

CHAPTER 28

THE ANTIGUA AND BARBUDA MERCHANT SHIPPING ACT

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SCHEDULE.

ANTIGUA AND BARBUDA MERCHANT SHIPPING

(1st January, 1986.)

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PART I

Preliminary

1. This Act may be cited as the Antigua and Barbuda Merchant Shipping Act. **Short title.**

2. (1) Unless otherwise expressly provided, the provisions of this Act which apply to ships which are registered in Antigua and Barbuda or which, in terms of this Act are required to be so registered, shall so apply wherever the ships may be. **Application.**

(2) Unless otherwise expressly provided, the provisions of this Act which apply to ships other than those referred to in subsection (1) shall so apply only while any such ship is within Antigua and Barbuda.

(3) Unless otherwise expressly provided in this Act or by regulations made under this Act, the provisions of this Act shall not apply to—

(a) ships belonging to the Government in non-commercial service of the Government;

(b) ships or aircraft belonging to the defence forces of Antigua and Barbuda.

3. (1) The coastal trade between Antigua and Barbuda ports shall be carried only by Antiguan and Barbudan ships. **Reservation of**

(2) The Minister may make regulations to carry out the purposes of subsection (1) and such regulations may provide *inter alia* for the grant of exemption to any ship from compliance with that subsection if in the opinion of the Minister, the circumstances of the case warrant such exemption.

(3) The owner, agent or master of any ship contravening the provisions of this section is guilty of an offence.

**Ship moveable
property.**

4. A ship shall be treated as moveable property under civil law subject to the provisions of this Act.

Interpretation.

5. In this Act,

“Antiguan and Barbudan ship” means a ship which is registered or licensed under this Act;

“apprentice” means an apprentice to the sea service;

“cargo ship” means a ship which is not a passenger ship, a fishing vessel or a pleasure yacht;

“chemical tanker” means a cargo ship constructed and used for the carriage in bulk of any liquid chemical listed in the Intergovernmental Maritime Consultative Organization (IMCO) “Code for the Construction and Equipment of Ships carrying liquefied gases in bulk”;

“coastal trade of Antigua and Barbuda” means the carriage by sea of passengers or goods from any port or place in Antigua and Barbuda to any other port or place in Antigua and Barbuda;

“coastal trade ship” means any ship engaged in the coastal trade of Antigua and Barbuda;

“crew” in relation to a ship includes seamen and apprentices;

“Director” means the Director of Marine Services appointed under section 7.

"foreign ship" means a ship which is not an Antiguan and Barbudan ship;

"Government ship" means a ship which belongs to the Government but does not include a ship which forms part of the Antiguan and Barbudan defence force;

"liquefied gas tanker" means a cargo ship constructed and used for the carriage in bulk of any liquefied gas listed in the (IMCO) code for the Construction and Equipment of Ships carrying liquefied gases in bulk".

"marine officer" in relation to any act or event means the marine officer having authority over the place at or within which or in relation to which such act or event takes place and includes the Director, a Harbour Master and any deputy of or any person lawfully acting under the instructions or on behalf of any such officer; and "marine office" means the principal office of such officer;

"master" includes every person having command or charge of any ship other than a pilot;

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

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

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

(c) a child under one year of age;

"passenger ship" means a ship carrying more than twelve passengers;

"pleasure yacht" means a ship however propelled that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward; but does not include a ship that is provided for the transport or entertainment of lodgers at any institution, hotel, private hotel, boarding house, guest house and other establishment;

"Port of Registry" in relation to any ship means the port at which she is for the time being registered;

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

"Registrar" means the registrar of ships under this Act;

"salvage" includes all expenses properly incurred by the salvor;

"seaman" includes every person (except a master or pilot or a person temporarily employed on the ship while in port) employed or engaged in any capacity on board any ship;

"ship" includes every description of vessel used in navigation and not propelled by oars;

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;

"vessel" means anything constructed or used for the carriage on, through or under water of persons or property and includes aircushioned and amphibious vehicles, hydrofoil craft and hovercraft.

PART II

Administration and Implementation

6. The Minister shall have general powers for the administration and implementation of this Act in addition to the powers expressly conferred upon him under its various sections.

Minister's powers.

7. (1) The Minister shall, by notice in the *Gazette*, appoint a Director of Marine Services who shall exercise general supervision over all matters arising under this Act.

Appointment of officers.

(2) The Minister may appoint one or more Deputy Directors and such other technical and administrative personnel as may be considered necessary to assist the Director generally in the discharge of his duties or for the purposes of particular provisions of this Act or regulations made thereunder.

8. The Minister may appoint a Registrar of Antigua and Barbudan ships who shall perform such functions connected with the registration of ships as may be specified by this Act; and in performance of his functions the Registrar shall act under the directions of the Director of Marine Services who shall be the Registrar-General of Antigua and Barbudan ships.

Registrar of Antigua and Barbudan ships.

PART III

Registration of Ships — Mortgages — Maritime Liens

CHAPTER I

Registration of Antigua and Barbudan Ships

9. (1) A ship shall not be deemed to be an Antigua and Barbudan Ship unless:

Antigua and Barbudan Ships.

(a) she is owned wholly by persons to whom one of the following descriptions applies;

- (i) citizen of Antigua and Barbuda;
- (ii) public bodies of Antigua and Barbuda;
- (iii) authorised public bodies corporate;

(b) its acquisition by the owners had the prior approval of the Minister unless the owners are specifically exempted from obtaining such approval.

(2) For the purpose of subsection (1) (a) (iii), a body corporate may be authorised to own ships if:

(a) it is established under and subject to the laws of Antigua and Barbuda;

(b) it has its principal place of business in Antigua and Barbuda;

(c) at least fifty-one percent of its share capital is held by citizens of Antigua and Barbuda;

(d) the majority of directors, the Chairman of the Board of Directors and the Managing Director, if any, are citizens of Antigua and Barbuda. (In the case of a partnership concern, Antiguan and Barbudan interests shall be deemed to be predominant in the capital and in the management, if the majority of the partners are Antiguan and Barbudan citizens.)

