
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to comply with the provisions of section 199,

the Registrar may cause an inquiry to be held by one or more persons appointed by him and, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the seafarer in pursuance of section 162 and require the seafarer to deliver it to him.

(2) Where a certificate issued to a seafarer has been suspended under subsection (1), the suspension may, on the application of the seafarer, be terminated by the court, and the decision of the court on such an application shall be final.

(3) An inquiry under this section shall be conducted in accordance with rules made under section 179(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

(4) A person holding an inquiry under this section into the fitness or conduct of a seafarer-

- (a) may, if satisfied of any of the matters mentioned in subsection (1), cancel or suspend any certificate issued to him under section 161 or censure seafarer;
- (b) may make such order with regard to the costs of the inquiry as they think just;
- (c) shall make a report on the case and submit to the Registrar; and
- (d) shall, if the certificate is cancelled or suspended, collect the certificate of such seafarer or cause it to be delivered to the Registrar.

(5) Costs which a person is ordered to pay under subsection (4)(b) may be recovered from the seafarer by the Registrar.

Disqualification
of holder of
certificate

176.-(1) Where it appears to the Registrar that a person who is a holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence, misconduct or for any other reason, the Registrar may give him notice in writing that he is considering to suspend or cancel the certificate.

(2) The notice issued under subsection (1) shall state the reasons why it appears to the Registrar that the person is unfit to be the holder of such a certificate and shall state the period within which that person may make a written representation or claim to make oral representation to the Registrar.

(3) After considering any representations made in pursuance of subsection (2), the Registrar shall decide whether or not to suspend or cancel the certificate and shall give a written notice of his decision to the holder.

(4) Where the Registrar decides to suspend or cancel the certificate, he shall issue a notice which state the date from which the cancellation is to take effect, or the date from which

and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Registrar not later than the date so specified unless before that date, the holder has required the case to be dealt with by an inquiry under section 177.

(5) Where, before the date specified in the notice, the Registrar requires the case to be dealt with by an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.

(6) The Minister may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance to this section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

(7) This section applies to every certificate issued under section 167 and to any certificate issued under section 162 other than one certifying that a person is qualified as an officer.

Inquiry into
fitness or conduct
of seafarer

177.—(1) Where a seafarer has, before the date mentioned in section 175(4), required his case to be dealt with by an inquiry under this section, the Minister shall cause an inquiry to be held by one or more persons appointed by him.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 179(1) and shall be held with the assistance of one or more assessors.

(3) The persons holding an inquiry under this section—

- (a) may confirm the decision of the Registrar and cancel or suspend the certificate accordingly;
- (b) may, where the decision was to cancel the certificate, suspend it instead;
- (c) may, where the decision was to suspend the certificate, suspend it for a different period;
- (d) may, instead of confirming the decision of the Registrar, censure the holder of the certificate or take no further action;

- (e) may make an order with regard to the costs of the inquiry as they think fit; and
- (f) shall make a report on the case and submit it to the Minister,

and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Registrar.

(4) Costs which a seafarer is ordered to pay under subsection (3)(e) may be recovered from him by the Registrar.

Re-hearing and
appeal from
inquiries

178.—(1) Where an inquiry has been held under section 175 or 177 and-

- (a) new and important evidence which could not be produced at the inquiry has been discovered; or
- (b) it appears to the Minister that there are grounds for suspecting that miscarriage of justice may have occurred,

the Minister may order the whole or part of the case to be reheard.

(2) An order under subsection (1) may provide for the rehearing to be by the court.

(3) Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal to the court.

Rules as to
inquiries and
appeals

179.—(1) The Minister may make rules for the conduct of inquiries under sections 175 and 177 and for any re-hearing under section 178.

(2) Without prejudice to the generality of subsection (1), rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.

Failure to deliver cancelled or suspended certificates

180. A person, who fails to deliver a certificate as required under sections 175, 176, or 177 commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Power to restore certificate

181. Where a certificate has been cancelled or suspended under sections 175, 176, 177, or 178, and the Minister, is of the opinion that justice of the case requires it, he may re-issue the certificate or, reduce the period of suspension and return the certificate, or grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

Power to summon witness to inquiry

182.-(1) A person holding an inquiry under section 175 or 177 may-

- (a) by summons, require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
- (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath,

require the person examined to make a solemn affirmation.

(2) Where a person summoned to attend to an inquiry to answer to a summons under this section, fails to attend or to answer to a summons, and-

- (a) the persons holding the inquiry are satisfied by evidence on oath that-
 - (i) the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry;
 - (ii) he has been duly served with the summons; and
 - (iii) a reasonable sum has been paid or tendered him to for costs and expenses; and

(b) it appears to persons holding the inquiry that there is no just excuse for the failure, they may issue a warrant of arrest against him and bring him before the inquiry at a time and place specified in the warrant.

Refusal to give evidence to inquiry

183.—(1) Where any person attending or brought before an inquiry referred to in section 182 refuses without excuse to be sworn or to give evidence, or to produce any document required to be produced, the persons holding the inquiry may—

- (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first); or
- (b) impose on him a penalty of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(2) A penalty imposed under subsection (1)(b) shall be treated for purposes of its collection, enforcement and remission as having been imposed by the court, and the persons holding the inquiry shall, as soon as practicable after imposing the penalty, give particulars of it to the Registrar of the Court.

(h) Civil Liability of Seafarers for Offences

Absence without leave

184.—(1) Where a seafarer proves that his absence, was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent, his absence shall not be treated as a breach of contract.

(2) Where subsection (1) does not apply, then—

- (a) where no special damages are claimed, his liability shall be one month of his salary;
- (b) where special damages are claimed, his liability shall not be more than two months of his salary.

Smuggling **185.** Where a seafarer employed in a Tanzanian ship is found in civil proceedings before a court to have committed an act of smuggling, whether within or outside Tanzania, he shall be liable to reimburse any loss or expense that the act has caused to any other person.

Fine under immigration laws **186.**—(1) Where, by reason of the contravention, a penalty is incurred under immigration laws by the persons employing the seafarer the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 110, be recovered from him as special damages for breach of contract.

(2) Where, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds two months of the seafarer salary then it may be recovered by him from the seafarer by monthly installments not exceeding fifty percent of the seafarer salary.

(i) *Relief, Repatriation and Relief Costs*

Relief and return of seafarers left behind or ship wrecked **187.**—(1) Where—

- (a) a person employed as a seafarer in a Tanzanian ship is left behind in any country outside Tanzania or is taken to such a country on being shipwrecked; or
- (b) a person who became so employed under an agreement entered into outside Tanzania is left behind in Tanzania or is taken to Tanzania on being shipwrecked,

the persons who last employed him as a seafarer shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Minister.

(2) The provisions to be so made by the Minister may include the repayment of expenses incurred in bringing a shipwrecked seafarer ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seafarer who dies before he can be returned.

- (3) The Minister may make regulations-
- (a) providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1), and any of his property left on board ship, are to be dealt with;
 - (b) requiring the Registrar or proper officer to make such provision as may be prescribed;
 - (c) for determining the place to which a person is to be returned;
 - (d) requiring the master of any Tanzanian ship to convey a person to a place determined in accordance with the regulations and for enabling the Registrar or proper officer to give the master directions for that purpose;
 - (e) for the making of payments in respect of the conveyance of a person in accordance with the regulations;
 - (f) for the keeping of records and the rendering of accounts; and
 - (g) providing for a penalty for contravention of any provisions made hereunder.
- (4) This section applies to a person left behind on being discharged in pursuance of section 119, whether or not at the time he is left behind the ship is still a Tanzanian ship.

Limit of employer's liability under section 187

188. Where a person left behind in any country outside Tanzania as mentioned in section 187(1) remains there after the end of a period of three months, the persons who last employed him as a seafarer shall be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

Recovery of expenses from employers incurred for relief and return
Act No.
13 of 2019 s. 48

189. Where any expenses are incurred in respect of any matter for which on laws the employers of a seafarer are required to make provision under section 187, then-

- (a) where the expenses are incurred by the Registrar, or are incurred by the government of any country

outside Tanzania and repaid to them on behalf of the Government, the Registrar may recover them from the employers; and

- (b) where the expenses are incurred by the seafarer he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

(j) *Documentation*

Official and other
log books

190.—(1) Except as provided by regulations made under this section, an official log book in a form approved by the Registrar shall be kept in every Tanzanian ship.

(2) The Minister may make regulations prescribing the particulars to be entered in English in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.

(3) All Tanzanian ships shall, in addition to the official log book, carry on board a deck log book and an engine room log book in which shall be recorded particulars relating to the deck watch and the engine room watch respectively.

(4) The entries in the deck log book and engine room log book referred to in subsection (3), shall be made in English except where all persons making entries in those log books have a common language other than English in which case the entries may be made in that common language.

(5) The Registrar may require, a log book or an extract thereof written in a language other than English to be translated officially into English.

(6) All log books referred to in this section shall be admissible in evidence.

(7) Where a person intentionally destroys, mutilates or renders illegible any entry in any log book, commits an offence and on conviction, shall be liable to a fine of not less than the

equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Crew list

191.—(1) Except as provided by regulations made under this section, the master of every Tanzanian ship shall make and maintain a crew list containing such particulars as may be required by the regulations.

(2) The Minister may make regulations—

- (a) specifying the particulars to be entered in a crew list;
- (b) limiting the time for which a crew list may remain in force;
- (c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each crew list and for the notification to such persons of any changes therein;
- (d) for the production of a crew list to such persons, in such circumstances and within such time as may be specified in the regulations; and
- (e) for the delivery to the Registrar, in such circumstances as may be specified in the regulations, of a crew list or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.

Discharge books

192. The Minister may make regulations providing—

- (a) for the issuance to persons who are or have been employed in Tanzanian ships of discharge books in such form and containing such particulars with respect to the holders thereof and such other particulars, if any, as may be prescribed by the regulations and for requiring such persons to apply for such discharge books;
- (b) for requiring the holders of discharge books to produce discharge books to such persons and in such circumstances as may be prescribed by the regulations;
- (c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matter for which the Minister thinks it expedient for purposes of the regulations to provide, and any provision of the regulations having effect by virtue of paragraph (a) may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

PART VIII PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

(a) Collision Regulations, Distress and Safety

Collision
Regulations

193. The Minister may make regulations, hereinafter referred to as “Collision Regulations”-

- (a) respecting the prevention of collisions at sea;
- (b) respecting the lights to be carried and exhibited;
- (c) respecting the steering and sailing rules to be observed by ships; and
- (d) respecting the other signals to be carried and used, and in making such regulations he shall have regard to any international convention or treaty for the time being in force for the prevention of collisions at sea.

Tanzanian
ships to observe
Collision
Regulations

194.-(1) All owners and masters of Tanzanian ships shall obey the Collision Regulations and shall not carry or exhibit any other lights or use any fog signals other than such as prescribed by those regulations.

(2) Where an infringement of the Collision Regulations is caused by the willful default of the master or owner of a ship, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or imprisonment for a term not exceeding three years or to both.

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

Foreign ships in
Tanzanian waters

195. The Collision Regulations shall be observed by all foreign ships and seaplanes within Tanzanian waters, and in any case before a Court in Tanzania concerning a breach of Collision Regulations arising within Tanzanian waters, foreign ships and seaplanes shall be treated as if they were Tanzanian ships and seaplanes registered in Tanzania.

Collision liability

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

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

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

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

(5) Where the collision is caused by the fault of one of the vessels, liability to make good the damages shall be attached to the vessel which has committed the fault.

(6) In respect of fault causing death or personal injuries, the vessels in fault shall be jointly and severally liable to third parties, without prejudice, however, to the right of the vessel which has paid a larger part than that which, in accordance with the provisions of subsections (1) and (2), she ought

ultimately to bear, to obtain a contribution from the other vessel or vessels at fault.

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

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

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

Inspection to enforce compliance with Collision Regulations

197. A surveyor or inspector may inspect a ship of any nationality in port of Tanzania to determine whether the ship is properly provided with lights and shapes and the means of making sound signals as required by the Collision Regulations, and if the surveyor or inspector finds that the ship is not so provided, he shall specify in writing the action required to rectify the deficiency and shall detain the ship until such deficiency is rectified to his satisfaction.

Duty to render assistance following collision

198.—(1) In every case of collision between ships, the master of each ship shall, where he can do so without damage to his own ship, crew and passengers, if any—

- (a) render to the other ship, the master, crew and passengers, of that other ship, such assistance as may be practicable and as may be necessary to save them from any danger by the collision, and standby the other ship, until he has ascertained that such ship has no need for further assistance; and

(b) give the master of the other ship the name and port of registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) The provisions of subsection (1) shall apply to the masters of Tanzanian ships and to the masters of foreign ships when in Tanzanian waters.

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

Offences against
part VIII

199. The master of a ship who fails without reasonable cause to comply with this Part, commits an offence and on conviction, shall be liable-

(a) in the case of a failure to comply with section 198(1) (a), to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars three thousand, or imprisonment for a term not exceeding six months, or to both; and

(b) in the case of a failure to comply with section 198(1) (b), to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars three thousand or to imprisonment for term not exceeding six months,

and in either case if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

Master to notify
hazards to
navigation

200.-(1) The master of any Tanzanian ship upon encountering any of the dangers to navigation specified in subsection (2), shall send information by any means of communication at his disposal to the appropriate shore based authorities, and such information shall be repeated to ships in the vicinity as practicable.

(2) The dangers to navigation referred to in subsection (1) include-

(a) dangerous ice;

- (b) a dangerous derelict;
- (c) a tropical storm; and
- (d) any other direct danger to navigation.

(3) It shall be a defence for any person charged under this section to show that he took all reasonable precautions to avoid the commission of the offence.

(4) The master who fails to comply with this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or imprisonment for a term not exceeding three years or to both.

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

Master to proceed moderately in danger area

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

(2) The master of a ship who fails to comply with this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding three years or both.

Duty to assist ships in distress

202.-(1) The master of a Tanzanian ship on receiving at sea a signal from any source that a ship, aircraft or a survival craft 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, and where-

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

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

(2) The master of a ship shall be released from the duty imposed by subsection (1) as soon as he is informed of the requisition of one or more ships, other than his own, under section 203 that the requisition is being complied with by the ship or ships requisitioned.

Right to requisition ships when in distress

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

(2) The master of a ship shall be released from the duty imposed by section 202(1), or if his ship has been requisitioned, from the duty imposed by subsection (1), if he is informed by the persons in distress or by the master of another ship which has reached such ship that assistance is no longer required.

Duty to assist persons in danger at sea

204. The master of a ship shall, so far as he can do so without serious danger to his own ship and persons thereon, render assistance to any person in danger of being lost at sea.

Application of duties imposed by sections 201, 202, 203, 204 and penalties for failure to comply and salvage rights

205.—(1) The duties imposed on the master of ship by sections 201, 202, 203 and 204 shall apply to the masters of Tanzania's ships and to the masters of foreign ships when in Tanzanian waters.

(2) The master of ship who fails to comply with sections 201, 202, 203 and 204, commits an offence for each such failure, and on conviction, shall be liable, for each such offence, to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred, or to imprisonment for a term not exceeding three years, or to both.

(3) Compliance by a master with sections 201, 202, 203 and 204 shall not affect his right or the rights of any other person to salvage.

Regulations for
signals of distress

206.—(1) The Minister may make regulations relating to signals of distress and urgency and the signals prescribed by the regulations shall be deemed to be signals of distress and urgency.

(2) The master of a ship who uses or displays or causes, or permits any person under his authority to use or display-

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

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both and in addition, shall be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(3) Where the master who contravenes subsection (2) is a certificated officer under this Act, he shall be subjected to an inquiry into his conduct as provided for in section 175.

Reports of
accidents to ships

207.—(1) Where a ship-

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

the owner or master of that ship shall, within twenty-four hours after the occurrence of the accident or causing of the damage or as soon as possible thereafter, transmit to a proper officer if the ship is in a foreign port, or otherwise to the Registrar, a report of the accident or damage.

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

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

(3) Where the owner or managing owner, or where there is no owner or managing owner resident in Tanzania, the representative person of the owner or the agent of any ship, has reason to believe that the ship has sustained or caused any accident or received any damage as mentioned in subsection (1), he shall satisfy himself that the accident or damage has been reported to the Registrar by the master.

(4) Where any owner, managing owner, representative person or agent has reason to believe that the accident or damage specified in subsection (1) has not been reported, he shall as soon as possible, send to the Registrar notice in writing stating the name of the ship, its official number, and its port of registry or the port to which it belongs, stating to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(5) The master, owner, managing owner, representative person or agent who fails, without reasonable cause to comply with this section, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

(6) This section applies to all Tanzanian ships and to all foreign ships carrying passengers between places in Tanzanian waters.

Apprehended loss
of ships

208.—(1) Where the managing owner or agent of any Tanzanian ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost,

he shall cause a reasonable search to be made for the ship and shall, as soon as practicable, send to the Registrar a notice in writing signed by him stating-

- (a) the name and the official number of the ship, the port to which the ship belongs; and
- (b) a report of the loss of the ship and the circumstances and probable cause of such loss.

(2) A managing owner or agent of a ship who fails without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe that the ship has been lost commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Notices to
mariners and
navigational
warnings
Act No.
13 of 2019 s. 51

209.-(1) The Registrar shall take appropriate steps to advise the seafaring community and the public of any developing or existing situations which may adversely affect maritime safety, security and prevention of pollution.

(2) The Registrar shall communicate the following notices to the seafaring community-

- (a) merchant shipping notices; and
- (b) notices to mariners and navigational warnings.

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

(b) Aid to Navigation, Charts and Publications

Interpretation
and application

210. For purposes of this section and sections 211 to 217, “aids to navigation” and “aids” means all lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation and includes all buildings, moorings and other associated works.

Establishment and management of navigational aids

211.—(1) There shall be established in Tanzania such navigational aids as are necessary to facilitate safe navigation of ships within the waters of Tanzania.

(2) Privately owned navigational aids shall be established and maintained in accordance with the provisions of this Act.

Nautical publications, charts and other information
Act No.
13 of 2019 s. 52

212.—(1) Aids to navigation shall not be established-

- (a) without the prior written consent of the Registrar, or any other person authorised by him on that behalf; and
- (b) unless it conforms to such specifications as may be prescribed.

(2) Aids to navigation shall not be discontinued or have its lighting characteristics or any other distinguishing feature altered, without the prior written consent of the Registrar or any other person authorised by him for the purpose.

(3) The Registrar shall by notice cause a list of aids to navigational to be published and updated as necessary.

Supervision of navigational aids
Act No.
13 of 2019 s. 52

213. The Registrar shall exercise general supervision overall aids to navigation and in particular shall-

- (a) be responsible for the establishment and maintenance of all aids to navigational established by the maritime body and such other Government owned aids to navigation as may be under the control of that body;
- (b) ensure that all other aids to navigation are established in compliance with the stipulated conditions and specifications and are maintained in proper working order; and
- (c) bring to the attention of the public, information on changes to or deficiencies in any aids to navigation.

Offences against sections 211 and 212

214. A person who-

- (a) contravenes the provisions of sections 211 or 212;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;

- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;
- (e) trespasses on or without lawful excuse, is found in or on-
 - (i) an aid; or
 - (ii) on any land upon which an aid is situated; or
- (f) fails to notify the Registrar as soon as practicable after the aid is damaged, destroyed or fouled,

commits an offence and on conviction, in addition to the expenses of making good any damage so occasioned, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars three thousand or to imprisonment for a term not exceeding eighteen months or to both.

Detention of ships

215. A ship which damages, destroys or fouls an aid, may be detained until the cost of repairing or replacing the aid or rendering the aid effective again is paid.

Fire or lights detrimental to navigation

216.—(1) A person shall not show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of Tanzania.

(2) A person who fails to comply with subsection (1), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(3) The Registrar may cause to be extinguished any false or unauthorised lights, and for this purpose, the Registrar or any person authorised by him may enter the place where the light is situated and forthwith extinguish the same without causing unnecessary damage.

Regulations in respect of navigational aid
Act No.
13 of 2019 s. 52

217. The Minister may, by regulations-

- (a) prescribe the system of lighting and other characteristics, marks and features of aids to navigation while having due regard to the International Association of Lighthouse

Authorities (IALA) Harmonised Buoyage “System B”, or any other international system of buoyage which may replace it; and

- (b) prescribe the penalties for any contravention of such regulations.

Ships navigation
equipment
and nautical
publications

218.—(1) The Minister may make regulations specifying such navigation equipment, nautical publications or charts, directions or information as appear to him to be necessary or expedient for the safe operation of ships.

(2) Regulations made pursuant to this section may require Tanzanian ships or such descriptions of Tanzanian ships as may be specified in the regulations, to carry and use, either at all times or on such voyages as may be specified in the regulations, the navigation equipment, charts, copies of directions or information so specified.

(3) Where a ship goes to sea or attempts to go to sea without carrying the navigation equipment, charts, copies of directions or information which it is required to carry according to the regulations made under this section, the master and owner shall each commit an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

PART IX

SAFETY OF LIFE AT SEA

(a) General

Interpretation

219. In this Part-

“cargo ship” means any ship that is not a-

- (a) passenger ship;
- (b) ship of war;
- (c) fishing vessel; or
- (d) pleasure vessel;

- “Cargo Ship Safety Certificate”, “Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to section 231;
- “certificate” means a certificate issued in accordance with the Safety Convention as defined therein;
- “fishing vessel” means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;
- “international voyage” means a voyage between a port in one country and a port in another country where at least one of the ports is a Safety Convention Country;
- “Passenger Certificate” and “Tanzania Cargo Ship Safety Certificate” means the certificates of those names issued pursuant to section 231;
- “radio installation” means any radio installation provided on board a ship in life saving appliances, in compliance with the relevant regulations;
- “radio-navigational equipment” means the equipment required by the relevant regulations;
- “Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 and its Protocols of 1978 and 1988, together with such amendments thereof or replacements therefor as may be in effect in respect of Tanzania;
- “Safety Convention Country” means a country the Government of which has adopted the Safety Convention and which has not denounced that Convention or a territory of such Country to which the Convention extends and remains extended;
- “Safety Convention Certificate” means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes a Safety Certificate, Safety Construction Certificate, Safety Equipment Certificate, Safety Radio Certificate, and any such certificate that

is limited, modified or restricted by an Exemption Certificate;

“short international voyage” means an international voyage-

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety;
- (b) which does not exceed 600 nautical miles in length between the last port of call and the final destination, no account being taken of any deviation by a ship from its intended voyage due to stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could reasonably have prevented or forestalled;

“surveyor” includes any person or organisation, duly authorised by the Registrar to act as a surveyor for the purpose of surveying ships and issuing Safety Convention Certificates;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature and its age shall be determined from the year of build as indicated on its certificate of registration; and

“tons” means gross tonnage and a reference to tons in relation to a ship having alternative gross tonnages is a reference to the larger of those two tonnages.

Application of
Safety Convention
and exceptions
thereto

220.-(1) Subject to subsection (2), the Safety Convention including all its related instructions, shall, apply to all Tanzanian ships and all other ships engaged on international voyages while they are in Tanzanian waters.

(2) Unless expressly provided otherwise, the Safety Convention shall not apply to-

- (a) ships of war and troop ships;
- (b) cargo ships of less than 500 tons;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure vessels not engaged in trade; and
- (f) fishing vessels.

(3) Notwithstanding any provisions of this Part, regulations made under this Part shall apply to ships that are not Tanzanian ships while they are within any port in Tanzania.

(4) Provisions made under this Part shall not apply to a ship that would not be within any port in Tanzania but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

Exemptions

221.—(1) The Minister may exempt in writing with reasons any ship or class of ship from any safety requirements imposed by or under this Act either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister, if he is of the opinion that the ship complies with safety requirements imposed by or under this Act, may exempt in writing with reasons the ship while engaged on that voyage.

(3) Without prejudice to subsection (1), any ship which embodies features of a novel kind may be exempted from any requirements imposed by or under this Act relating to safety construction, life-saving appliances and radio communications, the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages:

Provided that, such ship shall comply with safety requirements which, in the opinion of the Registrar is adequate for the service for which it is intended and are such as to ensure the overall safety of the ship.

(4) Where any exemption is granted under subsection (3), the Registrar shall communicate to the IMO particulars of the exemption and the reasons therefor.

(5) The Minister may, if he considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to safety construction, life-saving appliances and radio communications

unreasonable or unnecessary, exempt from those requirements individual Tanzanian ships, or classes of ships which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

Regulations relating to safety at sea

222.—(1) The Minister shall make regulations as may appear to him to be necessary and expedient to give effect to the Safety Convention and its related instruments, in particular-

- (a) providing generally for safety at sea; and
- (b) prescribing the requirements for the hull, equipment and machinery of Safety Convention ships and their survey and inspection.

(2) For the purpose of giving effect to the provisions of Chapter VIII of the Annex to the Safety Convention, the Minister may make such regulations as he considers appropriate with respect to ships provided with nuclear power plants.

Regulations for cargo ship safety, requirements and surveys

223.—(1) The Minister may make regulations, in this Act referred to as “Local Cargo Ship Safety Regulations”, prescribing requirements for the hull, equipment and machinery of ships and requiring any Tanzanian ship to be surveyed to such an extent, in a manner and at intervals as may be prescribed.

(2) The regulations made under subsection (1), shall include requirements necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of the ship.

- (3) This section applies to-
 - (a) Tanzanian cargo ships of not less than 500 tons not engaged in international voyages;
 - (b) Tanzanian cargo ships of such lower tonnage and of such description as the Minister may specify; and
 - (c) foreign cargo ships of less than 500 tons while they are within Tanzanian waters and are not exempted under this Act.

Regulations for small ships, safety requirements and surveys

224. The Minister may make regulations, in this Act referred to as “Small Ship Safety Regulations”-

- (a) prescribing requirements for the hull, equipment and machinery of small ships;
- (b) requiring small ships to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed; and
- (c) specifying the examinations required for boat operators and engineers and the appointment of surveyors of small ships.

(b) Surveys and Certification

Surveyor's duties

225.-(1) Surveyors appointed pursuant to section 382 shall, carryout surveys of-

- (a) the hull and machinery of ships;
- (b) the equipment of ships, including her tackle, and appurtenances;
- (c) the life-saving, fire-fighting and other safety equipment of ships;
- (d) the radiotelegraphy and radiotelephony installations of ships;
- (e) the stowage and manner of loading of ships' cargoes and the stowage of dangerous goods.

(2) The survey and inspection of ships, as regards the enforcement of this Part, shall be carried out by surveyors appointed under section 382 or, subject to such conditions as the Registrar may impose, by any corporation or society for the survey and classification of ships authorised by the Registrar.

Surveyor's powers on inspection
Act No.
13 of 2019 s. 53

226.-(1) A surveyor may at any reasonable times inspect any ship for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, Collision Regulations and other relevant regulations made under this Act.

(2) Where the surveyor finds that any Convention or the regulations have not been complied with, he shall give written notice to the owner or master of the ship stating the deficiency and the action which, is required to rectify such deficiency.

(3) Every notice given under subsection (2), shall be communicated in a manner directed by the port master of any port at which the ship may seek a clearance and clearance to such ship shall not be granted and the ship may be detained if deficiency stated under subsection (1) is not rectified or rectified.

(4) Where the surveyor considers a ship to be unsafe, or, a passenger ship is, unfit to carry passengers, or the machinery or equipment is defective in a way which can expose persons on board to serious danger, he shall detain that ship, and such surveyor may also detain any ship in respect of which any of the provisions of this Act have not been complied with, if in his opinion, such detention is warranted in the circumstances.

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

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

(7) A person who contravenes the provisions of subsection (5) or (6), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Surveyor
to report to
Registrar

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

- (a) the hull and machinery are sufficient for the service intended and in good conditions;
- (b) the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) the safety equipment and radio installations required under this Part are on board and in good condition;
- (d) the master, mates and engineers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage on which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) where the ship is a passenger ship, the number of passengers which she may carry; and
- (g) the steam pressure that may be carried on the boilers.

Record of inspections and certificates

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

Responsibilities of owner and master, compliance with ISM Code

229.-(1) The owner and master of every ship to which this section applies shall ensure that-

- (a) the condition of the ship, including its structure, machinery and equipment, is maintained in compliance with the provisions of this Part;
- (b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship without the approval of the Registrar, except by direct replacement; and
- (c) whenever an accident occurs to a ship or a defect is covered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment-

- (i) it is reported at the earliest opportunity to a surveyor or a roper officer; or
- (ii) where a Tanzanian ship is in a port outside Tanzania, it is reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subsection (1)(c)(i), the surveyor or proper officer, shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

(3) The provisions of subsections (1) and (2) apply to-

- (a) Tanzanian ships; and
- (b) except as regards subsection (1)(a), other ships which have been surveyed pursuant to this Part.

(4) All Tanzanian ships, all other ships while in Tanzanian waters and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.

(5) For purposes of subsection (4), "ISM Code" means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the IMO as may be amended from time to time; and "company" has the same meaning as in the ISM Code.

Procedure to be adopted when ship, including its structure, machinery and equipment is deficient

230.-(1) In any case where a surveyor determines that the condition of a ship including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action required, and shall notify the Registrar.

(2) Where the corrective action is not taken within a reasonable period as a surveyor may specify, the surveyor, shall, at the expiration of that period, notify the Registrar who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and give notice of any

such suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies to Tanzanian ships and other ships which have been surveyed pursuant to this Part.

Issue of certificates to Tanzanian ships engaged on International or short international voyages

231.—(1) When a survey or surveys to meet the requirements set out in this Part and regulations made under section 220 are satisfactorily completed, the Registrar, or any other person authorised by him, shall issue-

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate;
- (b) in the case of the ship which is only engaged on short international voyages, short international voyage Passenger Ship Safety Certificate;
- (c) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; or
- (e) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Certificate may be issued as an alternative to the certificates referred to in subsection (1) (c), (d) and (e).

(3) Whenever in this Part reference is made to a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, or a Cargo Ship Safety Radio Certificate, it shall apply to a Cargo Ship Safety Certificate where it is used as an alternative to these certificates.

Issue of certificates to Tanzanian ships not engaged on international voyages and ships of less than 500 tons

232. When a survey or surveys, to meet the requirements set out in this Part or in regulations made under section 223 are satisfactorily completed, the Registrar shall issue-

- (a) in the case of a Tanzanian passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its class; and

- (b) in the case of a Tanzanian cargo ship of 500 tons or over not engaged on international voyages, a Tanzanian Cargo Ship Safety Certificate.

Form of certificate

233.—(1) A Passenger Ship Safety Certificate, Cargo Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificates shall be in the form prescribed by the Safety Convention.

(2) A Passenger Certificate and a Tanzanian Cargo Ship Safety Certificate, shall be in such form as may be prescribed by the Minister and a Passenger Certificate shall indicate compliance with the provisions of this Act and state:

- (a) the limits (if any) beyond which the ship is not fit to ply;
- (b) the number of passengers which the ship is fit to carry; and
- (c) any condition with which the ship has to comply.

Duration and validity of certificates

234.—(1) The duration of certificates issued under section 232 shall be as follows—

- (a) in the case of a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate, for a period not exceeding twelve months;
- (b) in the case of a Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate or a Cargo Ship Safety Certificate, for a period not exceeding five years;
- (c) a Passenger Ship Safety Certificate, for a period not exceeding twelve months; and
- (d) a Tanzania Cargo Ship Safety Certificate, for a period not exceeding five years.

(2) A certificate shall cease to be valid—

- (a) where its period of validity has been exceeded and the certificate has not been extended under section 236;

- (b) where annual, intermediate or periodical surveys have not been carried out in accordance with this Part and the certificate has not been endorsed; or
- (c) upon the transfer of a ship to the flag of another State.

Issue and duration of exemption certificates

235.—(1) Where an exemption is granted to a ship in accordance with the provisions applicable to the ship, a certificate called an exemption certificate shall be issued in addition to any certificate issued under section 233.

(2) An exemption certificate issued under subsection (1) shall be valid for a period that is not longer than the period of validity of the certificate to which it refers.

(3) An exemption certificate shall be subject to the same extension and other provisions as the certificates to which it refers.

(4) Where an exemption certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

Extension and other provisions

236.—(1) Where a Tanzanian ship, at the time when a certificate issued under section 233(1) or (2) expires, is not in a port in Tanzania or the port in which it is to be surveyed, the Registrar, where it appears necessary may extend the period of validity of the certificate, and such extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in Tanzania or the port in which it is to be surveyed.

(2) A certificate shall not be extended for a period longer than three months, and a ship to which the extension is granted shall not, on its arrival in a port in Tanzania or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Tanzania without having obtained a new certificate.

(3) The Registrar may extend a certificate issued under section 231(1) or (2) which has not been extended under subsection (1) of this section for a grace period of up to one month from the date of expiry stated on it.

(4) In the case of a Tanzanian ship in respect of which a passenger ship safety certificate or a short international voyage passenger ship safety certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Registrar may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respects to life-saving appliances stated on the certificate.

(5) The memorandum referred to in subsection (4) shall be attached to the certificate during the particular voyage and shall be returned to the Registrar at the completion of the voyage.

(6) In the case of a ship that has changed from the registry of the government of another country to Tanzanian registry, the Registrar, subject to such survey requirements that may be considered to be necessary may, issue one or more of the certificates prescribed by sections 231 and 232 for a period to be determined by the Registrar, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the government of that other country if satisfied that-

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the government of that country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in subparagraph (a) have been completed, no material change has been made to the ship, including its structure, machinery

and equipment, surveys, without the approval of the administration of that other State or the Registrar except by direct replacement.

Issue and endorsement of certificates by another government

237. The Registrar may request through a proper officer or otherwise, the government of a country to which the Safety Convention applies to survey a ship and, if satisfied that the requirements of the Convention are complied with, authorise the issue to the ship the certificates referred to in section 231 and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Registrar.

Ships not registered in Tanzania and to which the Safety Convention applies

238.—(1) The Registrar may, at the request of a government of a country to which the Safety Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 231 and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Registrar.

(2) Where a memorandum issued by or under the authority of the government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the Safety Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.

(3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that there is in force a certificate or certificates required by this Part, and that

the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of section 241 are being complied with.

Other ships which are not Tanzanian ships

239.—(1) When a survey or surveys of ships which are not Tanzanian ships are required to meet the requirements set out in this Part, and the Registrar shall issue-

- (a) in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its class; or
- (b) in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Certificate;

(2) Certificates issued under subsection (1), shall be subject to the requirements of this Part and to production and inspection under section 298.

Cancellation of certificate

240.—(1) The Registrar may cancel a certificate issued to a Tanzanian ship where he has reason to believe that-

- (a) the certificate was fraudulently issued;
- (b) the certificate was altered without permission;
- (c) the certificate was issued on false or erroneous information; or
- (d) since any survey required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Registrar may require that a certificate issued to a Tanzanian ship which has expired or has been cancelled be surrendered, as directed.

(3) A person who-

- (a) intentionally alters a certificate referred to in this Part;
- (b) intentionally makes a false certificate referred to in this Part;
- (c) in connection with any survey required by this Part, knowingly or recklessly furnishes false information;

- (d) with intent to deceive uses, lends, or allows to be used by another person a certificate referred to in this Part; or
- (e) fails to surrender a certificate required to be surrendered under subsection (2),

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

Availability of certificates

241. The owner and master of every ship issued with a certificate in accordance with this Part shall ensure that it is readily available on board for examination at all times.

Prohibition on proceeding to sea without appropriate documentation

242.—(1) A Tanzanian ship shall not proceed to sea unless it has been surveyed and there is in force the following certificate or certificates—

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if the ship is only engaged on short international voyages, a short international voyage Passenger Ship Safety Certificate;
- (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
- (c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate; or
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety-Certificate.

(2) A ship registered in a country to which the Safety Convention applies shall not proceed to a sea from a port in Tanzania unless there is in force such Convention Certificates that would be required if the ship was a Tanzanian ship and the provisions relating to extension specified in section 236 shall apply to such certificates as if the ship was a Tanzanian ship and the government of the country in which the ship is registered is substituted for the Registrar.

(3) A cargo ship of 500 tons and over not engaged on international voyages shall not proceed to sea from a port in Tanzania unless it has been surveyed and there is in force a Tanzanian Cargo Ship Safety Certificate, as referred to in this Part.

(4) Subject to regulations made under section 224, a cargo ship of less than 500 tons shall not proceed to sea from a port in Tanzania unless it has been surveyed and there is in force a Tanzania Cargo Ship Safety Certificate.

(5) A ship registered in a country to which the Safety Convention does not apply shall not proceed to sea from a port in Tanzania unless the ship is in the possession of documentation which shows that either the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it was a Tanzanian ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(6) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master of the ship shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.

(7) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section, and if he fails to produce such documents, the clearance shall not be granted and the ship may be detained until those certificates are produced.

Prohibition
on proceeding
on voyage or
excursion without
the appropriate
certificate

243.—(1) Subject to the provisions of section 225, a passenger ship engaged on voyages which are not international voyages shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a passenger certificate applicable to that voyage or excursion.

(2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

Limit on number of passengers on passenger ships

244. The owner and master of a passenger ship shall ensure that there is on board a ship, passengers not exceeding the number stated on the ship's passenger Ship Safety Certificate or Passenger Certificate.

Offences relating to proceeding to sea

245.—(1) Where a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the regulations made under sections 222, 223 and 224, the owner and master of the ship shall each commit an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand five hundred or to imprisonment for a term not exceeding twelve months or to both.

(2) The owner and master of the ship who contravenes the provisions of sections 173, 226(1) or 242(1) to (6), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand five hundred or to imprisonment for a term not exceeding twelve months or to both.

(3) Where a ship proceeds to sea without section 241 being complied with, the owner and master shall each commit an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(4) A contravention of section 244, shall be an offence by both the owner and master and each shall commit an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or imprisonment for a term not exceeding two years, or to both.

(5) The master who contravenes the provisions of section 242(7) commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding six months or to both.

(6) It shall be a defence for a person charged with an offence under this Part to prove that he took all reasonable steps to ensure that the Part was complied with.

Powers to detain **246.** In any case where a ship does not comply with the requirements of this Part, the ship shall be liable to be detained.

Arbitration Act No. 13 of 2019 s. 54 **247.**—(1) Where the owner or person making application for a survey of a ship required under this Act is dissatisfied by the outcome of the survey, the owner or person may serve a notice to the person issuing the certificate within twenty-one days of the completion of the survey for the dispute to be referred to a single arbitrator appointed by agreement between the parties for settlement.

(2) Where there is no agreement between the parties to appoint an arbitrator under subsection (1), the arbitrator may be appointed by the Minister.

(3) A person shall not be qualified for appointment as an arbitrator under this section unless he is—

- (a) a person holding a certificate of competency as master or as a chief engineer without limitation, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) an advocate at law with at least ten years experience in shipping law; or
- (d) a person with special experience of the shipping industry.

(4) In performing his functions under this section, an arbitrator shall have the powers of inspection conferred by the provisions of Part XX.

Inspection of ships holding Safety Convention Certificates **248.**—(1) Where a valid Safety Convention Certificate is produced in respect of a foreign ship, it shall be accepted and the ship shall be exempted from surveys or inspection under this Part, unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the certificate or that the

ship and its equipment are not in compliance with regulations made under this Act respecting the maintenance of conditions of the ships and their equipment after survey.

(2) Where a certificate is not acceptable due to the circumstances referred to in subsection (1), or if a certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances, namely-

- (a) the local consular officer of the ship's flag state or, in his absence, the nearest diplomatic representative of the ship's flag state; and
- (b) nominated surveyors or recognised organisations responsible for the issue of the certificate referred to in subsection (1).

(3) Where any ship referred to in subsection (2) is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

Ships to carry
stability
information

249.-(1) Every Tanzanian passenger ship, regardless of size, and every Tanzanian cargo ship having a length of 24 metres and above, shall carry on board such information about the ship's stability as may be prescribed by the Registrar.

(2) The information, a copy of which shall be sent to the Registrar shall be based on the determination of the ship's stability by means of an inclining test of the ship but the Registrar may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and master of the ship commits an offence and on conviction, each shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Regulations
for local safety
certificates
including fishing
vessels

250.—(1) The Minister may make regulations prescribing safety requirements and providing for the issue of local certificates in respect of-

- (a) fishing vessels;
- (b) pleasure vessels; and
- (c) such other class or classes of vessels as may be designated.