(3) Ships owned by multinational shipping enterprises or joint ventures between the Government of Antigua and Barbuda and the government of other member countries of the Caribbean Community or governments of other foreign countries, in which the Government of Antigua and Barbuda has a substantial interest and which are established by Acts of Parliament may be exempted from compliance with the requirements of subsections (1) and (2) in order to qualify for treatment as Antiguan and Barbudan ships.

(4) Anything to the contrary notwithstanding the ownership requirements referred to above may in exceptional cases be waived by the Minister where—

- (i) the vessel meets all other requirements for registration: and
- (ii) it has been satisfactorily demonstrated that there is a genuine need for such a waiver; and
- (iii) the owner of the vessel qualified for, secures and maintains registration in Antigua and

Barbuda as a foreign maritime trust or corporation and where he either maintains at all times an operating office in Antigua and Barbuda or appoints a qualified resident business agent in the manner prescribed by law.

10. (1) Every Antiguan and Barbudan ship including Government owned ships employed in commercial service, unless it is a ship which does not exceed 15 tons net, shall be registered under this Act. **Obligation to register.**

(2) Any ship required to be registered under subsection (1) but not so registered shall not be recognised as an Antiguan and Barbudan ship; but any ship registered in Antigua and Barbuda at the commencement of this Act under any enactment repealed by this Act shall be deemed to have been registered under this Act and shall be recognised as an Antiguan and Barbudan ship.

(3) A ship required to be registered under subsection (1) may be detained until the master of the ship, if so required, produces a certificate of registry in respect of that ship.

11. The port of St. John's shall be the port of registry for Antiguan and Barbudan ships, and the port to which they belong. **Port of registry.**

12. The office of the Registrar shall be situated at St. John's. **Office of Registrar.**

13. (1) On completion of the registration of a ship, and upon payment of the fees prescribed the Registrar shall grant a certificate of registry comprising the particulars respecting her entries in the register, together with the name of the master. **Certificate of registry.**

(2) The certificate of registry granted by the Registrar on completion of the registry of a ship shall always be kept on board the ship and 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, claimed by any owner, mortgagee or other person on or in the ship.

(3) If the master or owner of an Antiguan and Barbudan ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he is guilty of an offence and the ship is liable to forfeiture.

(4) Subject to subsection (8), there is payable in respect of every vessel registered as an Antiguan and Barbudan ship a registration fee in such amount as may be prescribed.

(5) Subject to subsection (8), before the first day of January in each year there shall be paid to the Registrar for each Antiguan and Barbudan ship an annual fee of an amount equal to ten percent of the registration fee then prevailing.

(6) Where there is a failure to pay an annual fee in respect of any Antiguan and Barbudan ship, the Registrar may suspend the certificate of registry of the ship upon reasonable notice to the owners thereof as shown in the register.

(7) If more than one net registered tonnage is specified in the certificate of measurement of an Antiguan and Barbudan ship, the registration fee and annual fee shall be calculated by reference to the greatest of these tonnages.

(8) No registration or annual fee is payable under this section for a vessel that is registered or licensed under the Fisheries Act.

Cap. 173.

Register books.

14. (1) The Registrar shall maintain the following books:

(a) register book for merchant ships fitted with mechanical means of propulsion;

(b) register book for fishing vessels;

(c) register book for sailing ships;

(d) record of boats;

(e) mobile offshore drilling units, barges and pontoons.

(2) Entries in the register book and record of boats shall be made in the prescribed manner.

(3) The property in a ship, vessel or boat shall be divided into sixty-four shares.

(4) The Registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his capacity as Registrar, unless such act was done wilfully or such default was due to his neglect.

15. Only those individual owners, joint owners, part owners or bodies corporate recorded as owners in the register books specified in section 14 shall be considered as owners of the ship or part of it. **Local effects of registration.**

16. The Registrar shall enter in the book the name of the ship and such particulars in respect of the ship as may be prescribed under the regulations to be made under this Part. **Entry of particulars in the register book.**

17. (1) The Minister shall make regulations prescribing: **Classes of fishing vessels and boats to be registered.**

(a) the class of fishing vessels required to be registered under this Part;

(b) the class of boats to be entered in the record of boats.

(2) (a) Every registered fishing vessel shall be lettered and numbered on each side of her bow and shall show her port of registry on the stern.

(b) Every boat shall bear on each side a letter for Antigua and Barbuda followed by the number under which it is entered in the record of boats.

18. Where it appears to the Minister that by reason of special circumstances, it would be desirable that permission should be granted to any ship to pass without being previously registered from any port or place in Antigua and Barbuda to any other port or place outside Antigua and Barbuda the Minister may in those cases in which the ship **Temporary passes.**

belongs to a country whose laws admit of such temporary passes, grant a pass accordingly and that pass for the time and within the limits thereinmentioned shall have the same effect as a Certificate of Registry.

Licensing of
unregistered
vessels.

19. The Minister shall make regulations for the licensing of ships, vessels or boats exempted from registry in accordance with the provisions of this Act, in particular, such regulations shall provide for the following matters:

(a) the conditions of seaworthiness required for the issue of the licence and the period of validity of the licence;

(b) the particulars to be contained in forms and certificates to be used in connection with the ships, vessels or boats and the scale of fees to be charged in respect thereof;

(c) the case of significant alteration to a licensed ship, vessel or boat;

(d) the obligation of forwarding a return in case of a licensed ship, vessel or boat being lost or becoming a constructive total loss;

(e) penalties for operating, without a valid licence, ships, vessels or boats which are required to be licensed under this Act and for forging and fraudulent altering of certificates;

(f) the authorities empowered to issue licences and enforce the foregoing regulations.