(2) In making regulations respecting fishing vessels, the Minister shall have due regard to the International Convention for the Safety of Fishing Vessels, 1977, as amended by the Protocol of 1993.

PART X LOAD LINES

(a) General

Interpretation

251.—(1) In this Part, except in so far as the context otherwise requires-

“alteration” includes deterioration;

“clearance” includes transire;

“the Load Lines Convention” means the International Convention on Load Lines, 1966, and its Protocol of 1988, as amended;

“Convention Country” and “Contracting Government” have the meanings assigned to them by section 280;

“non-Tanzanian ship” means a ship which is not registered in Tanzania;

“post-1966 Convention ship” means a ship whose keel is laid, or which is at a similar stage of construction, on or after the material date;

“pre-1966 Convention ship” means a ship which is not a post-1966 Convention ship; and

“valid Convention Certificate” has the same meaning given to it by section 263(5).

(2) For purposes of the definitions of pre-1966 and post-1966 Convention ship the material date-

- (a) in relation to a ship which is registered in or flies the flag of Convention Country other than Tanzania, is the date from which it is declared under section 280 that the government of that Country has accepted or acceded to the Convention of 1966 or that it is a territory to which that Convention extends; and
- (b) in relation to any other ship, is 21st July 1968.

(3) In this Part, subject to subsection (4), “international voyage” means a voyage between-

- (a) a port in Tanzania and a port outside Tanzania; or
- (b) a port in a Convention Country (other than Tanzania) and a port in any other country or territory, whether or not a Convention Country, which is outside Tanzania.

Ships to which
Part X applies

252. This Part applies to all ships except-

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

Load Line
Regulations

253.-(1) The Minister may make regulations for purposes of better carrying out of provisions of this Part while having regard in particular the Load Lines Convention.

(2) Without prejudice to the generality of the foregoing, the Minister may make Load Line Regulations-

- (a) for the surveying and inspection of ships to which this Part applies;
- (b) for determining freeboards to be assigned from time to time to ships;
- (c) for determining the deck which is to be taken to be the free board deck of any ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a prescribed description;
- (d) for determining, the mark and the freeboards assigned to any ship, the positions in which each side of the ship is to be marked with lines of a prescribed description,

indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations;

- (e) specifying requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Part applies as appear to the Minister to be relevant to the assignment of freeboards to such ships;
- (f) whereby, at the time when freeboards are assigned to a ship the particulars relating to those requirements as may be determined in accordance with the regulations are to be recorded in such manner as may be so determined;
- (g) for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is to be taken to comply, or not to comply, with the conditions of assignment; and
- (h) requiring information relating to the stability of any ship to which freeboards are assigned, and the loading and ballasting of any ship, as may be specified by the regulations provided for the guidance of the master of the ship.

(3) In relation to any matter authorised or required by this Part to be prescribed by the Load Line Regulations, such regulations may make different provisions by reference to or to any combination of any of the following, that is to say, different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

(4) Except in so far as the context otherwise requires, in this Part “deck-line” means such a mark as is referred to in subsection (2)(c), and “load lines” means such lines as are referred to in subsection (2)(d).

(b) Tanzanian Ships

Compliance
with Load Line
Regulations by
Tanzanian ships

254.—(1) Subject to any exemption conferred by or under this Part, a Tanzanian ship to which this Part applies shall not proceed or attempt to proceed to sea unless-

- (a) the ship has been surveyed in accordance with the Load Line Regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with the Load Line Regulations;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required to be provided for under section 253(2)(h) is provided for the guidance of the master of the ship in the manner prescribed under the regulations.

(2) Where any ship proceeds or attempts to proceed to sea in contravention of subsection (1), the owner or master of the ship commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(3) A ship which in contravention of subsection (1) attempts to proceed to sea without being surveyed and marked as provided for under subsection (1)(a) and (b) may be detained until it has been so surveyed and marked.

(4) A Tanzanian ship which does not comply with the conditions of assignment shall be deemed to be unsafe for purposes of Part XII of this Act.

Submersion of
load lines for
Tanzanian ships

255.—(1) Where a Tanzanian ship to which this Part applies is marked with load lines, such ship shall not be so loaded that—

- (a) where the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Where any ship is loaded in contravention of subsection (1), the owner and master of the ship, subject to subsection (5), each commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings

of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months and to such additional fine, not exceeding an amount calculated in accordance with subsection (3), as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) Any additional fine imposed under subsection (2) shall not exceed the equivalent in Tanzanian shillings of the United States dollars twenty thousand for each complete centimetre by which-

- (a) in a case of contravention of subsection (1)(a), the appropriate load line on each side of the ship was submerged; or
- (b) in a case of contravention of subsection (1)(b), the appropriate load line on each side of the ship would have been submerged.

(4) Where the master of a ship takes the ship to sea when it is loaded in contravention of subsection (1), or, if any other person, having reason to believe that the ship is so loaded, sends or is party to sending sea when it is loaded in contravention of that subsection, then without prejudice to any fine to which he may be liable in respect of an offence under subsection (2), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars twenty thousand or to imprisonment for a term not exceeding five years or to both.

(5) Where a person is charged with an offence under subsection (2), it shall be a defence to prove that, the contravention was due to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master of the ship nor the owner nor the charterer, if any, could have prevented or forestalled.

(6) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) may be detained until it ceases to be so loaded.

(7) For purposes of application of this section to a ship in any circumstances prescribed by the Load Line Regulations in accordance with section 253(2)(d), “the appropriate load line” means the load line which indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

Miscellaneous offences in relation to marks

256.—(1) Every Tanzanian ship to which this Part applies shall be marked in accordance with any requirements thereof imposed by or under this Part.

(2) Where-

- (a) the owner or master of the ship fails without reasonable excuse to keep the ship so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he does so under the authority of a person empowered under the Load Line Regulations to authorise him for that purpose,

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

Issue of Load Line Certificates

257.—(1) Where a Tanzanian ship to which this Part applies has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship on his application.

(2) For purposes of this section, the appropriate certificate-

- (a) in the case of a pre-1966 Convention ship of not less than 150 gross tonnage, and in the case of a post- 1966 Convention ship of not less than 24 metres in length, is a certificate which is called an “International Load Line Certificate (1966)”; and
- (b) in the case of any other ship, is a certificate which is called a “Tanzanian Load Line Certificate”.

(3) Subject to the provisions of subsection (4), any certificate required by subsection (1) to be issued shall-

- (a) be issued by the Registrar or by a person authorised for that purpose by the Registrar; and
- (b) be in such form and manner, as may be prescribed by the Load Line Regulations.

(4) The Registrar may request a Contracting Government to issue an International Load Line Certificate in respect of any ship to which this Part applies, which is a Tanzanian ship falling within subsection (2)(a), and a certificate issued in pursuance of such request, and containing statement that it has been issued at the request of the Government of Tanzania, shall have effect in relation to an International Load Line Certificate as if it had been issued by the Registrar.

Effect of Load
Line Certificate

258. Where a certificate, issued in pursuance of section 257 is produced in respect of the ship to which the certificate relates-

- (a) the ship shall be deemed to have been surveyed in accordance with the Load Line Regulations; and
- (b) where lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the Load Line Regulations, and the positions of those lines so marked correspond to the positions of the deck-line and load lines so specified in the Certificate, such ship shall be deemed to be marked as required by those regulations.

Duration,
endorsement
and cancellation
of Load Line
Certificates

259.-(1) The Load Line Regulations shall make provision for determining the period during which any certificate issued under section 257 is to remain in force, including-

- (a) provision enabling the period for which any such certificate originally issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and
- (b) provision for cancelling any such certificate in such circumstances as may be so prescribed.

(2) Where any Load Line Certificate, in respect of a ship, is in force, there shall be endorsed on the certificate such information relating to-

- (a) periodical inspections of the ship which is in force in accordance with the Load Line Regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

Ships not to proceed to sea without Load Line Certificate

260.—(1) Subject to any exemption conferred by or under this Part, a Tanzanian ship to which this Part applies, shall not proceed or attempt to proceed to sea unless the appropriate certificate in respect of the ship is in force.

(2) Where any Tanzanian ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer of customs from whom a clearance for the ship is demanded; and if the certificate is not produced, the clearance shall not be granted, and the ship may be detained until the appropriate certificate is so produced.

(3) Where any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

(4) In this section “the appropriate certificate” means the certificate which is issued under section 257.

Publication of Load Line Certificate and entry of particulars in official log book

261.—(1) Where a certificate is issued in respect of a ship under section 257, the owner of the ship shall on receipt of the certificate, cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use.

(2) Before any Tanzanian ship to which this Part applies leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship shall cause a notice to be posted in some conspicuous place on board the ship,

which shall be in such form and containing such particulars relating to the depth to which the ship is for the time being loaded as may be specified in regulations made by the Minister under this Part.

(3) Where a notice required by subsection (2) has been posted as required, the master of the ship shall cause it to be kept posted up and legible until the ship arrives at some other dock, wharf, harbor or place.

(4) The owner or master of a ship who fails to comply with any requirement of this section, each commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term no exceeding six months or to both.

Inspection of
ships

262. A surveyor may inspect any Tanzanian ship to which this Part applies for the purpose of verifying that the provisions of this Part have been complied with.

(c) Non-Tanzanian Ships

Valid Convention
Certificates

263.—(1) This section applies to any non-Tanzanian ship to which this Part applies which—

- (a) is registered in a convention country or not being registered in any such country or elsewhere, flies the flag of a convention country; and
- (b) is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 metres in length.

(2) The Registrar may, at the request of the government of a convention country issue in respect of a ship referred to in subsection (1), a certificate in such form as may be prescribed by the Load Line Regulations, where he is satisfied that he could properly issue a certificate in respect of the ship under section 266(1) if the ship were a Tanzanian ship.

(3) The Minister may, where he considers appropriate, make Load Line Regulations for ensuring that certificates which are issued as International Load Line Certificates (1966) in

respect of ships to which this section applies, and are so issued by governments other than the Government of Tanzania, are recognised for purposes of this Part in such circumstances as may be prescribed by the regulations.

(4) Certificates issued under subsection (2) or (3) shall be included among the certificates called “International Load Line Certificates”.

(5) In this Part, “valid Convention Certificate” means a certificate which either-

- (a) has been issued under subsection (2) and is for the time being in force; or
- (b) having been issued under subsection (3), is produced in circumstances in which it is required by the Load Line Regulations to be recognised for purposes of this Part.

Compliance with Load Line Regulations by non-Tanzanian ships

264.—(1) Subject to subsection (2), and to any exemption conferred under this Part, a non-Tanzanian ship to which this Part applies shall not proceed or attempt to proceed to sea from any port in Tanzania unless-

- (a) the ship has been surveyed in accordance with the Load Line Regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with Load Line Regulations;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required by the Load Line Regulations to be provided as mentioned in section 253(2)(h) is provided for the guidance of the master of the ship in the manner specified in the regulations.

(2) The provisions of subsection (1) shall not apply to a ship in respect of which a valid Convention Certificate is produced.

(3) Where any ship proceeds or attempts to proceed to sea in contravention of subsection (1) or (2) of this section, the owner or master of the ship each commits an offence and on conviction, shall be liable, to a fine of not less than the

equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

(4) A ship which in contravention of this section attempts to proceed to sea without being surveyed and marked as required under subsection (1)(a) and (b) may be detained until it has been so surveyed and marked.

(5) Where any non-Tanzanian ship not being a ship in respect of which a valid Convention Certificate is produced, does not comply with the conditions of assignment, it shall be deemed to be unsafe for purposes of Part XII.

Submersion of
Load Lines for
non-Tanzanian
ships

265.—(1) Where a non-Tanzanian ship to which this Part applies is within any port in Tanzania and is marked with load lines, such ship shall not be so loaded that—

- (a) where the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) The provisions of subsections (2), (3) and (5) of section 263 shall have effect for purposes of this section as if any references in those subsections to subsection (1)(a) and (b) of that section, were a reference to subsection (1), or to the corresponding provision of subsection (1) of this section, subject to subsection (3).

(3) A ship in respect of which section 263 applies shall not be detained, and no proceedings shall be instituted by virtue of subsection (2), unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of section 268.

(4) Where a valid Convention Certificate is produced in respect of a ship, then for the purpose of subsection (1), “load line” means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified

in the certificate, the “appropriate load line” means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) Where a valid Convention Certificate is not produced in respect of a ship, then, for purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the Load Line Regulations in accordance with section 253(2)(d), “the appropriate load line” means the load line which, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

Tanzanian Load
Line Certificates

266.—(1) Where a non-Tanzanian ship to which this Part applies has been surveyed and marked in accordance with the Load Line Regulations, then on the application of the owner of the ship, a Tanzanian Load Line Certificate shall be issued to him by the Registrar or by a person authorised for that purpose by the Registrar.

(2) Subject to the provisions of subsection (3) of this section, sections 258 and 259 shall have effect in relation to a certificate issued under subsection (1) as they have effect in relation to a certificate issued under section 257.

(3) Any certificate issued under subsection (1) in respect of a ship to which section 263 applies, shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Registrar if he has reason to believe that the ship is plying on international voyages.

Production of
certificate to
customs officer

267.—(1) Subject to any exemption conferred by or under this Part, before non-Tanzanian ship to which this Part applies proceeds to sea from any port in Tanzania, the master of the ship shall produce the appropriate certificate to the officer of customs from whom a clearance for the ship is demanded, and if the appropriate certificate is not produced, clearance shall not be granted, and the ship may be detained until the appropriate certificate is so produced.

- (2) For purposes of this section, the appropriate certificate-
 - (a) in the case of a ship to which section 263 applies, where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention Certificate;
 - (b) in the case of any ship, where a clearance for the ship is demanded in respect of any other voyage, is either a valid Convention Certificate or a Tanzanian Load Line Certificate for the time being in force in respect of the ship; and
 - (c) in any other case, is a Tanzania Load Line Certificate for the time being in force in respect of the ship.

Provisions as to
inspection

268.—(1) Subject to subsections (2), (3), (4) and (5) of this section, a surveyor may inspect any non-Tanzanian ship to which this Part applies while the ship is within any port in Tanzania.

(2) A surveyor may go on board any ship to which section 263 applies, while the ship is within any port in Tanzania, for the purpose of demanding production of any International Load Line Certificate or Tanzania Load Line Certificate for the time being in force in respect of the ship.

(3) Where on any demand made under subsection (2), a valid Convention Certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) shall be limited to ensuring that-

- (a) the ship is not loaded beyond the limits allowed by the certificate;
- (b) lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) material alterations have not taken place in the hull or superstructures of the ship which affect the position in which any of those line sought to be marked; and
- (d) the fittings and appliances for the protection of openings, the guardrails, the free ports and the means of access to the crew's quarters have been maintained on the ship in an effective condition as they were in when the certificate was issued.

(4) Where on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in subsection (3) (c) or (d), that the ship is manifestly unfit to proceed to sea without danger to human life, it shall be deemed to be unsafe for purposes of Part XII and shall be detained.

(5) Where a ship is detained under the provisions of subsection (4) and the Registrar is satisfied that the ship is fit to proceed to sea without danger to human life, he may order such ship to be released.

(d) Exemptions

Power to make exemption orders

269.—(1) Where in the opinion of the Minister, the sheltered nature and conditions of international voyages—

- (a) between near neighboring ports in Tanzania and in another Convention Country; or
- (b) between near neighboring ports in any two or more countries outside Tanzania,

make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Minister is satisfied that the government of the other country or, as the case may be, of each of the other countries concurs in that opinion, he may by order specifying those ports, direct that, ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the provisions of this Part.

(2) The Minister may by order direct that, any ship engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the provisions of this Part while not carrying cargo, or if the order so provides, shall be exempt from the provisions of this Part whether carrying cargo or not.

(3) An order under this section may be made subject to such conditions as the Minister thinks fit and, where any such order is made subject to conditions, the exemption conferred by that order shall not have effect in relation to a ship unless the ship complies with those conditions.

Further powers to
exempt ships

270.—(1) In this section, any reference to exempting a ship is a reference to exempting the ship either—

- (a) from all the provisions of this Part and of the Load Line Regulations; or
- (b) from such provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a Tanzanian ship to which this Part applies which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 metres in length, the Minister may exempt the ship if in his opinion, the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Part and of the Load Line Regulations, the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a Tanzanian ship to which this Part applies which is either—

- (a) a pre-1966 Convention ship of less than 150 gross tonnage or a post-1966 Convention ship of less than 24 metres in length; or
- (b) a ship not falling within paragraph (a) which does not ply on international voyages,

the Minister may exempt the ship.

(4) Without prejudice to the provisions of subsection (3), where a Tanzanian ship to which this Part applies which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 metres in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Minister, on the application by the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(5) An exemption conferred under this section may be conferred subject to such conditions as the Minister thinks

fit and where any such exemption is conferred subject to conditions, the exemption shall not have effect unless those conditions are complied with.

Issue of exemption certificates

271.—(1) Where the Minister exempts a ship under section 270, the Registrar shall issue the appropriate certificate to the owner of the ship.

(2) For purposes of this section, the appropriate certificate-

(a) where the exemption is conferred under section 270(2) or (4), is an “International Load Line Exemption Certificate”; and

(b) where the certificate is conferred under subsection (3) of section 270, is a “Tanzanian Load Line Exemption Certificate”.

(3) A certificate issued under this section shall be in such form and manner as may be prescribed by the Load Line Regulations.

Duration, endorsement and termination of certificates and exemptions

272.—(1) The Load Line Regulations shall make provision for determining the period during which any exemption conferred under section 269, or any certificate issued under section 271, shall remain in force, including-

(a) provision enabling the period for which any exemption on certificate originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and

(b) provision for terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to-

(a) periodical inspections of the ship, in accordance with the Load Line Regulations; and

(b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

International
Load Line
Exemption
Certificates

273.—(1) The Minister shall, in the Load Line Regulations, make such provisions which appear to be appropriate for ensuring that exemption certificates issued in accordance with the Load Lines Convention, in respect of ships to which section 263 applies, and are so issued by governments other than the Government of Tanzania, shall in such circumstances as may be prescribed by the regulations, have the like effect for purposes of this Part as if they were valid Convention Certificates.

(2) Certificates issued under subsection (1) shall be “International Load Line Exemption Certificates”.

(e) Subdivision Load Lines and Deck Cargo

Subdivision load
lines

274.—(1) Where in pursuance of safety regulations, a Tanzanian passenger ship to which this Part applies is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for purposes of section 254, then that section shall have effect as if that subdivision load line were the appropriate load line for purposes of that section.

(2) Where in pursuance of safety regulations, a non-Tanzanian passenger ship to which this Part applies is marked with subdivision load lines, and the lowest of those load lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 265, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

Deck cargo

275.—(1) The Minister shall make regulations in this section referred to as “the Deck Cargo Regulations” prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which this Part applies; and different requirements may be so prescribed in relation to different descriptions of ships, cargo, voyages or classes of voyages, different seasons of the year or any other different circumstances.

(2) Where the Load Line Regulations provide either generally or in particular cases or classes of cases for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then without prejudice to the generality of subsection (1), the Deck Cargo Regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any special requirements as provided for in subsection (2), the Minister shall have regard in particular to the provisions of Chapter IV of the Load Lines Convention.

(4) Where any provisions of the Deck Cargo Regulations are contravened-

- (a) in the case of a Tanzanian ship; or
- (b) in the case of any other ship while the ship is within any port in Tanzania,

the master of the ship subject to subsection (5), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding two years or to both.

(5) Where a person is charged with an offence under subsection (4), it shall be a defence to prove that the contravention was due to deviation or delay and that the deviation or delay was caused by stress of weather or other circumstances which neither the master or the owner of the ship nor the charterer, if any, could have prevented or forestalled.

(6) For purposes of securing compliance with the Deck Cargo Regulations, any person authorised for that purpose by the Registrar may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck.

276.-(1) Where any non-Tanzanian ship is detained, and proceedings are instituted against the master or owner of any such ship under this Part, notice shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being.

Notice to
consular officer
of proceedings
against foreign
ships

(2) A notice under this section shall specify the grounds on which the ship has been detained or the proceedings been instituted.

Surrender of certificates

277.—(1) The Registrar may require any certificate which can be issued under this Part, which has expired or been cancelled, to be surrendered to him as he directs.

(2) An owner or master of a ship who fails without reasonable excuse to comply with the requirement specified under subsection (1), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Penalty for false statements

278. A person who intentionally makes, assists in making or procures to be made, a false or fraudulent certificate which can be issued under this Part, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding two years or to both.

Admissibility of certificates in evidence

279. A certificate issued under this Part shall be admissible in evidence.

Convention countries

280. In this Part-

“Convention Country” means a Country or territory which is either-

- (a) a Country the Government of which has been declared under this paragraph to have accepted or acceded to the Load Lines Convention and has not been so declared to have denounced that Convention; or
- (b) a territory to which it has been so declared that the Load Lines Convention extends, not being a territory to which it has been so declared, that that Convention has ceased to extend; and

“Contracting Government” means any such Government referred to in paragraph (a) of the definition of “Convention Country”.

Orders, rules and regulations **281.** Any orders, rules or regulations made under this Part may contain such transitional or other incidental and supplementary provisions as may appear to the Minister, to be appropriate.

PART XI CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

(a) General

Application of Part XI **282.**—(1) Unless expressly provided otherwise, this Part applies to all ships to which the Safety Convention applies and to cargo ships of less than 500 gross tonnage.

(2) The provisions of this Part respecting carriage of dangerous goods in packaged form or in solid form in bulk do not apply to ships’ stores and equipment, including ships’ distress signals.

(3) The provisions of this Part and any regulations made under section 286 respecting dangerous goods, shall apply to all Tanzanian ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers at any place in Tanzania.

Interpretation **283.** In this Part, “grain” includes wheat, maize, corn, oats, rye, barely, rice pulses, seeds and processed forms thereof, whose behaviour is similar to that of grain in its natural state.

(b) Carriage of Grain and other Bulk Cargoes

Bulk cargo Regulations **284.** The Minister may make regulations relating to-
(a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safe Practice for Bulk Cargoes issued by the Organisation;

- (b) the safe carriage and stowage of grain in accordance with the Safety Convention.

Carriage of grain **285.**—(1) Where grain is loaded on board any Tanzanian ship, or is loaded within any port in Tanzania on board any ship, all necessary and reasonable precautions shall be taken, to prevent the grain from shifting, and if such precautions are not taken the owner or the master of the ship, or any agent of the owner who was charged with the loading, or with sending the ship to sea laden with the grain, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding five years or to both and, the ship shall be deemed for purposes of Part XII to be unsafe by reason of improper loading.

(2) Where any ship, having been loaded with grain outside Tanzania without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Tanzania so laden, the owner or master of the ship, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding five years or to both, and the ship shall be deemed for purposes of Part XII to be unsafe by reason of improper loading.

(3) An offence shall not be committed under subsection (2) if the ship has entered any such port for stress of weather or any other circumstance that neither the master of a ship nor the owner nor the charterer, if any, could have prevented or forestalled.

(4) For purposes of ensuring the observance of this section, a surveyor may go on board any Tanzanian ship, or any foreign ship which is in any port of Tanzania, and inspect any grain loaded in the ship and the manner in which it is stowed.

Delivery of notice and offence

286.—(1) On the arrival at a port in Tanzania from a port outside Tanzania of any ship carrying a cargo of grain, the master of a ship or his agent shall cause to be delivered to the Registrar, a notice stating—

- (a) the draught of water and freeboard of the ship after the loading of her cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried—
 - (i) the kind of grain and the quantity thereof, stated in cubic feet, quarters, bushels, or tons weight;
 - (ii) the mode in which the grain is stowed; and
 - (iii) the precautions taken to prevent the grain from shifting.

(2) The master of a ship who fails to deliver any notice required by subsection (1), or if in any such notice he makes any statement that he knows to be false in a material particular, or recklessly makes any statement that is false in a material particular, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve years or to both.

(c) Dangerous Goods

Repealed

287. [Repealed by Act No. 1 of 2008 s. 36.]

Carriage and marking of dangerous goods

288.—(1) A person shall not send by or carry in a Tanzanian ship, except in accordance with this Part and regulations made pursuant to section 284, any dangerous goods.

(2) A person shall not send by or carry in a Tanzanian ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the same in accordance with such regulations as the Minister may make and without first giving written notice of the nature of such goods and of the name and address of the sender to the master or owner of such ship.

Offences relating to dangerous goods

289.—(1) A person who, contravenes any of the provisions of this Part with respect to dangerous goods, commits an offence and on conviction, shall be liable to a fine of the equivalent in Tanzanian shillings of the United States dollars fifty thousand or to imprisonment of a term of not exceeding five years or to both.

(2) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods within a ship, that ship shall be deemed, for purposes of Part XII, to be unsafe by reason of improper loading and shall be detained.

Rejections and disposal of dangerous goods by ship

290.—(1) The master or owner of any ship may refuse to take on board any package or parcel that he suspects might contain any dangerous goods and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that in the opinion of the master or owner of the ship, are dangerous goods sent on board any ship without the marking or the written notice described in section 286, the master or owner of such ship may cause the goods, together with any package or container thereof, to be thrown overboard in accordance with the IMDG code and neither the master nor the owner of such ship shall be subject to civil or criminal liability in any court in respect of such action.

Forfeiture of dangerous goods

291.—(1) Where any dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this Part, the court may order the goods, and any packaging or container thereof, to be forfeited.

(2) The court may exercise the powers conferred by subsection (1) notwithstanding that—

- (a) the owner of the goods concerned has not committed any offence in respect of the goods, or he is not before the court, or has had no notice of the proceedings; and
- (b) there is no evidence to show to whom the goods belong, and the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

PART XII

UNSAFE SHIPS

Power to detain
unsafe ships

292.—(1) Where the Registrar has reason to believe that any ship, being in any port in Tanzania, is unsafe, or, is by reason of any of the matters mentioned in subsection (2) unfit to proceed to sea without serious danger to human life having regard to the nature of the service for which it is intended, such ship shall be liable to be detained.

(2) The matters referred to in subsection (1) include—

- (a) the unsuitability for its purpose of machinery or equipment of the ship or her part thereof;
- (b) undermining;
- (c) overloading or unsafe or improper loading; or
- (d) any other matter relevant to the safety of the ship,

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

Power to pay
compensation
and require
security for
compensation
Act No.
13 of 2019 s. 55

293.—(1) Subject to the provisions of subsection (2), where a ship is detained under the provisions of this Act or any regulations made under this Act, and the owner of the ship proves to the satisfaction of the Registrar that there was no reasonable cause for the detention of the ship, the Government may pay compensation to the owner of the ship for any loss or damage sustained by the owner by reason of such detention.

(2) In determining whether to pay compensation and the amount to be paid, the Government shall have regard to the provisions of any international agreement signed on behalf of the Government.

(3) Subject to the provisions of subsection (4), where complaints made to the Registrar that a Tanzanian ship is unsafe, or otherwise does not comply with the provisions of this Act or any regulations made under this Act, the Registrar

may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for any compensation which may become payable by the Government pursuant to subsection (1).

(4) The security referred to in subsection (3) shall not be required where the complaint is made by one fourth, being not less than three of the seafarers belonging to the ship and is not in the opinion of the Registrar frivolous or vexatious.

(5) Where a ship is detained, the complainant shall be liable to pay to the Government all such compensation as the Government may pay under subsection (1) in respect of the detention of the ship.

Owner and
master liable in
respect of unsafe
ship

294.—(1) Where a ship which-

- (a) is in a port in Tanzania; or
- (b) is a Tanzanian ship and is in any other port,

is unsafe, then, subject to subsections (4) and (5), the master and the owner of the ship each, commits of an offence.

(2) Where, at the time when a ship is unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed, whether wholly or in part by any person or persons other than the owner, and have been so assumed by that person or by each of those persons either-

- (a) directly, under the terms of a charter party or management agreement made with the owner; or
- (b) indirectly, under the terms of a series of charter parties or management agreements,

the reference to the owner in subsection (1), shall be construed as a reference to that other person or, as the case may be, to each of those other persons.

(3) A person who commits an offence under this section on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or imprisonment for a term not exceeding two years or to both.

(4) It shall be a defence in proceedings for an offence under this section to prove that, at the time of the alleged offence-

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea, it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge;
- (b) it was reasonable for such arrangements not to have been made;
- (c) under the terms of one or more charter parties or management agreements entered into by the accused, the matters relevant to the ship's safety or so much of those responsibilities mentioned in subsection (2), had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and
- (d) in all the circumstances of the case, the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period under which they had been assumed by some other person or persons as mentioned in paragraph (a).

(5) In determining whether the accused had taken reasonable steps and diligence to secure proper discharge of the relevant responsibilities, regard shall be taken in such matters as follows-

- (a) whether prior to the time of the alleged offence, the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
- (b) the extent to which the accused was or was not able, under the terms of any such charter party or management agreement as mentioned in subsection (4)(c)-
 - (i) to terminate it; or
 - (ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.

(6) In this section-

“management agreement”, in relation to a ship, means any agreement, other than a charter party, or a contract of employment, under which the ship is managed, either wholly or in part, by a person other than the owner, whether on behalf of the owner or on behalf of some other person; and “relevant responsibilities” shall be construed in accordance with subsection (4).

(7) References in this section to responsibilities being assumed by a person under the terms of a charter party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter party or management agreement providing for them to be assumed by some other person.

Use of unsafe lighters

295.-(1) A person who uses, or causes, or permits to be used in navigation any lighter, barge or like vessel while, due to-

- (a) the defective condition of its hull or equipment;
- (b) overloading or improper loading; or
- (c) under manning,

it is unsafe that human life is thereby endangered, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars twelve thousand or to imprisonment for a term not exceeding three years or to both.

(2) This section shall not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

Owner liable for unsafe operation of ship

296.-(1) It shall be the duty of the owners of a ship to which this section applies to take all reasonable steps to ensure that the ship is operated in a safe manner.

- (2) This section applies to-
 - (a) any Tanzanian ship; and

- (b) any ship which is registered under the law of, or flies the flag of any country other than Tanzania and is within Tanzanian waters while proceeding to or from a port in Tanzania,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) The owner of a ship to which this section applies who fails to discharge the duty imposed on him by subsection (1), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars fifteen thousand or imprisonment for a term not exceeding three years, or to both.

(4) Where any ship provided for under subsection (2) is chartered by demise, or is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 294, any reference to the owner of the ship in subsection (1) or (3), shall be construed as including a reference-

- (a) to the charterer under the charter by demise;
- (b) to any such manager under terms of management agreement; or
- (c) where the ship is both chartered and managed, to both the charterer and any such manager.

(5) The reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

PART XIII

LOCAL AND COASTAL VOYAGES

Exemption from requirement of Part XIII

297.-(1) The Minister may, exempt a particular ship or a particular class or descriptions of ships from any requirement of this Part which would apply in relation to the ship.

(2) An exemption under subsection (1) may be given in respect of-

- (a) particular period; or
- (b) one, or more than one voyage.

(3) This section shall apply in relation to a ship which under the regulations-

- (a) requires in respect of a local voyage-
 - (i) any local safety certificate; or
 - (ii) any local Load Line Certificate; or
- (b) requires a local certificate or registry to be in force when such ship engages in a local voyage.

Production of appropriate certificate in respect of local voyages

298.-(1) The Registrar may before a ship goes to sea on a local voyage direct the master of the ship to produce to him for inspection-

- (a) the Local Safety Certificate, the Local Load Line Certificate or appropriate exemption certificate required by the Regulations; or
- (b) the Certificate of Registration required by the regulations, authorising the use of the ship in the trade concerned,

and the Registrar may refuse to give clearance to the ship until the appropriate certificate is so produced.

(2) A master of a ship who refuses, or fails without reasonable cause, to comply with a direction given under subsection (1), commits an offence and the ship shall be detained until the appropriate certificates have been produced.

Engaging in local trading

299.-(1) Where a ship engages in local trading, and at any time when it does so there is not in force in relation to the ship-

- (a) the Local Safety Certificate, Local Load Line Certificate or appropriate exemption certificate required by the Regulations; or
- (b) the certificate of registration required by the regulations, authorising the use of the ship in the trade concerned,

the owner and master of the ship each commits an offence and on conviction, shall be liable to a fine of not less than the

equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both, and the ship shall be detained until certificates are produced.

(2) For purposes of this section, a ship is deemed to be engaged in local trading when the ship takes on board passengers or cargo at a port in Tanzania to be carried to or landed at another port in Tanzania or anywhere within the East African Trading Area.

Clearance of ships
for local voyages
and detention of
ships
Act No.
13 of 2019 s. 56

300.—(1) The Registrar may, issue directions with respect to the local procedures to be followed-

- (a) in relation to the clearance of ships before going to sea on a local voyage; and
- (b) for reporting the completion or the completion of any stage, of a local voyage by a ship.

(2) Where any directions issued under subsection (1) with respect to the clearance of a ship or respecting the completion, or the completion of any stage of a local voyage by a ship are not complied with, the owner and master of the ship each commits an offence.

(3) The Registrar may stop, search and detain any ship if he has reasonable cause to believe that an offence against section 298 is about to be or has been committed in relation to the ship.

(4) A person aggrieved by the detention of a ship under the powers conferred by subsection (3), may appeal to the Minister, who may in writing order the release of the ship or confirm its detention.

(5) Directions issued under subsection (1)-

- (a) may take different provision in relation to-
 - (i) different ships or classes or descriptions of ship; or
 - (ii) local voyages between different places;
- (b) may specify circumstances in which it shall be lawful to refuse to give clearance to any ship; and
- (c) shall not affect the exercise of the power under section 297.

Regulations
relating to
surveys and
inspections
Act No.
13 of 2019 s. 57

301.—(1) The Minister may, by regulations, make provisions for and in relation to, or confer powers on any named authority to make orders or give directions in relation to-

- (a) the manner of survey or inspection of ships;
- (b) the period or periods within which ships shall be surveyed or inspected;
- (c) the circumstance in which, at the request of the owner of a ship, a survey or inspection may be carried out;
- (d) the issue of certificates of registry and their cancellation; and
- (e) any matter of which provision may be made in regulations in relation to a ship registered under Part III.

(2) Regulations made under subsection (1) shall apply in relation to-

- (a) a ship registered under this Act;
- (b) a ship registered in a foreign country;
- (c) a pleasure vessel when used for hire, reward or any commercial purpose; and
- (d) a fishing vessel registered under the law in force requiring the registration of any such vessels.

PART XIV

INLAND WATER TRANSPORT

Application of Act
to inland water
transport

302.—(1) Pursuant to section 3(2) and (3), this Act shall apply to ships in inland waters of Tanzania.

(2) Unless otherwise provided, this Part shall not apply to Tanzanian ships in local and coastal voyages in relation to Part XIII.

(3) The provisions of this Part shall come into force on such date as the Minister may, by notice in the *Gazette*, appoint, and different dates may be appointed for different provisions of this Part.

Interpretation in
Part XIV

303. In this Part-

“inland waters” means Lake Victoria, Lake Tanganyika, Lake Nyasa, Lake Rukwa, Lake Manyara, Lake Jipe and any other navigable lake, river or causeway to which the Minister may, by notice published in the *Gazette*, declare.

Exemption from
Part XIV

304.-(1) The Minister may exempt a particular ship or a particular class or description of ships from any requirement of this Part which would apply in relation to the ship.

(2) An exemption made under subsection (1) may be given in respect of-

- (a) a particular period; or
- (b) one, or more than one, inland water voyage.

Regulations
relating to inland
waters
Act No.
13 of 2019 s. 58

305.-(1) The Minister may, by regulations, make provisions for and in relation to, or confer powers on any named authority to make orders or give directions in relation to-

- (a) the manner of survey or inspection of ships;
- (b) the period or periods within which ships shall be surveyed or inspected;
- (c) the circumstance in which, at the request of the owner of a ship, a survey or inspection may be carried out;
- (d) the issue of certificates of registration and their cancellation;
- (e) any matter of which provision may be made in regulations in relation to a ship registered under Part IV;
- (f) giving effect to treaty, agreement or convention; and
- (g) for the general operation of ships under this Part.

(2) Regulations made under subsection (1) shall apply in relation to-

- (a) a ship registered under this Act;
- (b) a ship registered in a foreign country;
- (c) a pleasure vessel when used for hire, reward or any commercial purpose-
 - (i) exclusively used for pleasure; and
 - (ii) not used for hire, reward or any commercial purpose; and

- (d) a fishing vessel registered under the law for the time being in force requiring the registration of any such vessels.

PART XV WRECKS AND SALVAGE

(a) Receiver of Wreck

General
superintendence
of Registrar
Act No.
13 of 2019 s. 59

306. The Registrar shall have the general superintendence of all matters relating to wreck and may, appoint any person to be a receiver of wreck in any district to perform the duties as such under this Part.

Fees and expenses
of receiver of
wrecks

307.—(1) The receiver of wrecks shall be reimbursed the expenses incurred by him in the performance of his duties at such fees as the Minister may, by regulations, establish.

(2) The receiver of wrecks shall, in addition to all other rights and remedies for the recovery of expenses and fees, have the same rights and remedies that a salvor has in respect of salvage, and may, if the property in respect of which any such expenses and fees are due is not under arrest in any court, seize or detain such property until the expenses and fees are paid, or security is given for them to his satisfaction.

Duties of receiver
of wrecks

308.—(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coast of Tanzania, the receiver shall upon being made acquainted with such stranding or distress, proceed to that place, and upon his arrival he shall take the command of all persons present and 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 persons belonging to the vessel, hereinafter referred to as shipwrecked persons, and of the cargo and apparel of the vessel.

(2) A person who disobeys the directions of the receiver of wrecks, commits an offence and on conviction, shall be liable to a fine of not exceeding the equivalent in Tanzanian shillings of the United States dollars three thousand or to imprisonment

for a term not exceeding twelve months or to both and the receiver of wrecks shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is asked to do so by the master.

Powers of receiver
of wrecks

309.—(1) The receiver of wrecks may, with a view to the preservation of the shipwrecked persons or of the vessel, cargo or wreck-

- (a) require such persons as he thinks necessary to assist him;
- (b) require the master of the ship or other person having the charge of any vessel to give such aid with his men or vessel in his power; or
- (c) demand the use of any machinery, vehicles or equipment that is obtainable.

(2) The receiver of wrecks may cause to be arrested and kept in custody, until he can be conveniently taken before a court, any person who plunders, creates disorder or obstructs the preservation of a vessel wrecked, stranded or in distress on or near the coast of Tanzania, and may use reasonable force for the suppression of plundering, disorder or obstruction, and may command all persons in the vicinity to assist him.

Passage over
adjoining lands

310.—(1) Where a vessel is stranded, wrecked or in distress any person 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 apparel of the vessel, pass and re pass, with or without vehicles and equipment, over any adjoining lands and deposit on those lands any cargo or other things recovered from the vessel without being subject to interruption by the owner or occupier unless there is some public road equally convenient and those persons shall not do any more damage than is reasonably necessary.

(2) A damage sustained by the owner or occupier in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of which the damage is occasioned, and the amount

payable in respect of the damage shall, in case of dispute, be determined, and in case of default of payment, be recoverable in the same manner as the amount of salvage is determined or recovered under this Part.

(3) The owner or occupier of any property who hinders or obstructs any person exercising the rights conferred by subsection (1), commits an offence and on conviction, shall be liable to a fine of less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Immunity of
receiver of wrecks

311. Where a receiver of wrecks or a person acting under his order is engaged in the execution of the duties imposed on the receiver of wrecks by this Part, and some other person resists the receiver of wrecks or the other person to perform his duties and the person resisting is killed, maimed or hurt by reason of his resistance, an action, suit or prosecution shall not be instituted against the receiver of wrecks or that other person by or on behalf of the person killed, maimed or hurt, unless the receiver of wrecks or the other person has used more force than was, in the circumstances, reasonably necessary.

Obstruction of
receiver of wrecks

312. Every person who impedes or obstructs a receiver of wrecks or a person acting under his orders in the execution of his duty, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding one year or to both.

(b) Dealing with Wreck

Duty to deliver
wreck to receiver
of wreck

313.—(1) Where any person takes possession of a wreck in Tanzania, he shall as soon as possible deliver the wreck to the receiver of wrecks, but the receiver may dispense with any delivery in the case of any wreck upon such condition he thinks fit.