Survey before
registry.

20. (1) The owner of every Antiguan and Barbudan ship in respect of which an application for registry is made shall cause such ship to be surveyed by a surveyor and the tonnage of the ship ascertained in accordance with regulations made by the Minister and those regulations shall be taken to be the provisions referred to in this Act as the tonnage regulations of this Act; in making these regulations the Minister shall have due regard in particular to the International Convention on Tonnage Measurement of Ships 1969 and may by notification ratify the above Convention.

(2) The surveyor shall grant a certificate specifying the ship's tonnage and build and such other particulars descrip-

tive of the identity of the ship as may be prescribed and the certificate of the surveyor shall be delivered to the Registrar before registry.

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

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

(3) A fishing boat entered in the fishing boat register and lettered in accordance with section 17(2)(a) need not have her name marked as required under this section.

22. A person shall not be registered as the owner of an Antiguan and Barbudan ship or of a share therein until he, or in the case of a public body or an authorised body corporate the person authorised to make declarations on its behalf, has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the certificate of the surveyor and containing such particulars as may be prescribed. **Declaration of ownership.**

23. A ship registered outside Antigua and Barbuda shall not be registered under this Act until her foreign registry is cancelled. **Cancellation of foreign registry.**

24. (1) If at any place outside Antigua and Barbuda a ship becomes entitled to be registered as an Antiguan and Barbudan ship, an Antiguan and Barbudan diplomatic or consular officer there may grant to her master, on his application, a provisional certificate of registry in the **Provisional certificate of registry.**

prescribed form and shall forward a copy thereof to the Registrar of Antigua and Barbudan ships.

(2) Such a provisional Certificate of registry shall be valid until the expiration of six months from its date or until the arrival of the ship at the Antigua and Barbudan port of registry, whichever happens earlier and on either of these events happening shall cease to have effect.

CHAPTER II

Registration of Chartered Bareboats

Registration of
Chartered
bareboats.

25. (1) Notwithstanding sections 9 and 45 a chartered bareboat may be registered as an Antigua and Barbudan ship and may use the national colours when registered in a foreign register, if she is a bareboat chartered by a citizen of Antigua and Barbuda, or a person other than a citizen of Antigua and Barbuda, or a body corporate which is either Antigua and Barbudan or otherwise.

(2) Notwithstanding section 23, for the purposes of the registration of a chartered bareboat registered in a foreign register, it is not required that the registration in the foreign register be deleted; and the preferred status of the foreign register remains.

(3) Registration of a chartered bareboat within the meaning of this Chapter is the registration in the Antigua and Barbudan register for such period of time as the Minister may approve and under fixed legal conditions, of a ship which continues to be registered in a foreign register.

(4) Bareboat chartering within the meaning of this Chapter is the chartering by virtue of which the charterer, for an agreed period of time—

(a) acquires full control and possession of the ship,

(b) has the shipping management and operation of the ship,

(c) is responsible towards third parties as if he were the ship owner, and

generally, so long as the chartering continues, he is substituted in all respects in place of the shipowner except that he has no right to sell or mortgage the ship.

26. (1) A chartered bareboat may be registered under this Chapter on the application of the charterer for such period as the Minister may approve if—

Conditions of registration of chartered bareboats.

(a) the law of the country of the foreign register allows registration of chartered bareboats registered in its register, and

(b) the following duly certified documents are submitted together with the application—

- (i) a copy of the charter agreement in lieu of the title of ownership and declaration of ownership;
- (ii) the written consent of the ship owner;
- (iii) the written consent of the appropriate maritime authorities of the country of the foreign registry and containing a confirmation as to the ownership of the ship and as to the mortgages or other encumbrances of the ship, if any; and
- (iv) the written consent of the mortgagees.

27. (1) For purposes of the registration of a chartered bareboat a new measurement of the tonnage of the ship is required; and the certificate of survey and the tonnage certificate provided for by this Act shall be issued on the basis of the corresponding documents of the foreign registry and the measurement fees provided for by this Act shall be payable for their issue; but a subsequent alteration of the ship which affects the tonnage or the description of the ship shall be affected in accordance with the provisions of this Act relating to ships registered in the Antigua and Barbuda register and shall be notified by the Registrar to the appropriate maritime authorities of the country of the foreign registry.

Measurement and fees in respect of a chartered bareboat.

(2) For the registration of a chartered bareboat there shall be paid the fees payable under this Act in relation to the registration of an Antigua and Barbuda ship and an additional fee of twenty percent of such fees or such other

percentage of such fees as may be determined by the Minister from time to time.

Name of
registered
chartered
bareboat.

28. (1) A chartered bareboat shall keep the name under which it is registered in the foreign register; but such name may not be the same as that of a ship registered in the Antigua and Barbudan register.

(2) The name of a chartered bareboat may be changed after registration in the Antigua and Barbudan register if—

(a) it is effected in accordance with the provisions of this Act relating to ships registered in the Antigua and Barbudan register;

(b) it is on the application of the charterer;

(c) it is with the written consent of the shipowner and the mortgagees; and

(d) it is notified to the appropriate maritime authorities of the country of the foreign register.

Certificate of
registration of a
chartered
bareboat.

29. (1) On completion of the registration of a chartered bareboat under this Chapter, and upon payment of the prescribed fees, the Registrar shall grant a certificate of registration in a form similar to the certificate of registry under section 13 comprising the particulars set out in section 13(1) together with the particulars of the shipowner, the charterer, and the foreign register of the ship, and the date of expiry of the certificate.

(2) Section 57 applies to a chartered bareboat registered under this Chapter.

Re-registration of
a chartered
bareboat.

30. At the expiry of a certificate under section 29, a chartered bareboat may be re-registered in the Antigua and Barbudan register if the conditions applicable at the time of the initial registration still apply; and the fees provided under sections 27 and 32 are payable in respect of such re-registration.