(2) This section shall apply to a wreck found derelict at sea outside Tanzania and brought in Tanzania.

(3) A person who has taken possession of a wreck and fails without reasonable cause to comply with this section commits an offence and on conviction, shall be liable to a fine not exceeding double the value of the wreck and to forfeit any claim or right to salvage in relation to such wreck.

Concealment of wreck

314.—(1) Where a receiver of wrecks suspects or receives information that a wreck is secreted or in the possession of some person who is not its owner or that a wreck is otherwise improperly dealt with, he may apply to the court for a search warrant and that court shall have power to grant the warrant, and the receiver of wrecks, by virtue of the warrant, may enter any house or other place wherever situated and also any vessel and search for, seize and detain any wreck found therein.

(2) Where the seizure of a wreck is made in consequence of information given by a person to the receiver of wrecks, the informer shall be titled by way of salvage to such sum as the receiver of wrecks may allow under instructions from the Registrar.

Notice of wreck

315. Where a receiver of wrecks takes possession of a wreck and does not know who owns it, he shall within forty-eight hours cause to be posted in conspicuous place in the office of the receiver of wrecks or such a conspicuous place where the wreck was found or was seized by or delivered to him, a description of the wreck and of any mark by which it is distinguished, and shall transmit a similar description to the Registrar, who shall cause the same to be immediately published in a daily newspaper of wide circulation.

Owner may claim wreck within six months

316.—(1) Where a wreck is in the possession of the receiver of wrecks, and its owner establishes his claim to the wreck to the satisfaction of the receiver of wrecks within six months from the time the wreck came into the possession thereof, he shall, upon paying the customs duty and port dues, if any, salvage, fees and expenses due, be entitled to have the wreck or the proceeds of sale of the wreck delivered to him or his agent.

(2) Where any wreck is proved to the satisfaction of the receiver of wrecks to belong to a foreign owner, any consular officer in Tanzania of the country to which the owner of the wreck belongs shall, in the absence of the owner or his agent, be deemed to be the agent of the owner so far as relates to the custody and disposal of the wreck.

Power to sell
wreck

317. Where a wreck is in the possession of a receiver of wrecks, and it is in his opinion for the advantage of all parties to sell wreck, or the wreck consists of goods of a dangerous or perishable nature, he may immediately sell the wreck, and the proceeds of sale, after levying customs duty and port dues, if any, and defraying the expenses of the sale shall be held by him for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Power to sell
unclaimed wrecks

318. Where a wreck is in the possession of a receiver of wrecks and no owner establishes a claim to it within six months after it came into his possession, the receiver of wrecks may sell the wreck and pay the proceeds of sale to the Government after-

- (a) deducting from the proceeds the expenses of the sale, any customs duty and port dues payable and any other expenses incurred by him;
- (b) paying to the salvors out of the proceeds such amount of salvage as the Registrar may determine.

Discharge of
receiver of wrecks

319. Upon delivering a wreck to the owner or paying him the proceeds of sale in pursuance of this Part, the receiver of wrecks shall be discharged from all liability in respect thereof, but the delivery shall not prejudice or affect any question which may be raised by third parties concerning the wrecks.

(c) Removal of Wrecks

Removal of
wrecks in port

320.—(1) Where a vessel is sunk, stranded or abandoned in any port under the control of the Ports Authority or, in such manner as in the opinion of the Ports Authority to be, an obstruction or danger to navigation, the Ports Authority may-

- (a) take possession of and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy the vessel or part until it is raised, removed or destroyed; and
- (c) sell, in such manner as it thinks fit, the vessel or part thereof when so raised or removed, and any other property recovered in the exercise of his powers, and out of the proceeds of the sale, reimburse itself for the expenses incurred by it, and shall hold the surplus, if any, of the proceeds in deposit for paying to the person establishing his right to it:

Provided that, such deposit shall be forfeited unless such person makes his claim within one year of the sale.

(2) Notwithstanding subsection (1), where the expenses connected with the raising, removal or destruction of the vessel exceed the value of any property recovered, the excess shall be a debt due to the Ports Authority from the person who was the owner of the vessel at the time when the vessel was sunk, stranded or abandoned.

(3) Where a vessel is run aground or stranded in a port under the control of the Ports Authority, and it appears expedient to the Ports Authority to take charge of the operation of refloating the vessel, the Ports Authority may appoint an officer to direct the operation, and the officer so appointed shall be authorised to do all things which in his opinion are necessary to refloat the vessel, and the master of the ship and all persons present belonging to the ship shall obey the directions of the officer and render him such assistance as he may require.

321. Where a vessel is sunk, stranded or abandoned on the coast or on or near any rock, shoal or bank in Tanzania or any adjacent seas, the Registrar shall, if in his opinion the vessel is or is likely to become an obstruction or danger to navigation, have the same powers in relation to it as are by this Part conferred upon the Ports Authority.

(d) Salvage

Reasonable
salvage payments

322.—(1) Where—

- (a) services are rendered wholly or in part within waters of Tanzania in saving life and property from any aircraft or vessel or elsewhere; or
- (b) within the territorial waters any aircraft or vessel is wrecked, abandoned, stranded or in distress and services are rendered by any person in assisting the vessel or saving wreck,

the owner of the aircraft, vessel or wreck shall pay to the salvor a reasonable amount of salvage, including expenses properly incurred, to be, determined in case of dispute in the manner provided in sections 323, 324 and 325.

(2) Salvage in respect of the preservation of life shall be payable in priority to all other claims for salvage.

Disputes as to
salvage

323. Disputes as to salvage shall be heard and determined by and before the receiver of wrecks or the court in accordance with the provisions of this Part.

Where receiver
may determine
amount of salvage

324. The receiver shall determine the amount of salvage—

- (a) in any case where the parties to the dispute consent;
- (b) in any case where the value of the property salvaged does not exceed the equivalent in Tanzanian shillings of the United States dollars five thousand; or
- (c) in any case where the amount claimed does not exceed the equivalent in Tanzanian shillings of the United States dollars two thousand five hundred.

Costs

325. Where in any proceedings for salvage in the court the claimant recovers an amount less than the maximum amount that might be claimed before the receiver of wrecks, then unless the court certifies that the proceedings were unfit to be determined by the receiver of ships, the claimant shall have no costs, charges or expenses incurred by him in the prosecution of his claim, and shall pay to the other parties such costs, charges and expenses, if any, as the court directs.

Valuation of property

326. Where any dispute as to salvage arises, the receiver of wrecks or the court shall, on the application of either party, appoint a valuer to value such property and shall give copies of the valuation to both parties.

Receiver may seize and detain property liable for salvage

327.—(1) A receiver of wrecks may seize property alleged to be liable for salvage and detain it until either the salvage, fees and costs due are ascertained and paid, or process is issued for the arrest or detention of the property by the court, or security is given to his satisfaction for the salvage, fees and costs.

(2) A receiver of wrecks may release any detained property if security is given to his satisfaction or, where the claim for salvage exceeds equivalent in Tanzanian shillings of the United States dollars two thousand five hundred and where any question is raised as to the sufficiency of the security, to the satisfaction of the court.

(3) Security given for salvage in pursuance of this section may be enforced by the court in the same manner as if bail had been given in the court.

Receiver may sell detained property

328.—(1) The receiver of wrecks may sell any detained property, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, and—

- (a) the amount is not disputed and payment of the amount due is not made within twenty days after the amount is due;
- (b) the amount is disputed but no appeal lies from the court and payment is not made within twenty days after the decision of the court; or
- (c) the amount is disputed and an appeal lies from the decision of the court to some other court, and within two months of the decision of the court of first instance, no payment of the sum due is made or stay of execution has been ordered by the court or appellate court.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of expenses, fees and salvage, and the remainder shall be paid to the owners of the property or any other persons entitled to receive the proceeds.

Voluntary
agreement to pay
salvage

329.—(1) Where services are rendered for which salvage is claimed and the salvor voluntarily agrees to abandon his lien upon the vessel and the cargo and property alleged to be salvaged, then, upon the master of the ship or owner, whether principal or agent—

- (a) entering into a written agreement attested by two witnesses to abide by the decision of the court or of any court of competent jurisdiction whether within or outside the country; and
- (b) giving security in that behalf to an amount agreed upon by the parties to the agreement, that allotment shall bind the vessel, cargo and property and the respective owners of the cargo and property and the owners for the time being thereof for the salvage which may be adjudged to be payable to the extent of the security given.

(2) Where security has been given for the performance of an agreement made under this section, the person with whom the security is lodged shall deal with it as the court adjudicating upon the agreement directs.

(3) Where an agreement which corresponds to an agreement made under this section is made under the corresponding provisions of the law in force in another country, and that agreement provides that the parties thereto will abide by the decision of a court of competent jurisdiction in Tanzania, the court shall have power to adjudicate upon and enforce that agreement.

(4) The High Court shall have power to enforce and shall assist any a court of competent jurisdiction in another country in enforcing an agreement made under this section or under the corresponding provisions of the law in another country.

Limitation of
time for salvage
proceedings

330. An action shall not be instituted in respect of any salvage services unless proceedings are commenced within one year from the date when the salvage services were rendered:

Provided that, the High Court where a reasonable cause is established may extend that period, to such extent and on such conditions as it thinks fit.

PART XVI

CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS

Power of
Minister to make
regulations
respecting
passenger ships

331.—(1) The Minister may make regulations—

- (a) respecting accommodation, facilities and provisions on board passenger ships which carry passengers from a port in Tanzania;
- (b) requiring the preparation and furnishing of particulars as to all passengers to or from a port in Tanzania;
- (c) regulating the number of passengers which a ship may carry from a port in Tanzania whether or not the ship is a passenger ship; and
- (d) prescribing the terms and conditions upon which ships may carry passengers between ports in Tanzania.

(2) In making regulations pursuant to subsection (1), the Minister shall have due regard to the International Convention on the Carriage of Passengers and their Luggage on Board Ships, 1974.

(3) The Minister may waive or vary the regulations referred to in subsection (1) in respect of their application to licensed Tanzanian passenger ships operating solely within Tanzanian waters.

Offences in
connection with
passenger ships

332.—(1) A person who, while on board or attempting to board a passenger ship in the Republic of Tanzania—

- (a) being drunk and disorderly, has been on that account refused admission by the owner or any person in his employment, and after having the amount of his fare, if he has paid it, returned or tendered to him, persists in attempting to enter the ship;

- (b) being drunk or disorderly, is requested by the owner or any person in his employment to leave the ship before she sails to sea 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) after warning by the master or other officer thereof molests or continues to molest any passenger;
- (d) after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full and having had the amount of his fare, if he has paid it, returned or tendered to him nevertheless persists in attempting to enter the ship;
- (e) having gone on board the ship at any place and been requested on account of the ship being full by the owner or any person in his employment to leave the ship before it has quitted 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;
- (f) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof;
- (g) having paid his fare for a certain distance, knowing and willfully proceeds in the ship beyond that distance without first paying the additional fare for the additional distance and with intent to avoid payment thereof;
- (h) on arriving in a ship at a point to which he has paid his fare, knowingly and wilfully refuses or neglects to quit the ship;
- (i) fails when requested by the master of the ship or other officer thereof either to pay his fare or exhibit such tickets or other receipts, if any, showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or
- (j) wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship or to obstruct, impede

or molest the crew or any of them in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship, commits an offence against this Act.

(2) A person commits an offence, on board any ship to which this section applies if he intentionally does or causes to be done anything in such a manner as to-

- (a) obstruct or damage any part of the machinery or equipment of the ship; or
- (b) 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 ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) whose name and address are unknown to the master of the ship or officer, and deliver that person to a police officer.

(4) A person who commits an offence against subsection (1) or (2) on conviction, shall be liable, to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one hundred or to imprisonment for a term not exceeding six months or to both.

(5) Where any person commits an offence against subsection (1) or (2) and on the request of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one hundred or to imprisonment for a term not exceeding six months or to both.

(6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or a Passenger Certificate, issued under or recognised by this Act.

Power to
exclude drunken
passenger from
certain passenger
ships

333. The master of any passenger ship may refuse to receive on board 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.

Stowaways

334. A person who, without the consent of the master of the ship or of any other person authorised to give such consent goes to sea or attempts to go to sea in a Tanzanian ship, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment for a term not exceeding six months or to both.

Jurisdiction of
court

335. Section 336 shall not be construed to limit the jurisdiction of a court in Tanzania to deal with an offence under this section which has been committed in a country outside Tanzania by a person who is not a Tanzanian citizen.

Unauthorised
presence on
board

336. Where a Tanzanian ship or a ship registered in any other country is in a port in Tanzania and a person who is neither in the service of the Government of Tanzania nor authorised by law to do so—

(a) goes on board the ship without the consent of the master of the ship or of any other persons authorised to give such consent; or

(b) remains on board the ship after being requested to leave by the master, a police officer, an officer authorised by the Registrar or an officer of customs and excise,

that person commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five hundred or to imprisonment to a term not exceeding one year or to both.

Master's power
of arrest

337. The master of any Tanzanian ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Unauthorised
person

338. Where a person goes to sea in a ship without the consent of the master of the ship or of any other person authorised to give such consent or is conveyed in a ship in pursuance of section 112, the provisions of sections 172 and 173 shall apply as if he were a seafarer employed in the ship.

Passengers
returns to be
made by master

339.—(1) The master of every ship, whether or not a Tanzanian ship, which carries any passenger to a place in Tanzania from any place out of Tanzania, or from any place in Tanzania to any place out of Tanzania, shall furnish to such person and in such manner as the Registrar directs, a return giving the total number of any passengers so carried, distinguishing, if so directed by the Registrar, the total number of any class of passengers so carried, and giving Registrar, such particulars with respect to passengers as may be for the time being required by the Registrar.

(2) A passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) Where—

(a) the master of a ship fails to make a return as required by this section, or makes a false return; or

(b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master, or as the case may be, the passenger, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars three thousand or imprisonment for a term not exceeding twelve months for failure or refusal or as the case may be for providing a false return or false information.

Returns of births
and deaths in
ships

340.—(1) The Minister may make regulations under this section in relation to births and deaths.

(2) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

PART XVII
MARITIME SECURITY
PIRACY UNDER THE UNITED
NATIONS CONVENTION ON
THE LAW OF THE SEA 1982

Offences Against the Safety of Ships

Piracy
 Act No.
 11 of 2010 s. 14

341.—(1) In this Part-

“piracy” means-

- (a) any act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed-
 - (i) against another ship or aircraft, or against persons or property on board such ship or aircraft; or
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
- (c) any act of inciting or of intentionally facilitating an act described in paragraph (a) or (b);

“pirate ship or aircraft” means a ship or aircraft under the dominant control of persons who-

- (a) intend to use such ship or aircraft for piracy; or
- (b) have used such ship or aircraft for piracy, so long as it remains under the control of those persons; and

“private ship” and “private aircraft” means a ship or aircraft that is not owned by the Government or held by a person on behalf of, or for the benefit of, the Government.

(2) Piracy committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft is assimilated to piracy committed by a private ship or aircraft.

(3) A person who does any of the acts referred to under subsection (1) commits an offence of piracy and on conviction, shall be liable to imprisonment for life.

(4) This part applies to aircraft only when they are on the high seas, that is to say, in those parts of the sea, to which Part VII of the United Nations Convention on the Law of the Sea 1982 is applicable in accordance with Article 101 of that Convention.

Hijacking and
destruction of
ships

342.—(1) Subject to subsection (5), a person who unlawfully and intentionally, by the use of force or by threats of any kind, seizes a ship or exercises control of it, commits an offence of hijacking a ship.

(2) Subject to subsection (5), a person commits an offence if he unlawfully and intentionally-

- (a) destroys a ship;
- (b) damages a ship or its cargo so as to endanger or to be likely to endanger the safe navigation of the ship;
- (c) does on board a ship an act of violence which is likely to endanger the safe navigation of the ship; or
- (d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation.

(3) Paragraph (d) of subsection (2) shall not be construed so as to limit the circumstances in which the commission of any act-

- (a) may constitute an offence under paragraphs (a), (b) or (c) of subsection (2); or
- (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting, or being part in, the commission of an offence under paragraphs (a), (b) or (c) of subsection (1);

(4) Subject to subsection (5), subsections (1) and (2) shall apply-

- (a) in respect of the ship referred to in those subsections whether is in Tanzania or elsewhere;
- (b) whether any such act as is mentioned in those subsections is committed in Tanzania or elsewhere; and
- (c) whatever the nationality of the person committing the act.

(5) The provisions of subsections (1) and (2) shall not apply in relation to any warship or any other ship used as a naval auxiliary or in customs or police service, or any act committed in relation to such a warship or such other ship unless-

- (a) the person seizing or exercising control of the ship under subsection (1), or committing the act under subsection (2), as the case may be, is a Tanzanian citizen;
- (b) the act is committed in Tanzania; or
- (c) the ship is used in the customs service of Tanzania or in the service of the police force in Tanzania.

(6) A person who contravenes the provisions of this section commits an offence and on conviction shall be liable to imprisonment for life.

(7) In this section-
“act of violence” means-

- (a) any act done in Tanzania which constitutes the offence of murder, attempted murder, manslaughter, or assault; or
- (b) any act done outside Tanzania which, if done in Tanzania, would constitute such an offence as is mentioned in paragraph (a); and

“unlawfully” means-

- (a) in relation to the commission of an act in Tanzania, the omission of an act which constitutes an offence under the law of Tanzania; and
- (b) in relation to the commission of an act outside Tanzania, the commission of the act that would have been an offence under the law of Tanzania if it had been committed in Tanzania.

(8) The Minister may make regulations to provide for ships and port security.

(9) In making regulations under subsection (8), the Minister shall have regard to the provisions of International Convention for the Safety of Life and Sea, 1974.

Offences involving endangering safe navigation, threats and ancillary offences

343.—(1) Subject to subsection (8), it shall be an offence for any person unlawfully or intentionally-

- (a) to destroy or damage any property to which this subsection applies; or
- (b) to interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safe navigation of any ship.

(2) The provisions of subsection (1) shall apply to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and any apparatus or equipment so used, whether it is on board a ship or elsewhere.

(3) Subject to subsection (8), it shall be an offence for any person intentionally to communicate information that endangers the safe navigation of any ship.

(4) It shall be a defence for a person charged with an offence under subsection (3) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that the information communicated was in good faith in performance of those duties.

(5) A person commits an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence by virtue of section 342(2)(a), (b) or (c); and
- (b) the making of that threat is likely to endanger the safe navigation of the ship.

(6) Subject to subsection (8), a person commits an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of subsection (1); and
- (b) the making of that threat is likely to endanger the safe navigation of any ship.

(7) Except as provided for by subsection (8), the provisions of subsections (1), (3), (5) and (6) shall apply in respect of any such act as is mentioned in those subsections whether is committed in Tanzania or elsewhere and whatever the nationality of the person committing the act.

(8) For purposes of subsections (1), (3) and (6)(b), any danger or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service shall be disregarded unless-

- (a) the person committing the act is a Tanzanian citizen; or
- (b) the act is committed in Tanzania.

Master's power of delivery

344.-(1) This section shall have effect for purposes of any proceedings before the court.

(2) Where the master of a ship, wherever that ship may be, and whatever the State, if any, in which it may be registered, has reasonable grounds to believe that any person on board the ship has-

- (a) committed any offence under section 341 or 342;
- (b) attempted to commit such an offence under section 341 or 342; or
- (c) aided, abetted, counselled, procured or incited, or been at and part in, the commission of such an offence,

in any ship other than a warship or other ship used as a naval auxiliary or in customs or police service, he may deliver that person to an appropriate officer in Tanzania or any other Convention country.

(3) Where the master of a ship intends to deliver any person in Tanzania or any other Convention country in accordance with subsection (2), he shall notify an appropriate officer in that country-

(a) of his intention to deliver that person to an appropriate officer in that country; and

(b) of his reasons for intending to do so.

(4) Notification under subsection (3) shall be given-

(a) before the ship in question has entered the territorial sea of the country concerned; or

(b) where in the circumstances it is not reasonably practicable to comply with paragraph (a), as soon as practicable after the ship has entered that territorial sea.

(5) Where the master of a ship delivers any person to an appropriate officer in any country under subsection (2) he shall-

(a) make to an appropriate officer in that country such oral or written statements relating to the alleged offence as that officer may reasonably require; and

(b) deliver to an appropriate officer in that country such other evidence relating to the alleged offence which is in the master's possession.