Mortgages in
respect of
chartered
bareboats
registration.

31. (1) Where a chartered bareboat is registered under this Chapter, mortgages and other encumbrances which are a charge on the ship at the time of registration

in the Antigua and Barbudan register continue to exist and to be a charge on the ship.

(2) Mortgages and encumbrances referred to in subsection (1) continue to be governed by the law of the country governing them at the time of their creation, and are not affected by the fact of the registration of the ship in the Antigua and Barbudan register; and such mortgages and other encumbrances shall be recorded in the Antigua and Barbudan register for purposes of information only.

(3) After a chartered bareboat has been registered under this Chapter, a mortgage or encumbrances may be created over the ship only by the shipowner and in accordance with the law of the country of the foreign register in which such mortgage or encumbrances is recorded.

(4) A mortgage in respect of a chartered bareboat registered under this Chapter may not be registered in the Antigua and Barbudan register.

32. (1) Where a chartered bareboat is registered under this Chapter, such ship shall pay the annual fee set out under section 13(5) and such other dues and charges as are applicable to ships registered under Chapter 1.

Annual fees and dues.

(2) The fees, dues and charges referred to in subsection (1), which shall be paid in advance and before the certificate of registration is granted, shall cover the whole period for which the chartered bareboat is being registered and are not refundable even if the registration of such ship is terminated at an earlier date.

33. (1) The Registrar shall de-register a chartered bareboat registered under this Chapter if—

De-registration of a chartered bareboat.

(a) the charter is terminated;

(b) the period of time of registration approved by the Minister has expired;

(c) there exists any reason for de-registration under this Act.

(2) Where a chartered bareboat is de-registered under subsection (1), the Registrar shall delete the name of such ship from the Antigua and Barbudan register and shall issue a de-registration certificate.

CHAPTER III

Transfers, Transmission and Mortgages

Acquisition of
ships from
abroad.

34. (1) No person shall acquire from abroad any ship or any share or any interest therein without the previous approval of the Minister.

(2) Any ship acquired in contravention of subsection (1) shall not be eligible for registry as an Antigua and Barbudan ship.

Transfer of
Antiguan and
Barbudan ship or
share or interest
therein.

35. (1) No person shall transfer or acquire any Antigua and Barbudan ship or any share or interest therein without the prior approval of the Minister and any transaction effected in contravention of this provision shall be void and unenforceable.

(2) A ship registered in Antigua and Barbuda or a share therein shall be transferred only by an instrument in writing in the prescribed form called bill of sale executed in accordance with prescribed procedure.

Transmission on
death or
insolvency.

36. The property in a ship registered in Antigua and Barbuda or a share therein may be transmitted to a person on the death or insolvency of any registered owner or by any lawful means other than by a transfer under section 35(2).

Mortgage of ship
or share.

37. (1) A registered ship or a share therein may be made a security for a loan or other valuable consideration by means of mortgage to be executed in the prescribed form in the prescribed manner.

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

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

Mortgagee not deemed to be owner.

39. A registered mortgagee of a ship shall be entitled to sell or otherwise dispose of the mortgaged ship or share in order to recover the amount due under the mortgage and if he sells the ship, he shall hold the proceeds of the sale in excess of the amount due to him in trust for later mortgagees, if any, and the owner, but where there is more than one registered mortgagee of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share therein without the concurrence of every prior mortgagee.

Rights of mortgagee.

40. A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage and, subject to the provisions relating to maritime liens contained in sections 46 to 48, the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

Mortgagee not affected by insolvency.

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

Transfer of mortgages and shares.

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

42. (1) Where the interest of a mortgagee in a ship or share is transmitted on death or insolvency, or by any lawful means other than by transfer under section 41, the

Transmission of interest.

transmission shall be authenticated by a declaration of the person to whom the interest is transmitted containing a statement of the manner in which and the person to whom the property has been transmitted and shall be accompanied by the like evidence as is required in case of a corresponding transmission of the ownership of a ship or share.

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

Regulations
relating to
Procedure.

43. The Minister may make regulations establishing the procedure for registration, transfer of ownership, transmission of property in the ship, execution of mortgages and other connected matters.

CHAPTER IV

Maritime Liens

Restriction on
de-registration.

44. The Registrar or any other person acting on his behalf, shall not permit the de-registration of a ship without the written consent of all the holders of mortgages and preference rights in the said ship registered under this Act.

Restriction on
registration.

45. A ship which is or has been registered in any state which has ratified or acceded to the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages adopted in Brussels on 27th May, 1967, shall not be eligible for registration under this Act, unless:

(a) a certificate has been issued by that State to the effect that the vessel will be de-registered, or

(b) a certificate has been issued by such State to the effect that the vessel will be de-registered on the day when such new registration is effected.

Priority of
maritime liens-
claims secured by
maritime liens.

46. (1) Notwithstanding the protection enjoyed by a mortgagee under section 42, a maritime lien would take priority over the mortgages and preferential rights registered under this Part or arising under the law relating to bankruptcy and no other claim shall take priority over them

except as provided in section 48. For the purpose of this section, the claims which give rise to maritime liens are the following:

(a) wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel;

(b) port, canal and other waterway dues and pilotage dues;

(c) claims against the owner, based on tort and not capable of being based 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 vessel;

(6) claims against the owner in respect of loss of life or personal injury, occurring, whether on land or on water, in direct connection with the operation.

(e) claims for salvage, wreck removal and contribution in general average.

(2) In this section, "owner" includes the charterer, manager or operator of a vessel.

47. (1) The maritime liens set out in section 46(1) shall rank in the order listed therein, provided, however, that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to the said liens were performed.

**Order of priority
of maritime
liens.**

(2) The maritime liens set out in each of the subparagraphs (a), (b), (c) and (6) of section 46(1) shall rank *pari passu* as between themselves.

(3) The maritime liens set out in subparagraph (e) of section 46(1) shall rank in the inverse order of the time when the claims secured thereby accrued. Claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed; claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

Rights of
shipbuilders and
ship repairer.

48. In the event that preferential rights are granted, pursuant to the provisions of the law relating to bankruptcy, in respect of a vessel in the possession of:

(a) a shipbuilder, to secure claims for the building of the vessel; or

(b) a ship repairer, to secure claims for repair of the vessel effected during such possession,

such lien or right of retention shall be postponed to all maritime liens set out in section 46(1) but may be preferred to registered mortgages or preferential rights so long as the ship is in possession of the shipbuilder or the ship repairer, as the case may be.

Over-riding
nature of
maritime liens.

49. (1) The maritime liens set out in section 46(1) arise whether the claims secured by such liens are against the owner or against the demise or other charterer, manager or operator of the ship.

(2) Subject to the provisions of section 42, the maritime liens securing the claims set out in section 46(1) follow the ship notwithstanding any change of ownership or of registration.

No lien attaching
to claims related
to radioactive
material.

50. No maritime lien shall attach to the ship securing claims as set out in subsections (c) and (d) of section 46(1) which arise out of or result from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive product or waste.

Limitation
period.

51. The maritime liens set out in section 46(1) shall be extinguished after a period of one year from the time when the claims secured thereby arose unless prior to the expiry of such period the vessel has been arrested, such arrest leading to a forced sale.

Interruption of
limitation period.

52. Prior to the forced sale of a vessel, the executing officer shall give or cause to be given at least thirty days written notice of the time and place of such sale to—

(a) all holders of registered mortgages and other preferential rights which have not been issued to bearer;

(b) such holders of registered mortgages and rights issued to bearer and such holders of maritime liens set out in section 46(1) whose claims have been notified to the officer;

(c) the Registrar

53. (1) In the event of forced sale of the vessel, all mortgages and preferential rights except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature shall cease to attach to the ship.

**Effect of forced
sale of ship.**

(2) No charterparty or contract for the use of the vessel shall be deemed a lien or encumbrance for the purpose of this section.

54. The costs awarded by the Court and arising out of the arrest and subsequent sale of the vessel and the distribution of the proceeds shall first be paid out of the proceeds of such sale. The balance shall be distributed among the holders of maritime liens under section 46(1), the holders of preferential rights under section 48 and 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.

Proceeds of sale.

55. (1) When a vessel registered in any State which has ratified or acceded to the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages adopted in Brussels on 22nd May, 1967, has been the subject of a forced sale in Antigua and Barbuda, the executing officer shall, at the request of the purchaser, and having ascertained that the provisions of this Part have been complied with, issue a certificate to the effect that the vessel is sold free of all mortgages, liens and other encumbrances, except those assumed by the purchaser, provided that the proceeds of the said forced sale have been deposited with the-competent authority to distribute them to the persons entitled to them.

**Certificate to the
purchaser.**

(2) Upon receiving a certificate as described in subsection (1) relating to any ship registered under this Act, the Registrar shall be bound to delete all registered mortgages

and other preferential rights except those assumed by the purchaser and to register the vessel in the name of the purchaser or to issue a certificate of de-registration for the purpose of de-registration of the ship, as the case may be.

CHAPTER V

National Character and Flag

National colours.

56. (1) The Minister shall by notification declare what shall be the proper national colours for all ships registered as Antiguan and Barbudan ships.

(2) Any officer authorised by the Minister in this regard may board any ship on which any colours are hoisted contrary to the provision in subsection (1) and seize and take away the colours which shall be forfeited to the Government.

Hoisting national colours.

57. An Antiguan and Barbudan ship shall hoist the national colours;

(a) on a signal being made to her by any vessel of the Antiguan and Barbudan navy;

(b) on entering or leaving any Antiguan and Barbudan port;

(c) on entering or leaving any foreign Port.

Nationality and flag to be declared before clearance.

58. (1) A customs officer shall not grant clearance to any ship until the master of that ship has declared to that officer the name of the country to which he claims that she belongs and produces in support thereof the relevant certificate of registry; and that officer shall thereupon inscribe that name on the clearance.

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

Unlawful assumption of Antiguan and Barbudan character.

59. No person on board a ship which is not an Antiguan and Barbudan ship, shall use the Antiguan and Barbudan national colours, unless the assumption of Antiguan and Barbudan character has been made (the burden of proving which shall lie on him) for the purpose of escaping capture by the enemy or by a foreign ship of war.

60. No owner or master of an Antiguan and Barbudan ship shall knowingly do anything, or permit anything to be done, or carry or permit to be carried, any paper or documents, with the intent to conceal the Antiguan and Barbudan character of the ship from any person entitled by any law for the time being in force to enquire into the same or with the intent to assume a foreign character for the ship, or with intent to deceive any person so entitled as aforesaid.

Concealment of Antiguan and Barbudan or assumption of foreign character.

PART IV

Masters, Officers, Seamen and Cadets

CHAPTER I

Manning and Certificates

61. In this Part—

Definitions.

"CARICOM country" means a country which is a member of the Caribbean Community;

"home trade ship" means a ship registered in Antigua and Barbuda which trades solely between the following limits:

North: the parallel latitude of 31 degrees;
 East: the meridian of 50 degrees west;
 South: the Equator;
 West: the coastline of Continental America lying between the Northern and Southern limits given above.

"Foreign going ship" means a ship registered in Antigua and Barbuda not being a home trade ship, employed in trading between any port or place in a CARICOM country and any other port or place or between ports or places outside a CARICOM country.