(6) The master of a ship who fails to notify the appropriate officer of his intention to deliver any person in Tanzania or any other Convention country, commits an offence.

(7) It shall be a defence for a master of a ship charged with an offence under section 245 of failing to comply with subsection (3) to show that he believed on reasonable grounds that the giving of the notification required by subsection (3) above would endanger the safety of the ship and, except where the country concerned is Tanzania, that either-

(a) notified some other competent authority in the country concerned within the time required by subsection (4); or

(b) he believed on reasonable grounds that the giving of notification to any competent authority in that country would endanger the safety of the ship.

- (8) In this section-
 “appropriate officer” means-
- (a) in relation to Tanzania, a police officer or immigration officer; and
 - (b) in relation to any other Convention country, an officer having functions corresponding to the functions, in Tanzania, either of a police officer or of an immigration officer; and

“Convention country” means a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which was signed at Rome on 10th March, 1988, is for the time being in force; and the Minister may by order certify that, any country specified in the order is a Convention country and any such order shall be conclusive evidence that the country in question is a Convention country, or where a country being a party to the Convention has not issued a certificate from the Minister shall be conclusive evidence that the country in question is for the time being a Convention country.

PART XVIII

LIMITATION AND DIVISION OF LIABILITY

Interpretation

345. For purposes of this Part-

“ship” includes every description of lighter, barge or like vessel, however propelled and any structure launched and intended for use in navigation as a ship or as a part of a ship;

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

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

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

“salvage operation” includes the operations referred to in section 347 (1)(d) and (f); and

“unit of account” means the special drawing right as defined in section 2 of Article XXI of the Articles of Agreement of the International Monetary Fund.

Persons entitled to limit liability

346.—(1) Ship owners and salvors may limit their liabilities in accordance with this Part.

(2) An insurer of liability for claims shall subject to limitation under this Part be entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default, the ship owner or salvor is responsible, may limit his liability under this Part.

Claims subject to limitation

347.—(1) Subject to the provisions of sections 348 and 349, the following claims shall be subject to limitation of liability regardless of the basis of liability, namely—

- (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basis 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 there from;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship; and

- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Part, and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise.

(3) The claims referred to in paragraphs (d), (e) and (f) of subsection (1) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

Liability
against ships
and invoking
limitation not
admission of
liability

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

Claims excepted
from limitation

349. Limitation of liability under this part shall not apply to the following claims:

- (a) claims for salvage or contribution in general average;
- (b) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the contract of service between the shipowner or salvor and such servants; or
- (c) claims in respect of air-cushioned vehicles and floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof:

Provided that, the shipowner or salvor shall not be entitled to limit his liability in respect of such claims, or if he is under such contract only permitted to limit his liability to an amount greater than that provided for in section 359.

Conduct barring limitation **350.** A person who is liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Counter claims **351.** Where a person entitled to limitation of liability under this Part has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

Limit of liability on calculation **352.** The limits of liability for claims other than those provided for in section 353, arising on any distinct occasion, shall be calculated as follows-

- (a) in respect of claims for loss of life or personal injury-
 - (i) 333,000 units of account for a ship with a tonnage not exceeding 500 tons;
 - (ii) for a ship with a tonnage in excess, thereof, the following amounts in addition to that mentioned in subparagraph (i)-
 - (aa) for each ton from 501 to 3,000 tons, 500 units of account;
 - (bb) for each ton from 3,001 tons, to 30,000 tons, 333 units of account;
 - (cc) for each ton from 30,001 to 70,000 tons, 250 units of account; and
 - (dd) for each ton in excess of 70,000 tons, 167 units of account
- (b) in respect of any other claims-
 - (i) 167,000 units of account for a ship with a tonnage not exceeding 500 tons;
 - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in subparagraph (i)-
 - (aa) for each ton from 501 to 30,000 tons, 167 units of account;

- (bb) for each ton from 30,001 to 70,000 tons, 125 units of account; and
- (cc) for each ton in excess of 70,000 tons, 83 units of account.

Priorities

353.—(1) Where the amount calculated in accordance with paragraph (a) of section 352 is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph (b) of section 352 shall be available for payment of the unpaid balance of claims under paragraph (a) of section 352 and such unpaid balance shall rank rateably with claims mentioned under paragraph (b) of that section.

(2) Without prejudice to the right of claims for loss of life or personal injury referred to in paragraph (a) of section 352, claims referred to in section 355 shall have priority over the claims referred to in paragraph (h) of section 332.

(3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

Measurement of ship's tonnage

354. For purposes of this Part, a ship's tonnage shall be her gross tonnage as defined in the Tonnage Regulations, and shall be measured in accordance with such regulations.

Limitation of liability of port authorities, owners of docks

355.—(1) Where, the owners of a dock or canal or any harbour or port authority are liable for any loss or damage caused to any vessel or vessels or to any goods, merchandise or other things whatsoever on board any vessel or vessels, such owners shall not be liable to damage beyond any aggregate amount equivalent to 70 units of account for each ton of the tonnage of the largest Tanzanian ship that, at the time of such loss or damage occurring, is or within a period of five previous years has been within the area over which such dock or canal owner or port or harbour authority performs any duty or exercises any power.

(2) For purposes of this section, a ship shall not be deemed to have been within the area over which a port or harbour authority performs any duty or exercises any power by reason only that it has been built or fitted out within such area or that it has taken shelter within or passed through such area on a voyage between two places both situated outside that area or that it has loaded or unloaded cargo or passengers within that area.

(3) The limitation of liability under this section shall relate to the whole of any loss and damage which may arise upon one distinct occasion, although such loss or damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any enactment and notwithstanding anything contained in any such enactment.

(4) For purposes of this section, the expression “owner of a dock or canal” includes any person or authority having the control and management of any dock or canal and any ship repairer using the same.

(5) This section shall not impose any liability in respect of any loss or damage on any owners or authority in any case where no such liability would have existed if this Act had not been enacted.

Limit for
passenger claims

356.—(1) The limit of liability of a ship owner in respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, shall be an amount of 46,666 units of account multiplied by the number of passengers which the ship is authorised to carry according to the ship’s certificate, but not exceeding 25 million units of account.

(2) For purposes of this section “claims for loss of life or personal injury to passengers of a ship” shall mean any such claims brought by or on behalf of any person carried in that ship—

(a) under a contract of passenger carriage; or

- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

Conversion of unit of account to Tanzanian funds

357. The amounts referred to in sections 352 and 356 shall be converted into Tanzanian Shillings according to the value of the Tanzanian Shillings on the date the security or guarantee referred to in section 359 shall have been deposited.

Aggregation of claims

358.—(1) The limits of liability determined in accordance with section 352 shall apply to the aggregate of all claims which arises on any distinct occasion against-

- (a) the ship owner and any person for whose act, neglect or default he may be responsible;
- (b) the ship owner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he is or they are responsible; or
- (c) the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he is or they are responsible.

(2) The limits of liability determined in accordance with section 356 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the ship owner in respect of the ship referred to in that section and any person for whose act, neglect or default he may be responsible.

Provision of security and release of ship

359.—(1) A person alleged to be liable and seeking to limit his liability under this Part shall deposit into the court an amount at least equivalent to the limit provided for in section 352 or 356 as appropriate, in the form of a security or guarantee, together with interest thereon from the date of the occurrence giving

rise to the liability until the date such security or guarantee is deposited, and the amounts so deposited shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(2) A security or guarantee deposited by one of the persons mentioned in subsection (1) of this section, or his insurer, shall be deemed to have been deposited by all persons mentioned in subsection (1) or (2) of section 358 respectively.

Distribution of
fund

360.—(1) Subject to sections 352, 353, and 356, the proceeds of any security or guarantee deposited with the court shall be distributed among the claimants in proportion to their established claims.

(2) The court may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to the exclusion of any claimants who do not come in within a certain time and as to payment of costs, as the court thinks just.

(3) Lien or other right in respect of any ship or property shall not affect the proportions in which any amount is distributed amongst several claimants.

(4) All sums paid for or on account of any loss or damage in respect where of the liability of owners is limited under the provisions of this Part and all costs incurred in relation thereto may be brought into account among owners of the same ship in the same manner as money disbursed for the use thereof.

(5) Where, before the proceeds of the security or guarantee are distributed, the person liable, or his insurer, has settled the claim, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) In making any distribution under this section, the court may if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims subrogated or otherwise that may be established later.

Bar to other
actions

361.—(1) Where a security or guarantee has been deposited with the High Court in accordance with section 359, any person having made a claim against such security or guarantee shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the security or guarantee has been deposited.

(2) Where a ship or other property is seized or arrested in connection with a claim which appears to the court to be founded on liability to which limitation is applicable under this Part, and in respect of which a security or guarantee is deposited, the court shall order the release of the ship or property if the security or guarantee has been deposited in Tanzania or—

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo, but where the release is ordered the person on whose application it is ordered shall be deemed to have been submitted to the jurisdiction of the court to adjudicate on the claim.

(3) The provisions of subsections (2) and (3) shall apply if the claimant brings a claim before the court and the security or guarantee deposited with the court is actually available and freely transferable in respect of that claim.

Rules as to
division of loss

362.—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault.

(2) Where, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally to each vessel in fault.

(3) This section shall not-

- (a) operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and
- (b) affect the liability of any person under a contract of carriage or any other contract; or
- (c) 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.

Damage for
personal injury

363.—(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.

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

Definition of
freight

364. For purposes of sections 365 and 366 “freight” includes passage money and hire, and references to damage or loss caused by the fault of a ship shall be considered as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

Right of
contribution

365.—(1) Where loss of life or personal injury is suffered by any person on board a vessel owing to the fault of that vessel, and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was at fault, such owners may recover by way of contribution the amount of the

excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively at fault; but no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not, for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefore.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution shall, for the purpose of recovering the contribution, have, the same rights and powers as the persons entitled to sue for damages in the first instance.

Limitation of actions

366.—(1) Subject to the provisions of this section, an action shall not be maintainable to enforce any claim or lien against a ship or her owners in respect of any damage or loss to another ship, her cargo or freight, or any property on board, or in respect of any damages or loss of life or personal injury suffered by any person on board that other ship, caused by the fault of the former ship, whether such other ship was wholly or partly in fault, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused.

(2) An action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injury unless proceedings therein are commenced within one year from the date of payment.

(3) The court of competent jurisdiction may extend any period to such extent on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of arresting the defendant ship within the jurisdiction of the court or within the territorial seas of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

PART XIX

PREVENTION OF POLLUTION

Application **367.**—(1) The provisions of this Part shall come into effect on such date as the Minister may, by notice in the official *Gazette*, appoint, and different dates may be appointed for different provisions of this Part.

(2) This Part shall apply to—

- (a) tankers of one hundred and fifty tons gross or more;
- (b) other ships of four hundred tons gross or more, and;
- (c) offshore installations.

Interpretation of Part XIX **368.**—(1) In this Part, unless the context otherwise requires—
“discharge” in relation to oil or oily mixtures, means any discharge escape or leak howsoever caused;

“mile” means a nautical mile of 1,852 metres;

“oil” means:

- (a) crude oil;
- (b) fuel oil;
- (c) marine diesel oil conforming to such specifications as may be prescribed; and
- (d) lubricating oil;

“oily mixture” means a mixture containing not less than a hundred parts of oil in a million parts of the mixture;

“oil reception facilities” in relation to a port, means facilities for enabling vessels using the port to discharge or deposit oil residue;

“prohibited zone” means any such sea area as may be specified in the rules or regulations made under section 376 to be a prohibited zone for purposes of the Act;

“ship” means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and

“tanker” means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not for the time being, carrying a cargo other than oil in that part of its cargo space.

Discharge of oil **369.**—(1) Oil or oily mixture shall not be discharged from a Tanzanian tanker or other ship within any of the prohibited zones or from a foreign tanker or other ship within the prohibited zone adjoining the territories of Tanzania.

(2) The discharge of oil or oily mixture from a Tanzanian ship, other than a tanker or from a foreign ship other than a tanker while such ship is proceeding to any place or port in Tanzania, shall, during the period of three years immediately following the commencement of this subsection, be made as far as practicable from land:

Provided that, this subsection shall not apply to a ship which is proceeding to a port where oil reception facilities are not available.

(3) An oil or oily mixture shall not be discharged anywhere at sea from a Tanzanian ship, being a ship of twenty thousand tons gross tonnage or more for which the building contract was entered into after the coming into force of this subsection:

Provided that, this subsection shall not apply in any case where by reason of special circumstances, it is impracticable to retain the oil or oily mixture in the ship and the master of the ship reports, as soon as may be practicable after such discharge, the fact in the prescribed form and manner to the Registrar.

Allowable
discharge

370. Section 369 shall not apply to-

- (a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo or saving life at sea;
- (b) the escape of oil or oily mixture resulting from a damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimising the escape;
- (c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil when such discharge is made as far from land as is practicable; or

- (d) the discharge from the bilges of a ship of oily mixture during the period of twelve months following the date on which this section comes into force and after the expiration of such period of oily mixture containing no oil other than lubricating oil which has drained or leaked from the machinery spaces in the ship.

Equipment to be fitted

371. For purposes of preventing or reducing discharges of oil and oily mixtures into the sea, the Minister may make rules requiring Tanzanian ships to be fitted with such equipment and to comply with other such requirements including requirement for preventing the escape of fuel, oil or oily mixture into bilges as may be prescribed.

Oil record book

372.—(1) Every Tanzanian tanker and every other Tanzanian ship which uses oil as fuel shall maintain on board the tanker or such other ship an oil record book.

(2) The form and manner in which the oil record book 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 shall be as may be prescribed having regard to the provisions of this Part.

Inspections

373.—(1) A surveyor or any person appointed in this behalf may, at any reasonable time, go on board a ship to which any of the provisions of this Part apply for 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 escape of oil or oily mixture from the ship;
- (c) ascertaining the circumstances relating to an alleged discharge of oil or oily mixture from a ship in contravention of the provisions of this Part; and
- (d) inspecting the oil record book.

(2) The surveyor or any such person appointed in this behalf may, if necessary make without unduly delaying the ship, a true copy of any entry in the oil record book of the ship and may require the master of the ship, to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

Contravention by
foreign ships

374.—(1) Where, on report from a surveyor or other person authorised to inspect a vessel under section 373, the Minister is satisfied that any provision of this Part has been contravened by a foreign ship being a ship to which the provisions of the Convention apply, he shall transmit particulars of the alleged contravention to the government of the country to which the ship belongs.

(2) On receipt of information from any government that a Tanzanian ship has contravened any provision of this part, the Minister shall investigate the matter, and if satisfied that any provision of this Part has been contravened, take appropriate action against the owner or master and intimate.

Oil reception
facilities
Act No.
13 of 2019 s. 48

375.—(1) Notwithstanding anything contained in any other law relating to any port in Tanzania, the powers of the Port Authority shall include the power to provide oil reception facilities.

(2) The Port Authority providing oil reception facilities or a person providing such facilities by arrangement with the Port Authority may make charges for the use of such facilities at such rates and may impose such conditions in respect of the use thereof as may be approved by notice in the *Gazette* by the Minister.

(3) Where the Registrar is satisfied that there are no oil reception facilities at any port in Tanzania, or that the facilities available at such ports are not adequate for enabling ships calling at such port to comply with the requirements of this Part, may, after consultation with a person in charge of such

port authority, direct by order in writing to provide or arrange for the provision of such oil reception facilities as may be specified in the order.

(4) The Minister may, by notice in the *Gazette*, specify the ports in Tanzania having oil reception facilities in accordance with the requirements of this Part.

Minister to make regulations for prevention of marine pollution

376.—(1) The Minister may, having regard to the provisions of this Part, make regulations to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the provisions of subsection (1), such regulations may—

- (a) prescribe the specifications of marine diesel oil for purposes of section 368;
- (b) specify the areas which shall be deemed to be prohibited zones for the purposes of this Part;
- (c) prescribe the form and manner in which the oil record book shall be maintained, the nature of the entries to be made therein, the time and circumstances in which entries shall be made, the custody and disposal thereof and all other matters relating thereto;
- (d) prescribe the manner in which investigation may be made by the Minister for the purpose of section 374(2); and
- (e) provide for the prevention of marine pollution by oil hazardous waste, noxious liquid, sewage, toxic waste, garbage and other substances and the protection of the marine environment.

Pollution at sea

377.—(1) Where any oil or oily mixture is discharged from—

- (a) a ship into a harbour or into the sea within 100 nautical miles from the coast of Tanzania; or
- (b) a Tanzanian ship into the sea within 100 nautical miles of any land,

the owner or master of the ship commit an offence and on conviction, shall be liable to a fine of not less than the

equivalent in Tanzanian shillings of the United States dollars fifty thousand or to imprisonment for a term not exceeding five years or to both.

(2) A person laying information or giving evidence leading to the conviction of the master or owner of a ship for an offence under this section may, at the discretion of the court trying the case be awarded a portion not exceeding one-half of the fine imposed.

(3) Where a person is liable to a fine mentioned in subsection (1), he shall also be liable to any expense that has been incurred or will be incurred in removing pollution or making good any damage attributable to the pollution.

Liability for oil
pollution

378.—(1) Where, as a result of any act or omission oil is discharged or escapes from a ship, except as otherwise provided by this Part, the owner of a ship shall be liable-

- (a) for any damage caused to any person, property, environment, ecosystem, or marine within the United Republic by reason of contamination resulting from discharge or escape;
- (b) for the cost of any measures reasonably taken for the purpose of preventing or minimising any damage so caused within the United Republic; and
- (c) for any damage caused within the United Republic by any measures taken for purposes preventing or minimising the damage.

(2) Where, as a result of an act referred to under subsection (1), there arises a grave damage or imminent threat of damage caused or likely to be caused outside the ship by reason of contamination that has or might result if there were a discharge or escape of oil from the ship, except as otherwise provided by this part, the owner of the ship shall be liable-

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any damage within the United Republic by any measures taken; or
- (b) for any damage caused within the United Republic by any measures taken.

(3) Subject to subsection (4), this section shall apply to any ship constructed or adapted for carriage of oil bulk as cargo.

(4) Where any ship constructed or adapted for carriage of oil bulk as cargo besides oil, this section shall only apply to any such ship-

- (a) while it is carrying oil bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil.

(5) Where a person incurs any liability pursuant to subsection (1) or (2), the owner of a ship shall equally be liable for any damage or cost for which he would be liable under subsection (1) or (2) if the territory of any other country referred to in the International Convention on Civil Liability for Oil Pollution Damage 1992.

(6) Where-

- (a) an act occurs as a result of which a liability is incurred under this section by the owner of each of two or more ships; and
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

then each of the owners would be liable for the damage or cost for which the owners would jointly be liable under this section.

(7) For purposes of this Part-

- (a) liability for the discharge or escape of oil from a ship wherever it occurs shall be incurred irrespective of whether or not the ship is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from series of occurrences having the same origin, then such act shall be treated as one, but any measures taken after the first occurrence shall be deemed to have been taken after the discharge or escape; and

- (c) where a relevant threat of contamination results from series of occurrences having the same origin, such act shall be treated as a single occurrence.

Exemptions from liability

379. Liability shall not be incurred by the owner of a ship under section 378 by reason of any discharge or escape of oil from a ship or imminent threat of contamination, if the owner proves that the discharge, escape, or threat of contamination-

- (a) resulted from an act of war, hostility, insurrection or an act of God; or
 (b) occurred as a result of an act done or omitted to be done by a person, not being a servant or agent of the owner, with intent to do damage to the ship.

International Oil Pollution Compensation Fund

380.-(1) Where, in the event of failure to obtain adequate compensation for damage caused to any person, property, environment, ecosystem or marine within the United Republic by reason that-

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused-
 (i) resulted from an exceptional inevitable and irresistible phenomenon; or
 (ii) was due wholly to anything done or omitted to be done or omitted by another person other than a servant;
 (b) because the owner of guarantor liable for the damage cannot meet his obligations in full; or
 (c) because the damage exceeds the liability under section 378 as limited by section 379,

then the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (hereinafter referred to as the Fund Convention) shall be liable to pay adequate compensation in relation to any of such damage.