62. (1) Every foreign going ship and every home trade ship, other than fishing vessels, pleasure yachts not engaged in trade and wooden ships of primitive build, when proceeding to sea from any port in Antigua and Barbuda,

Complement of certificated officers.

shall be provided with officers duly certificated under this Act according to the following scale, namely:

- (a) in every case, a duly certificated master;
- (b) if the ship is of 1600 gross registered tons and over, a master and three deck officers;
- (c) if the ship is 200 gross registered tons and over but under 1600 gross registered tons, a master and two deck officers;
- (d) if the ship is 80 gross registered tons and over but under 200 gross registered tons operating outside the Caribbean Community, a master and two deck officers;
- (e) if the ship is powered by main propulsion machinery of 3000 KW propulsion power or more, a chief engineer and three engineer officers;
- (f) if the ship is powered by main propulsion machinery of 746 KW propulsion power or more but under 3000 KW, a chief engineer and two engineer officers;
- (g) radio officers as provided for in the International Convention for the Safety of Life at Sea, 1974, as amended and Article 23 of ITU Radio Regulations.

(2) The Minister may make regulations for carrying out the purposes of subsection (1) having regard in particular to the International Conference on the Training and Certification of Seafarers 1978, and in particular, such regulations may provide for the following matters—

- (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 seamen or qualified seamen of any description as may be specified in the regulations;
- (b) prescribing 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 seamen of any description in order to be qualified for the purposes of this section;

(c) prescribing standards of competence to be attained by manning personnel in respect of ships and vessels not included in sub-section (1);

(d) the regulations mentioned in this section may establish different provisions for each description of ships or for ships of the same description in different circumstances.

63. An officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in his ship or of a higher grade granted in accordance with this Act or any other enactment in force before the commencement of this Act.

**Certificates of
competency.**

64. Any person who having engaged in any of the capacities prescribed under this Part in any such ship as aforesaid, goes to sea in that capacity without being entitled to, and without being in possession of, the required certificate, and any person who employs any person in any of the above capacities in such ship without ascertaining that he is entitled to, or possessed of such certificate commits an offence under this Act.

**Uncertified and
unauthorised
officers.**

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

**Form of
certificates.**

66. If it appears to the Minister, or any person duly authorised by him in this behalf, that the holder of a certificate granted under this Act has obtained it on false or erroneous information, he may cancel or suspend or alter such certificate; but no order under this section shall be made unless the person concerned has been given an opportunity of making a representation against the order proposed.

**Power to cancel
or suspend
certificates.**

67. A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate of competency in pursuance of section 66 shall be entered on the copy of the certificate kept under section 65.

Record of orders.

**Loss of
certificates.**

68. When a person holding a certificate granted under this Act proves to the satisfaction of the Minister or any person duly authorised by him in this regard that he has, without fault on his part, lost or been deprived of such certificate, a copy of the certificate to which he is entitled in accordance with the record kept under section 65 and 67 shall be granted to him on payment of the prescribed fee.

**Production of
certificates.**

69. (1) The master of a foreign going ship or the master of a home trade ship shall, on signing the agreement with the crew, produce to the officer before whom it is signed, the certificates of competency which the master, mate, engineers and other officers of the ship are required to hold.

(2) If the officer is satisfied that the certificates are such as the master, mate, engineers and other officers are required to hold under this Act, he shall give the master a certificate to the effect that the proper certificates of competency have been so produced.

(3) No customs officer shall grant clearance to any such ship outwards without the production of such certificates; and if any ship attempts to go to sea without clearance, the Customs officer may detain the ship until the certificate is produced.

**Certificates of
service of naval
officers.**

70. (1) The Minister may make regulations for the grant of certificates of service of different grades in the prescribed form to officers of the **Antiguan and Barbudan** Navy without examination and such certificates of service shall, for the purposes of this Act, be duly recognised as certificates of competency granted under this Act.

(2) The provisions of this Act, including provisions relating to penalties, shall apply in relation to a certificate of service as they apply to a certificate of competency.

**Recognition of
certificates issued
abroad.**

71. If an officer holds a certificate of competency or service for a foreign going ship issued in the United Kingdom or in any other country and if the Minister is satisfied that the conditions under which any such certificates are granted in that country require standards of competency or service not lower than those required under this Act for the grant

of corresponding certificates, he may, by notification in the *Gazette*, declare that any certificate of competency or service issued in that country shall, for the purposes of this Act, be recognised as equivalent to the corresponding certificate of competency or service granted under this Act.

72. The Minister shall make regulations to carry out the provisions of this Part relating to certificates of competency and in particular, such regulations shall provide for the following matters:

**Regulations
pertaining to
examinations for
certificates of
competency.**

(a) the different grades for which certificates of competency may be granted;

(b) the qualifications required of persons desirous of obtaining certificates of competency for the different grades;

(c) appointment of persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency;

(d) appointment of examiners, determining the date and place of examination and other matters connected with the conduct of examinations for certificates of competency;

(e) provide for the delivery of certificates to successful candidates by duly authorised persons;

(f) re-examination of candidates where the Minister has reason to believe that the report of the examiner has been duly made;

(g) the fees to be paid by candidates appearing for examinations.

73. The Minister may by notification in the *Gazette* constitute an advisory board called the Merchant Navy Training Board for the purpose of advising him on the measures to be taken for the training of merchant navy personnel, and in particular:

**Training of
merchant navy
personnel.**

- (i) the establishment of training institutions in Antigua and Barbuda;

- (ii) training of personnel in training institutions in foreign countries;
- (iii) training personnel on board Antiguan and Barbudan ships;
- (iv) training personnel on board foreign ships

CHAPTER II

Engagement and Discharge of Crews

Manning scale.

74. The Minister may make rules for classifying seamen, other than ships' officers, into different categories and prescribe the minimum manning scale of seamen of such categories for ships and different scales may be prescribed for ships of different types and sizes.

Qualifications and physical fitness.

75. No seaman may be engaged or carried to sea to work in any capacity in any ship unless he possesses the prescribed qualifications and standard of physical fitness.

Employment on voyage basis or long-term basis.

76. Seamen may be employed on voyage basis or on long term basis on running agreement by mutual agreement between the shipowners and the seamen concerned.

Crew agreement.

77. (1) The master of every Antiguan and Barbudan ship shall enter into an agreement in accordance with this Act with every seaman whom he engages and carries to sea as one of his crew from any port in Antigua and Barbuda.

(2) The agreement made under this section with the several members of the crew employed on a ship shall be contained in one document (in this Act referred to as "crew agreement") except that in such cases as the Minister may approve:

(a) the agreement to be made under this section with the members of the crew in a ship may be contained in more than one crew agreement;

(b) one crew agreement may relate to more than one ship.

(3) The agreement with the crew shall be in the prescribed form and shall contain the terms and conditions

of the employment of the members of the crew, the duration of the intended voyage, an indication whether the agreement is for one voyage or a running agreement covering two or more voyages, and such other particulars as may be prescribed.

(4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates, whenever the ship proceeds to sea.

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

(a) with respect to such descriptions of ships as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or

(b) with respect to such descriptions of seamen as may be specified in the regulations.

(6) The Minister may also grant exemptions from the requirements of this section (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ship of a special person) in cases where he is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

(7) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section, the master or the person employing the crew is guilty of an offence and the ship, if in Antigua and Barbuda, may be detained.

78. The stipulations adopted by the parties to the crew agreement shall not be contrary to national and international law relating to wages and conditions of employment of seamen and masters on board ships.

**Stipulations in
crew agreement.**

79. (1) The Minister may make regulations:

**Regulations
relating to crew
agreements.**

(a) requiring such notice as may be specified in the regulations to be given to the Director or proper officer, except in such circumstances as may be so

specified, before a crew agreement with any person is added to those contained in a crew agreement;

(b) providing for the delivery to the Director or proper officer of crew agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;

(c) requiring the posting in ships of copies of or extracts from crew agreements;

(d) requiring the master of every ship, before proceeding to sea from any port in Antigua and Barbuda, to produce to the customs officer concerned a certificate from the Director or proper officer to the effect that the provisions regarding crew agreement have been duly complied with;

(e) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew;

(f) making it obligatory on the part of the Director or proper officer to explain to each member of the crew the contents of the agreement before he signs it;

(g) requiring any document carried in a ship in pursuance of section 77 to be produced on demand to an officer of customs and excise;

(h) prescribing the form of the crew agreement and the particulars to be entered therein.

(2) The regulations may provide that any person who contravenes any provision thereof shall be guilty of an offence under this section.

**Discharge of
seamen.**

80. (1) The Minister shall make regulations:

(a) prescribing the procedure to be followed in connection with the discharge of seamen from ships registered in Antigua and Barbuda;

(b) relating to cases where a seaman employed in a ship registered in Antigua and Barbuda is left behind

outside Antigua and Barbuda otherwise than on being discharged from the ship.

(2) Where a ship registered in Antigua and Barbuda ceases to be so registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship. In such a case, the rules relating to payment of seamen's wages, account of seamen's wages, wages and accounts, and power of the Director or proper officer to decide disputes about wages contained in this Part shall apply in relation to his wages as if the ship had remained registered in Antigua and Barbuda.

81. If a seaman, having signed an agreement, is discharged otherwise than in accordance with the terms thereof without fault on his part justifying the discharge, and without his consent, he shall be entitled to receive from the master, owner or agent of the ship, in addition to any wages which he may have earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages if the discharge has taken place before the commencement of the voyage and two months' wages, if it has taken place after the commencement of the voyage. The compensation payable may be recovered as wages duly earned.

Compensation to
seamen
improperly
discharged.

82. (1) The Minister may make regulations for the recruitment of persons for employment as seamen either through any Seamen's Employment Office that may be established by Government or through other suitable organisations to be duly approved by the Minister.

Arrangement for
employment of
seamen.

(2) No person shall receive or accept to be entered on board any ship in Antigua and Barbuda any seaman unless he has been supplied in accordance with subsection (1).

(3) A person shall not demand or receive either directly or indirectly from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf any remuneration whatever for providing him with employment other than the fees authorised by this Act.

(4) Any person who contravenes the provisions of this section or the regulations made thereunder is guilty of an offence.

**Restriction on
employment of
underaged
persons on board
ship.**

83. (1) A person under school-leaving age shall not be employed in any ship registered in Antigua and Barbuda except as permitted by regulations under this section.

(2) The Minister may make regulations:

(a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age 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 over school-leaving age but under the age of eighteen or under such lower age as may be specified in the regulations must not be employed in a ship registered in Antigua and Barbuda or may be so employed only subject to such conditions as may be specified in the regulations.

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

(4) If any person is employed in a ship in contravention of this section or if any conditions subject to which a person may be employed under regulations made for the purposes of this section are not complied with, the owner or master is guilty of an offence.

(5) For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of the compulsory school age in Antigua and Barbuda under the enactments relating to education in Antigua and Barbuda in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside Antigua and Barbuda or is employed otherwise than under an agreement, under

the enactments relating to education in Antigua and Barbuda and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

84. (1) No child, which expression for the purposes of this section, means a person under fifteen years of age, shall be employed in any vessel, except upon work approved and supervised by the Minister on board a school ship or training ship, or where the Minister certifies that he is satisfied, having due regard to the health and physical conditions of such child and to the prospective and immediate benefit to such child of such employment that such employment will be beneficial to such child, but under no circumstances shall a child of under fourteen years of age be so employed.

**Employment of
children and
young persons as
seamen.**

(2) This section does not apply to a vessel in which only members of one family are employed.