(2) Where proceedings for compensation for pollution damage have been brought in a country which is not a party to the Fund Convention and the Fund Convention is adjudicated to be liable for that pollution damage by virtue of this section, references to the Fund Convention shall be treated as references to the corresponding provisions of the country in which those proceedings were brought.

(3) For the purpose of this section, an owner or guarantor shall be treated as incapable of meeting his obligations if such obligations have not been met after all reasonable steps to pursue the legal remedies available have not been taken.

(4) Expenses reasonably incurred and sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage for the purpose of this section and the owner shall be in the same position with respect to claims against the Fund Convention as if the owner has a claim in respect of liability under the Fund Convention.

(5) The Fund Convention shall incur no obligation under this section if-

- (a) it proves that the pollution damage-
 - (i) resulted from an act of war, hostility, civil war, or in surrection; or
 - (ii) was caused by oil which has been discharged or escaped from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service;
- (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him or involving two or more ships one of which is identified by the claimant.

(6) Where the Fund Convention proves that the pollution damage resulted wholly or partly-

- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person, the Fund Convention may be exonerated wholly or partly from obligations to pay compensation to that person.

(7) Where liability in respect of the pollution damage is limited to any extent by subsection (6), the Fund Convention shall, subject to subsection (8) be exonerated to the same extent.

(8) Subsections (6) and (7) shall not apply where the pollution damage consists of the costs prevention measures or any damage caused by measures.

Minister may designate arrangements

381. The Minister may, designate arrangements in Tanzania for effective fulfillment of the objectives and functions of this Part.

PART XX

ENFORCEMENT OFFICERS AND POWERS

(a) Enforcement Officers

Appointment of surveyors and inspectors

382.—(1) The Minister shall appoint the surveyors of ships in connection with surveys of ships and other matters incidental thereto as he thinks fit and remove any person so appointed.

(2) A surveyor of ships may be appointed as a ship surveyor, or small ship surveyor or as an engineer surveyor in any or all of these categories.

(3) Surveyors of ships may be appointed either generally or for any particular case or purpose.

(4) The Registrar may, if he thinks fit, appoint a surveyor or any other person as an inspector-

(a) to report to him-

(i) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;

(ii) whether any requirements, restrictions or prohibitions imposed by or under this Act have been complied with or, contravened; and

(iii) whether the hull and machinery of a ship are sufficient and in good condition;

(b) for purposes of sections 387, 388, 391 and 392.

(5) In this Act “surveyor of ships” means a surveyor appointed under subsections (1) and (2), and the reference to requirements, restrictions or prohibitions under this Act, includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act.

(b) Inspection etc., Powers

Powers to require production of ship's document

383.—(1) The powers conferred by this section, are conferred in relation to all ships in Tanzanian waters and are available to any of the following officers, namely—

- (a) a surveyor of ships;
- (b) any Tanzanian consular officer; and
- (c) the Registrar,

whenever the officer has reason to suspect that this Act or any law relating to merchant seafarers or navigation is not complied with.

(2) Subject to the provisions of subsection (1), the powers of surveyor of ships, Tanzanian consular officer or Registrar include—

- (a) to require the owner, master or any of the crew to produce any official log books or other documents relating to the crew or any member of the crew in their possession or control;
- (b) to require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log books or other such documents;
- (c) to muster the crew; and
- (d) to require the master to appear and give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

(3) A person, who after being required by an officer under this section to produce a log book or any document, fails without reasonable excuse to produce the log book or document, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

(4) A person, on being duly required by any officer under this section-

- (a) to produce a log book or document, refuses to allow the log book or document to be inspected or copied;
- (b) to muster the crew, impedes the muster; or
- (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer,

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Power to inspect ships and their equipment

384.-(1) For purposes of ensuring that the provisions of this Act and of regulations made under this Act or, that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, a surveyor of ships may at any reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act, or regulations made under this Act.

(2) The powers conferred by subsection (1) shall, if the ship is a Tanzanian ship, also be exercisable outside Tanzania and may be so exercised by a proper officer as well as the surveyor of ships.

(3) A person exercising powers under this section shall not without good cause detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) Where surveyor of ships has reasonable grounds for believing that there are on any premises, provisions of waters intended for supply to a Tanzanian ship which, if provided on the ship, would not be in accordance with regulations containing requirements as to provisions of water on ships, he may enter the premises and inspect the provisions of water for the purpose of ascertaining whether they would be in accordance with the regulations.

(5) A person, who obstructs an officer referred to in section 380 in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (3), commits an offence and on conviction, shall be liable, to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

Powers of inspectors in relation to premises and ships

385.—(1) The powers conferred by this section are conferred in relation to-

- (a) any premises in Tanzania; or
- (b) any Tanzanian ship wherever it may be and any other ship which is present in Tanzania or in Tanzanian waters, and are available to any inspector appointed under section 382(4), for purposes of performing his functions.

(2) An inspector who is referred under subsection (1) may-

- (a) at any time in a situation which in his opinion is or may be dangerous, enter any premises, or board any ship, if he has reason to believe that it is necessary for him to do so;
- (b) on entering any premises or on boarding a ship by virtue of paragraph (a), take with him any other person authorised for the purpose by the Registrar, and any equipment or materials he requires;
- (c) make such examination and investigation as he considers necessary;

- (d) give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part thereof be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for purposes of any examination or investigation under paragraph (c);
- (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c);
- (f) take samples or any articles or substances formed in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
- (g) in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary;
- (h) in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely-
 - (i) to examine it and do to it anything which he has power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed; and
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;
- (i) require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c)-
 - (i) to attend at a place and time specified by the inspector;

- (ii) to answer, in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed, such questions as the inspector thinks fit to ask; and
- (iii) to sign a declaration of the truth of his answers;
- (j) require the production of, and inspect and take copies of any entry in-
 - (i) any books or documents which by virtue of any provision of this Act are required to be kept; and
 - (ii) any other books or documents which he considers it necessary for him to see for purposes of any examination or investigation under paragraph (c); and
- (k) require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities, as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.

(3) It is hereby declared that, the preceding provisions of this section shall not authorise a person to prevent a ship from proceeding on a voyage.

(4) The Minister may by regulations, make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(f) and (7) and provision as to the way in which samples that have been so taken are to be dealt with.

(5) Where an inspector proposes to exercise the power conferred by subsection (2)(g) in respect of an article or substance found in any premises or ship, he shall, if so requested by a person who, at the time is present in, and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done

in the presence of that person unless the inspector considers that if being done in that person's presence would be prejudicial to the safety of that person.

(6) Before exercising the power conferred by subsection (2) (g), an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(7) Where an inspector takes possession of any article or substance found in any premises or ship, under subsection (2) (h), he shall leave either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(8) An answer given by a person in pursuance of a requirement imposed under subsection (2)(i) shall not be admissible in evidence against that person or the husband or wife of that person in any proceedings except in proceedings in pursuance of subsection (1)(c) of section 383 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in subsection (2)(i) shall be entitled, on the occasion on which the questions are asked, to make representations to the inspector on behalf of the person who nominated him.

386.—(1) A person who—

- (a) intentionally obstructs an inspector in the exercise of any power conferred to him under section 385;
- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 385 or prevents another person from complying with such a requirement; or

Provisions
supplementary to
section 385

- (c) makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 385,

commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both.

(2) Section 385 shall not be taken to compel the production by any person of a document which he would on grounds of legal professional privilege, be entitled to withhold production on an order for discovery in an action in the court.

(3) A person who complies with a requirement imposed on him in pursuance of paragraph (i), (j) or (k) of subsection (2) of section 385, shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as may be prescribed.

(4) Payments under subsection (3) shall be made out of money provided out of the treasury.

(c) Improvement Notices and Prohibition Notices

Improvement
notices

387.—(1) Where an inspector appointed under section 382(4) is of the opinion that a person—

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more statutory provisions in circumstances that make it likely that the contravention will continue or be repeated,

he may serve on that person a notice referred to in this Part as an “improvement notice”.

(2) An improvement notice shall—

- (a) state the opinion of the inspector, specify the provision or provisions contravened and give particulars and reasons why he is of that opinion; and

(b) require the person to whom the notice is served to remedy the contravention in question or, as the case may be, the matters occasioning it within such period as may be specified in the notice.

(3) The period specified in pursuance of subsection (2)(b) shall not expire before the end of the period within which a notice can be given under section 388 requiring questions relating to the improvement notice to be referred to arbitration.

(4) In this and the following sections of this Part, “the relevant statutory provisions” means-

- (a) the provisions of Parts VII to XII and XIX of this Act; and
- (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

Prohibition
notices

388.-(1) Where, as regards to any relevant activities which are being or are likely to be carried on board any ship by or under the control of any person, an inspector is of the opinion that, as so carried on or as likely to be carried on, the activities involved or will involve the risk of serious personal injury to any person, whether on board the ship or not, the inspector may serve on the first-mentioned person a notice under this Part referred to as a “prohibition notice”.

(2) Subject to subsection (1), “relevant activities”, means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.

(3) A prohibition notice shall-

- (a) state that the inspector is of the opinion that the activity will involve risk of serious personal injury to any person;
- (b) specify the matters which in his opinion give or, will give rise to the risk;
- (c) where in his opinion any of those matters involve or, will involve a contravention of any of the relevant statutory provisions, state that he is of that opinion,

specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and

- (d) direct-
 - (i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, or
 - (ii) that the ship shall not go to sea, unless the matters specified in the notice in pursuance of paragraph (b), and any associated contravention of any provision so specified in pursuance of paragraph (c), have been remedied.
- (4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) shall take effect-
- (a) at the end of a period specified in the notice; or
 - (b) where the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.

Provisions supplementary to sections 387 and 388

389.-(1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates, and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served-

- (a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 387(2)(b) or, as the case may be, section 387; and

- (b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 388.

References
of notices to
arbitration

390.—(1) Any question as to whether-

- (a) any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 387(2)(a) or 388(3)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion; or
- (b) directions included in the notice in pursuance of section 389(1) were reasonable, shall, if the person on whom the notice was served so requires,

by a notice given to the inspector within twenty-one days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(2) Where a notice given by a person in accordance with subsection (1), relates to an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person.

(3) Where a notice given by a person in accordance with subsection (1) relates to a prohibition notice, the giving of the notice shall have the effect of suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs, and then only from the giving of the direction.

(4) Where, on a reference under this section, the arbitrator decides in respect of any reason, matter or direction to which the reference relates, that in all the circumstances-

- (a) the reason or matter did not constitute a valid basis for the inspector's opinion; or

(b) the direction was unreasonable, he shall either cancel the notice or affirm it with such modifications as he may think fit, and in any other case, the arbitrator shall affirm the notice in its original form.

(5) A person shall not be qualified for appointment as an arbitrator under this section unless he is-

- (a) a person holding an unrestricted certificate of competency as a master, mariner or as a chief engineer officer, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person with at least ten years practicing as an advocate at law; or
- (d) a person with special experience of shipping matters, or of activities carried on in ports.

Compensation
in connection
with invalid
prohibition
notices

391.-(1) Where in a reference made under section 390 relating to a prohibition notice-

- (a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector's opinion; and
- (b) it appears to the arbitrator that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may, subject to subsection (2), award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the service of the notice as the arbitrator thinks fit.

(2) An arbitrator shall not award any compensation under subsection (1) in the case of any prohibition notice unless-

- (a) it appears to him that the direction given in pursuance of section 388(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or
- (b) it appears to him that-
 - (i) the inspector was of the opinion that there would be such a risk of injury as is referred to in the notice if the ship went to sea; and

- (ii) the effect of the direction given in pursuance of section 388(3)(d) was to prohibit the departure of the ship unless the matters, or, as the case may be, the matters and contraventions referred to in the direction were remedied.

(3) A compensation awarded under this section shall be payable out of the Treasury.

Offences relating to improvement and prohibition notices

392.—(1) A person, who contravenes any requirement imposed by an improvement notice, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(2) A person, who contravenes any prohibition imposed by a prohibition notice, commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand, or to imprisonment for a term not exceeding six months or to both.

(3) It shall be a defence for a person charged with an offence under this section to prove that he exercised all due diligence to avoid a contravention of the requirement of prohibition in question.

(4) In this section, any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 388.

PART XXI INQUIRIES AND INVESTIGATIONS INTO MARINE CASUALTIES

Investigation of shipping casualties
Act No.
13 of 2019 s. 60

393.—(1) Where any of the following casualties occur, that is to say—

- (a) The loss or presumed loss, stranding, grounding, abandonment or damage to ship;

(b) a loss of life or serious injury to any person, caused by fire on board, or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or

(c) any damage caused by a ship,

and, at the time it occurs, the ship was a Tanzanian ship or the ship or ship's boat was in Tanzanian waters, the Registrar shall cause a marine safety investigation into the casualty to be held by a person appointed by the Registrar, and that person shall have the powers conferred on an inspector under section 383.

(2) Where a marine safety investigation into the casualty has been held under subsection (1), the Minister may cause a formal investigation to be held by a Board appointed for that purpose.

(3) For purposes of this section "marine safety investigation" includes the collection of and analysis of evidence, the identification of causal factors and the making of safety recommendation into a marine casualty or marine incident conducted with the objective of preventing marine casualties and marine incidents.

Formal
investigation
Act No.
13 of 2019 s. 60

394.-(1) A Board holding a formal investigation into a shipping casualty under section 393 shall consist of a Judge of the High Court or a Principal Resident Magistrate or an advocate of at least ten years experience who shall be assisted by one or more assessors appointed by the Minister; such assessors being persons with requisite skills and knowledge in maritime matters.

(2) Where in any investigation, any question as to the cancellation or suspension of the certificate issued to an officer in pursuance of any regulations made under section 162(2) is likely to arise, there shall be not less than two assessors.

(3) Where as a result of the investigation the Board is satisfied, with respect to any officer, or any of the matters mentioned in paragraphs (a),(b) and (c) of section 175(1) and, if in a matter mentioned in paragraph (a) or (b) of that section,

is further satisfied that it caused or contributed to the accident, the Registrar may cancel or suspend any certificate issued to the officer under regulations made pursuant to section 162(2) or censure him; and where the Registrar cancels or suspends the certificate, the officer shall deliver the certificate to the Board or Registrar.

(4) An officer who fails to deliver a certificate as required under subsection (3), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

(5) Where a certificate has been cancelled or suspended under this section, the Minister may, if of the opinion that the justice of the case requires it, re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(6) The Board may make such awards as it thinks just with regard to the costs or, as the case may be, expenses of the investigation, and with regard to the parties by whom those costs or expenses are to be paid and any such award of the Board may, on the application of any party named in it, be enforced by an order of the court.

(7) The provisions of subsections (2), (3) and (4) shall apply to endorsements of certificates in the same manner as they apply to certificates.

(8) The Board shall make a report on the investigation to the Minister.

Re-hearings and
appeals

395.-(1) Where a formal investigation has been held under section 394, and-

- (a) new and important evidence which could not have been reasonably produced at the inquiry or investigation has been discovered; or

- (b) it appears to the Minister that there are substantial grounds for suspecting that a miscarriage of justice may have occurred,

the Minister may order the whole or part of the case to be reheard.

(2) An order under subsection (1) shall provide for the rehearing to be made by the Board which held the investigation or by the High Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 394 and 396 shall apply in relation to a rehearing of an investigation by a Board as it applies in relation to the holding of an investigation.

(4) Where the Board holding the investigation has decided to cancel or suspend the certificate of any person issued pursuant to any regulations made under section 162(2), or has found any person at fault, then if no application for an order under subsection (1) has been made, or if such application has been refused, that person or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision or finding, may appeal to the court.

Rules relating to
inquireies and
investigations

396.—(1) The Minister may, make rules for the conduct of inquiries under section 393, for formal investigations under section 394, and for the conduct of any rehearing under section 395 which is not held by the High Court.

(2) Without prejudice to the generality of subsection (1), rules made under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected and rehearing by the Board.

Inquireies into
and reports
on deaths and
injuries

397.—(1) Subject to the provisions of subsection (6), where-

- (a) any person dies in a Tanzanian ship or in a boat or life-raft from such a ship; or
- (b) the master of, or a seafarer employed in, such a ship dies in a country outside Tanzania, an inquiry into the cause of the death shall be held by the Registrar or

a proper officer at the next port where the ship calls after the death, or at such other place as the Minister may direct.

(2) Subject to the provisions of subsection (6), where it appears to the Minister that-

- (a) in consequence of an injury sustained or a disease contracted by a person when he was the master of, or a seafarer employed in a Tanzanian ship, he ceased to be employed in the ship and subsequently died; and
- (b) the death occurred in a country outside Tanzania during the period of one year beginning with the day on which he so ceased,

the Minister may arrange for an inquiry into the cause of the death to be held by the Registrar or a proper officer.

(3) Subject to subsection (6), where it appears to the Minister that a person may-

- (a) have died in a Tanzanian ship or in a boat or life-raft from a ship; or
- (b) have been lost from a ship, boat or life-raft and have died in consequence of being so lost,

the Minister may arrange for inquiry, to be held by the Registrar or proper officer.

(4) The Registrar or proper officer holding the inquiry shall, for the purpose of the inquiry, have the powers conferred on an Inspector by section 385.

(5) The person holding the inquiry shall make a report of his findings to the Minister who shall thereafter make the report available-

- (a) where the person to whom the report relates was employed in the ship and a person requesting it was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the persons so named; and
- (b) in any case, to any person requesting it who appears to the Minister to be interested.

(6) An inquiry shall not be held under this section where a coroner's inquest is to be held.

Transmission
of particulars of
certain deaths on
ships

398. Where an inquest is held into a death, or a post mortem examination is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary, it shall be the duty of the coroner to send to the Registrar, particulars in respect of the deceased of a kind prescribed by regulations made by the Minister.

PART XXII LEGAL PROCEEDINGS

(a) Prosecution of Offences

Offences by
officers of bodies
corporate

399.—(1) Where a body corporate commits an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a Director-General, Manager or other similar officer of the body corporate, or any person who was purporting to act in such a capacity, he as well as the body corporate commits offence and shall be liable to be proceeded against and punished accordingly.

(2) Any document required or authorised by virtue of any statutory provision, to be served on a foreign company for purposes of the institution of, or in connection with, proceedings for an offence under this Act alleged to have been committed by the company as the owner of a ship, shall be treated as duly served on that company if the document is served on the master of the ship; and any person authorised to serve any document for purposes of the institution of, or in connection with proceedings for an offence under this Act, whether or not in pursuance of the foregoing provisions of this subsection, shall, for that purpose, have the right to go on board the ship in question.

Cap. 212 (3) Subject to the provisions of subsection (2), “foreign company” has the same meaning as in the Companies Act.

Persons who may prosecute **400.** Prosecutions in respect of offences under this Act may, without prejudice to the provisions of any other enactment relating to prosecutions, be conducted by any officer appointed under this Act and authorised in writing in that behalf by the Director of Public Prosecutions as requested by the Registrar.

Prosecution of offences and penalties **401.**—(1) A person who commits an offence under this Act, for which no specific penalty is provided, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(2) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance thereof else where than in this section, every person who commits that offence, shall, in addition to any other liability, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand for every day or part thereof during which the offence continues after conviction.

Compound of offences
Act No.
13 of 2019 s. 62 **402.**—(1) The Corporation may compound any offence under this Act which is prescribed to be an offence compoundable by the Corporation on payment by the person who committed such offence of a sum of money not exceeding the equivalent in Tanzanian shillings of the United States dollars two thousand five hundred.

(2) On the payment of any sum of money under subsection (1)-

- (a) the person who committed the offence in respect of which the payment has been made shall, if in custody, be discharged;
- (b) any ship detained in respect of such offence shall be released; and

- (c) no further proceedings shall be taken against such person or ship in respect of such offence.

Relief from prosecution

403. An action shall not lie against the Government or any public officer or other person appointed or authorised to perform any function under this Act in respect of anything done or omitted to be done by him *bona fide* in the exercise or performance of any power, authority or duty conferred or imposed on him under this Act.

(b) *Jurisdiction*

Jurisdiction in relation to offences

404.—(1) For the purpose of conferring jurisdiction in relation to offences-

- (a) any offence under this Act shall be deemed to have been committed in any place in Tanzania where the offender may be for the time being; and
- (b) any matter of complaint under this Act shall be deemed to have arisen in any place in Tanzania where the person complained against may be for the time being.

(2) The jurisdiction under subsection (1), shall be in addition to, and not in derogation of any jurisdiction or power of the court under any other enactment.

Jurisdiction over ships lying off coasts

405. Where the area within which the court has jurisdiction is situated on the coast of the sea or abuts on or projects into any bay, channel, or other navigable water, the court shall have jurisdiction as respects offences under this Act over any vessel being on, lying or passing off that coast or being in or near that bay, channel, or navigable water and over all persons on board that vessel or for the time being belonging to it.

Jurisdiction in case of offences done on board ship

406. Where any person is charged with having committed any offence under this Act, the person-

- (a) where he is a Tanzanian citizen and is charged with having committed it-
 - (i) on board any Tanzanian ship on the high seas;
 - (ii) in any foreign port or harbour; or
 - (iii) on board any foreign ship to which he does not belong; or
- (b) where he is not a Tanzanian citizen and is charged with having committed the offence on board any Tanzanian ship on the high seas,

and he is found within the jurisdiction of the court in Tanzania which would have had jurisdiction in relation to the offence if it had been committed on board a Tanzanian ship within the limits of its ordinary jurisdiction to try the offence, the court shall have jurisdiction to try the offence as if it had been so committed.

Offences
committed
by Tanzania
seafarers

407.—(1) Any act in relation to property or person done in or at any place, ashore or afloat, outside Tanzania by any master or seafarer who at the time when the offence is committed is employed in a Tanzanian ship, which, if done in any part of Tanzania would be an offence under the law of Tanzania, shall-

- (a) be an offence under that law; and
- (b) be treated for purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the court or the Resident Magistrates' Court.

(2) The provisions of subsection (1), also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

Return of
offenders

408.—(1) The powers conferred on a Tanzanian consular officer by the provisions of subsection (2), are exercisable in the event of any complaint being made to him-

- (a) that any offence against property or persons has been committed at any place, ashore or afloat, outside Tanzania by any master or seafarer who at the time when the offence was committed, or within three

months before that time, was employed in a Tanzanian ship; or

- (b) that any offence on the high seas has been committed by any master or seafarer belonging to any Tanzanian ship.

(2) Subject to the provisions of subsection (1), the powers conferred on a Tanzanian consular officer are-

- (a) to inquire into the case upon oath; and
(b) where the case so requires, to take any steps in his power for the purpose of placing the offender under the necessary restraint and sending him by a Tanzanian ship as soon as practicable in safe custody to Tanzania for proceedings to be taken against him.

(3) The Tanzanian consular officer may, subject to the provisions of subsections (4) and (5), order the master of any Tanzanian ship bound for Tanzania to receive and carry the offender and the witnesses to Tanzania, and the officer shall endorse upon the agreement of the ship such particulars with respect to them as the Registrar requires.

(4) A consular officer shall not exercise the power conferred by subsection (3), unless no more convenient means of transport is available or it is available only at disproportionate expense.

(5) A master of a ship shall not be required under subsection (3), to receive more than one offender for every 100 tons of his ship's gross tonnage, or more than one witness for every 50 tons of his ship's gross tonnage.

(6) The master of any ship to whose charge an offender has been committed under subsection (3), shall, on his ship's arrival in Tanzania give the offender into the custody of a police officer.

(7) A master of a ship, who after being required under subsection (3), to receive and carry any offender or witness in his ship-

- (a) fails to receive and carry any offender or witness; or
- (b) in the case of an offender, fails to deliver him as required by subsection (6), commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both.

(8) The expense of imprisoning any such offender and of carrying him and witnesses to Tanzania otherwise than in the ship to which they respectively belong, shall be paid out of money provided in the Treasury.

(9) References in this section of carrying a person in a ship include affording him subsistence during the voyage.

(c) Detention of Ship and Distress on Ship

Enforcing
detention of ship

409.—(1) Where under this Act a ship is to be detained, any of the following officers may issue an order for detention and detain the ship—

- (a) the Registrar;
- (b) any surveyor of ships authorised by the Registrar for the purpose;
- (c) any proper officer; and
- (d) any person authorised in writing by the Registrar.

(2) Where a ship which has been detained, or in respect of which notice of detention or an order for detention has been served on the master, proceeds to sea before it is released by a competent authority, the master of the ship commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars fifty thousand or to imprisonment for a term not exceeding five years or to both.

(3) The owner of a ship, and any person who sends to sea a ship, in respect of which an offence is committed under subsection (2) or is a party or privy to the offence, commits an offence under that subsection and shall be liable accordingly.

(4) Where a ship proceeding to sea in contravention of subsection (2), takes to sea, any officer authorised by subsection (1), to detain the ship, who is on board the ship in the execution of his duty, the owner and master of the ship shall each-

- (a) be liable to pay all expenses of, and incidental to, the officer being so taken to sea; and
- (b) be guilty of an offence.

(5) A person who commits an offence under subsection (4), on conviction shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars seventy five thousand or to imprisonment for a term not exceeding five years or to both.

(6) Where under this Act, a ship is to be detained, an officer of customs shall refuse to clear the ship outwards or grant a transire to the ship.

(7) When any provision of this Act provides that a ship may be detained until any document is produced to the officer of customs, the officer able to grant a clearance or transire of the ship is, unless the context otherwise requires, that officer.

(8) A reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea and references to sending or taking to sea shall be construed accordingly.

(9) A person exercising the power of detention in respect of an alleged contravention of this Act shall immediately release the ship if-

- (a) no proceedings for the offence in question are instituted within seven days beginning with the day of which the ship is detained;
- (b) such proceedings, having been instituted through exercise of the power conferred by subsection (1) within that period, are concluded without the master of a ship or owner being convicted;
- (c) either-

- (i) the sum of the equivalent in Tanzanian shillings of the United States dollars one hundred and fifty thousand is paid to the Minister by way of security; or
 - (ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than the equivalent in Tanzanian shillings of the United States dollars fifty thousand is given to the Minister by or on behalf of the master or owner;
 - (d) the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid; or
 - (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by such a court or tribunal is posted.
- (10) The Minister shall repay any sum paid in pursuance of subsection (9)(c) or release any security so given-
- (a) where no proceedings for the offence in question are instituted within seven days beginning with the day on which the sum is paid; or
 - (b) if such proceedings, having been instituted within that period, are concluded without the master of a ship or owner being convicted.
- (11) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (9)(c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows-
- (a) first, in payment of any costs or expenses ordered by the court to be paid by the master or owner of the ship; and
 - (b) next in payment of any fine imposed by the court, and the balance shall be repaid to the person paying the sum, or giving the security.

Sums ordered to be paid leviable by distress on ship

410.—(1) Where the Magistrate's Court makes an order directing payment of any seafarer's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the Magistrate's Court which made the order may direct the amount remaining unpaid to be levied by distress.

(2) Where a fine imposed by a Magistrate's Court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any costs or expenses ordered to be paid by him are not paid at the time ordered by the court, the court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or arrestment and sale of the ship, her tackle, furniture and apparel.

(3) Where a person is convicted of an offence under this Act and the court imposes a fine in respect of the offence, then if it appears to the court that any person has incurred, or will incur, expenses in making good any damage which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for defraying those expenses.

(d) Special Evidentiary Provisions

Depositions of persons abroad admissible

411.—(1) Where the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceedings and it is proved that, that person cannot be found in Tanzania, any deposition that he may have previously made at a place outside Tanzania in relation to the same subject matter shall, subject to the provisions of subsection (2), be admissible in evidence in those proceedings.

(2) For a deposition to be admissible under subsection (1), in any proceedings, the deposition must-

- (a) have been taken on oath;
- (b) have been taken before a judge or magistrate or a Tanzania consular officer in any other place;

(c) be authenticated by the signature of the judge, magistrate or officer taking it; and

(d) where the proceedings are criminal proceedings, have been taken in the presence of the accused,

and, in a case falling within paragraph (d), the deposition shall be certified by the judge, magistrate or officer taking it to have been taken in the presence of the accused.

(3) A proof need not be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence of that fact.

(4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.

(5) This section shall not affect the admissibility in evidence of depositions under any other enactment or the practice of the court.

Admissibility
in evidence
and inspection
of certain
documents

412.—(1) The following documents shall be admissible in evidence and, when in the custody of the Registrar, shall be open to public inspection—

(a) documents purporting to be submissions to or decisions by the Registrar or proper officers under section 27;

(b) the official log book of any ship kept under section 190 and, without prejudice to section 413(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;

(c) crew agreements, lists of crews made under section 111 and notices given under Part VIII of additions to or changes in crew agreements and lists of crews;

(d) returns or reports under section 340; and

(e) documents transmitted to the Registrar under this section.

(2) A certificate issued under regulations made pursuant to section 162 shall be admissible in evidence.

Admissibility of documents in evidence

413.—(1) Where a document is by this Act declared to be admissible in evidence such document shall on its production from proper custody-

- (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
- (b) subject to all just exceptions, be evidence of the matters stated in the document.

(2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3), also be admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2), unless-

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such fee as the Registrar determines.

(4) A person shall, on payment of fee as the Registrar determines, be entitled to have a certified copy of any declaration or document, a copy of which is made evidence by this Act.

(5) Where any officer having duties of certification under subsection (3), in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or to imprisonment for a term not exceeding twelve months or to both.

Inspection and admissibility in evidence of copies of certain documents

414.—(1) Where under any enactment, a document is open to public inspection when in custody of the Registrar-

- (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; and
- (b) the original shall nevertheless be made available for public inspection where the copy or other reproduction is illegible.

(2) Where the Registrar destroys any document which has been sent to him under or by virtue of any enactment and keeps a copy or other reproduction of that document, then-

- (a) any enactment providing for that document to be admissible in evidence or open to public inspection; and
- (b) in the case of a document falling within subsection (1), shall apply to the copy or other reproduction as if it were the original.

(3) For purposes of this section, and of section 410(2) in its application to documents in the custody of the Registrar, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

Proof of
exemptions

415.-(1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act, it may be pleaded and proved by the defendant.

(2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.

Services of
documents

416.-(1) A notice or document authorised or required to be served on any person may be served on that person-

- (a) by delivering it to him;
- (b) by leaving it at his proper address; or
- (c) by sending it by post to him at his proper address.

(2) A document required to be served on the master of a ship may be served-

- (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship; and
 - (b) where there is no master, on-
 - (i) the managing owner of the ship; or
 - (ii) where there is no managing owner, on any agent of the owner; or
 - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the master of the ship.
- (3) A document authorised or required to be served on any person may-
- (a) in the case of a body corporate, be served on the chief executive or clerk of that body; or
 - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.
- (4) A notice authorised by section 387 or 388 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to his office.
- (5) For purposes of this section, the proper address of any person on whom any document is to be served shall be his last known address, except that-
- (a) in the case of a body corporate or their chief executive or clerk, it shall be the address of the registered or principal office of that body; or
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership,
- and for purposes of this subsection, the principal office of a company registered outside Tanzania shall be its principal office in Tanzania.
- (6) Where the person to be served with any notice has, whether in pursuance of registration regulations or otherwise, specified an address in Tanzania other than his proper address within the meaning of subsection (5), as the one at which

he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for purposes of this section as his proper address.

PART XXIII SUPPLEMENTARY

(a) Administration

- Indemnity **417.** An action shall not lie against the Government or any public officer or other person appointed or authorised to perform any function under this Act in respect of anything done or omitted to be done by him in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him under this Act.
- General power to dispense **418.**—(1) The Minister may, and upon such conditions, as he thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under this Act, or dispense with the observance of any such requirement in the case of any ship, if he is satisfied, as respects that requirement, of the matters specified in subsection (2).
- (2) The matters specified under subsection (1) include-
- (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and
- (b) that the action taken or provision made as respects the subject matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.
- Nautical assessors **419.** There shall be paid to any nautical assessor appointed under this Act such remuneration, out of money provided by the Treasury.

Returns to Registrar **420.** All consular officers of Tanzania shall make and send to the Registrar such reports on any matter relating to Tanzania seafarers as the Registrar may require.

Forms **421.**—(1) The Registrar may prepare and approve forms for any book, instrument or paper required under this Act and may alter such forms as he thinks fit.

(2) Every book, instrument or paper provided for under subsection (1), shall be made in the form approved by the Registrar, or as near as circumstances permit; and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(3) Every book, instrument or paper if made in a form purporting to be the proper form and to be marked in accordance with subsection (2), shall be deemed to be in the form required by this Act, unless the contrary is proved.

(4) Where any person prints, sells or uses any document purporting to be a form approved by the Registrar knowing that the document is not the form approved or that the document has not been prepared or issued by the Registrar, that person commits an offence and on conviction, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars twenty thousand or to imprisonment for a term not exceeding three years or to both.

(b) Financial Provisions

Fees **422.**—(1) The Minister may make regulations prescribing fees to be charged in respect of—

(a) the issue or recording in pursuance of this Act of any certificate, licence or other document; or

(b) the doing of any thing in pursuance of this Act.

(2) In the case of fees for the measurement of a ship's tonnage the fees may be prescribed as maximum fees.

(3) All fees payable under this Act shall be paid to the Registrar.

Expenses charge
on money
provided by
Registrar
Act No.
13 of 2019 s. 63

423. The following expenses and other amounts shall be payable out of money provided by the Registrar-

- (a) the expenses incurred by the Minister under this Act;
- (b) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
- (c) such sums as the Registrar may, in his discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
- (d) the expenses incurred in respect of a receiver of wreck in the performance of his duties;
- (e) such expenses as the Registrar directs for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, or rewarding the preservation of life in such cases; and
- (f) any other amounts which are by virtue of any provision of this Act payable out of money provided by the Registrar.

(c) Regulations relating to Safety and Security

Safety and
security
regulations

424.-(1) Without prejudice to any other provisions of this Act, the Minister may make regulations making provisions as he considers appropriate for all or any of the following purposes-

- (a) for securing the safety and security of ships registered in Tanzania and persons on them and for protecting the health of persons on Tanzanian ships;
- (b) for giving effect to any provisions of an international agreements so far as the agreement relates to the safety and security of other ships or persons on them, or to the protection of the health of persons on other ships; and
- (c) for securing the safety and security of other ships and persons on them while they are within a port in Tanzania.

(2) Regulations made under subsection (1) may-

- (a) make different provisions for different circumstances and, in particular, make provisions for an individual case;

- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside Tanzania;
- (d) contain such incidental and transitional provisions as the Minister considers appropriate.

(d) Application of Act to Certain Descriptions of Ships

Application of Act
to non-Tanzanian
ships

425.—(1) Without prejudice to the provisions of section 3, the Minister may make regulations specifying any description of non-Tanzanian ships and directing that such of the provisions of this Act and of instruments under this Act as may be specified in the regulations—

- (a) shall extend to non-Tanzanian ships of that description and to masters and seafarers employed in them; or
- (b) shall so extend in such circumstances as may be so specified, with such modifications, if any, as may be so specified.

(2) In this section, “non-Tanzanian ships” means ships that are not registered in Tanzania.

(e) International Conventions and Regional Arrangements

Application of
International
Conventions to Act

426.—(1) The provisions of this section and 427 shall apply in respect of ratified International Conventions, including amendments thereto and replacements thereof and other international instruments.

(2) The Minister shall, by notice in the *Gazette*, publish ratified International Conventions relating to ships and merchant shipping including amendments thereto and replacements thereof and other international instruments which apply to the United Republic of Tanzania, the reservations, if any, entered thereon by the United Republic of Tanzania as well as those International Conventions, including amendments thereto and replacements thereof and other international instruments which cease to apply to the United Republic of Tanzania.

(3) The Registrar shall keep in his office a copy of—

- (a) all the International Conventions and instruments referred to in subsection (2) that are ratified and have application in the United Republic of Tanzania; and
- (b) all regulations and notices made pursuant to this Act, and such copies shall be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public, seafarers or persons concerned with or having an interest in ships or merchant shipping.

Implementation
of treaties

427. For purposes of giving effect to any international agreement or other international treaty or instrument relating to shipping or the prevention of pollution of the marine environment, to which Tanzania is a party, the Minister may make such regulations, as appear to him to be necessary.

Conventions to
prevail

428. Where an international convention or other international instrument applies to Tanzania and a provision of that convention or instrument conflicts with a provision of this Act in any manner, the provision of the convention or instrument shall prevail unless the Minister otherwise provides.

Contravention
of International
Conventions

429. Where, in respect of any Tanzanian ship, there is any contravention of a requirement of any international convention or other international instrument which applies to Tanzania, the Registrar may suspend the certificate of registration of the ship until the contravention is rectified.

(f) Final Provisions

Minister's
general powers to
make rules and
regulations

430. The Minister may make regulations for-

- (a) prescribing the forms to be used for purposes of this Act;
- (b) prescribing any thing which under this Act may be prescribed; and
- (c) generally for carrying out the purposes and provisions of this Act.

Repeals
Act No.
43 of 1967
Ord. No.
1 of 1938

- 431.**—(1) [Repeals the Merchant Shipping Act.]
(2) [Repeals the Inland Waters Transport Ordinance.]

Transition and
savings
Act No.
43 of 1967
Ord. No.
1 of 1938

432. Notwithstanding the repeal of the Merchant Shipping Act, and the Inland Waters Transport Ordinance, subsidiary legislation, licences, certificates and all administrative orders, directions or instructions made, given under or in pursuance of the provisions of the Merchant Shipping Act, which are in force on the commencement of this Act, shall be deemed to have been made, given or issued under or in pursuance of the provisions of this Act, and shall remain in force until revoked, replaced or rescinded by subsidiary legislation, licences, certificates or any administrative orders directions or instructions made or issued under this Act.

PART XXIV CONSEQUENTIAL AMENDMENTS

Omitted

433.–434 [Omitted.]

SCHEDULE

(Made under section 170(4))

BOARD OF TRUSTEES OF THE MARITIME EDUCATION AND TRAINING FUND

Composition

- 1.**—(1) The Board of Trustees shall consist of—
- (a) the Registrar who shall be the Chairman;
 - (b) one member representing the ship owners;
 - (c) the Rector of the Maritime Institute;
 - (d) one member from the Maritime Administration in Tanzania Mainland;
 - (e) one representative from a seafarers association/ organisation;
 - (f) one representative from the East African Community Secretariat;
 - (g) the Director General of Tanzania Ports Authority;
 - (h) two other members from the public.
- (2) The Members specified under paragraphs (b), (d), (e), (f) and (h) shall be appointed by the Minister.

Vice-Chairman	2. The members of the Board shall elect a member from amongst themselves to be the Vice-Chairman of the Board and any member elected as Vice-Chairman shall subject to his continuing to be a member, hold office for a term of one year from the date of his election and shall be eligible for re-election.
Tenure	3. A member of the Board other than the Chairman shall unless his appointment is sooner terminated by the appointing authority, or he ceases in any other way to be a member, hold office for a period specified in the instrument of his appointment or if no period has been specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.
Termination of appointment	4. Where any member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such member and appoint a new member in his place.
Notice of resignation	5. A member of the Board other than the Chairman, may at any time resign his office by giving notice in writing addressed to the appointing authority, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.
Temporary member	6. When any member of the Board, other than the Chairman, is by reason of absence from the United Republic or illness or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.
Meetings	7. The Board shall ordinarily meet for the transaction of the business at any time and at any place decided upon by the Board, but shall meet at least once in every three months in a year.
Special meeting	8. The Chairman, or in his absence the Vice-Chairman may at any time call a special meeting of the Board and shall call such meeting upon a written request by a majority of the members of the Board in office.
Presiding meetings	9. —(1) The Chairman and in his absence, the Vice-Chairman shall preside at all meetings of the Board. (2) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Board, the members present may from amongst their number elect a temporary Chairman who shall preside at that meeting.
Quorum	10. The quorum at the meeting of the Board shall be the majority of the members in office.

- Voting **11.** Issues tabled at the meeting shall be decided by a majority of the votes of the members present, and voting in the event of an equality of votes, the person presiding shall have a second or casting vote.
- Proceedings not to be invalid due to irregularity **12.** An act or proceedings of the Board shall not be invalid by reason of the number of members not being complete at the time of such act or proceedings or of any defect in the appointment of any member or of the fact that any member was at the time of appointment, disqualified or disentitled to act as such.
- Regulation of proceedings **13.** Subject to the provisions of this Schedule, the Board may regulate its own proceedings.
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