(3) No young person of fifteen, sixteen or seventeen years of age shall be employed in any capacity in any 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.

(4) Every such certificate:

(a) shall be valid for one year from the date of issue unless revoked under the provisions of this section; and

(b) may at any time be revoked by a duly qualified medical practitioner if he is satisfied that a young person is no longer fit for work.

(5) No 'young person under the age of eighteen years shall be employed or work on any vessel as a trimmer or stoker.

85. The provisions relating to the employment of children and young persons as seamen shall in no case derogate from international law in the same field.

**International
Law relating to
employment of
children and
young persons.**

No ousting of jurisdiction.

86. In no case may crew agreements and contracts of employment of persons under eighteen on board ship deprive the courts of Antigua and Barbuda from hearing and determining disputes relating to them.

Changes in crew of foreign going ship.

87. (1) The master of every foreign going ship shall, before leaving Antigua and Barbuda, sign and send to the Director a full and accurate statement, in the prescribed form of every change which takes place in his crew before finally leaving Antigua and Barbuda and that statement shall be admissible in evidence.

(2) Any master who fails, without reasonable cause, the proof whereof shall lie on him, to comply with this section commits an offence under this section.

Change of master.

88. (1) Where, during the progress of a voyage of a ship, the master is removed, superseded or for any other reason ceases to have command or charge of the ship, and is succeeded in the command by some other person, he shall deliver to his successor 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 so to do he commits an offence under this section.

(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.

Conditions of service—
Minister to make Regulations.

89. The Minister shall make such regulations as he considers necessary or expedient to provide for the conditions of service of those serving in Antiguan and Barbudan ships and matters connected therewith, and in particular relating to—

(a) apprenticeship to sea service;

(b) engagement by foreign ships of Antigua and Barbuda nationals and of foreign nationals in Antiguan and Barbudan ships;

(c) qualifications, vocational standards and standards of physical fitness required of seamen of different classes;

(d) the nature of medical examination of seamen, the authorities by which such examination shall be conducted and the fees payable therefor;

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

(f) the implementation of any international convention relating to the employment, welfare, security, certification or statute of officers and seamen;

(g) the avoidance of agreements made contrary to such regulations as may be prescribed;

(h) wages in general, and the rights related thereto of persons employed in ships registered in Antigua and Barbuda, securing safe working conditions, health and welfare for masters and seamen employed in ships;

(i) fees payable upon engagement and discharge of seamen;

(j) crew's knowledge of English.

CHAPTER III

Wages

90. (1) Except as provided by or under this Act or any other enactment, the wages due to a seaman under a crew agreement relating to a ship shall be paid to him in full at the time when he leaves the ship on being discharged therefrom. **Payment of
seaman's wages.**

(2) If the amount shown in the account delivered to a seaman under section 91(1) as being the amount payable to him under subsection (1) of this section is replaced by an increased amount shown in a further account delivered to him under section 91(3) the balance shall be paid to him within seven days of the time of discharge; and if it is not practicable to pay the whole of the amount shown in the account delivered to him under section 91(1) at the time of discharge, not less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.

(3) If any amount which, under the preceding provisions of this section, is payable to a seaman is not paid at

the time at which it is so payable, the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of fifty-six days following the time of discharge; and if any such amount or any part thereof payable by virtue of this subsection remains unpaid after the end of that period, it shall carry interest at the rate of twenty percent per annum.

(4) Sub-section (3) does not apply if the failure to pay was due to a mistake, to a reasonable dispute as to liability or to the act or default of the seaman or to any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents, and so much of that subsection as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.

(5) Where a seaman is employed under a crew agreement relating to more than one ship, the preceding provisions of this section shall have effect in relation to wages due to him under the agreement, as if for any reference to the time of discharge there was substituted a reference to the termination of his employment under the crew agreement.

Account of
seaman's wages.

91. (1) Subject to subsection (4) and to regulations made under this Part, the master of every ship registered in Antigua and Barbuda shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than twenty-four hours before the time of discharge or, if the seaman is discharged without notice or less than twenty-four hours' notice, at the time of discharge.

(3) If the amounts stated in the account required adjustment the person who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman under section 90(2).

(4) Where a seaman is employed under a crew agreement relating to more than one ship, any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.

(5) If a person fails without reasonable cause to comply with the preceding provisions of this section, he shall be guilty of an offence under this section.

92. The Minister shall make regulations which may provide for the following and other connected matter:

Regulations relating to wages and accounts.

(a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provisions of this Act or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him or where he is dissatisfied by the master or when such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;

(c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;

(d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in Antigua and Barbuda otherwise than on being discharged therefrom.

(e) prescribing the form and manner in which any account required to be delivered by section 91 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

93. (1) Where, before the Director or a proper officer a question as to wages is raised between the master or owner of a ship and a seaman, and the amount does not exceed one hundred and fifty dollars, the Director or a proper officer

Power of Director or proper officer to decide disputes about wages.

may, on the application of either party, decide the question and the decision shall be final; but if the Director or a proper officer is of the opinion that the question is one which ought to be decided by a court, he may refuse to decide it.

Restriction on assignment of and charge upon wages.

94. (1) Subject to subsections (2) and (3) the following provisions shall have effect with respect to the wages due or accruing to a seaman employed in a ship registered in Antigua and Barbuda, that is to say:

(a) the wages shall not be subject to attachment or arrestment;

(b) assignments of wages before they have accrued shall not bind the seaman and the payment of the wages shall be in any case valid notwithstanding any previous assignment or charge;

(c) a power of attorney or authority for the receipt of wages shall not be irrevocable.

(2) Nothing in this section shall affect the provisions of this Act with respect to allotment notes.

(3) Nothing in this section applies to application of wages:

(a) in the payment of contributions to a fund designated by regulations made by the Minister;

(b) in the payment of contributions in respect of a body designated by regulations made by the Minister.

Power of court to award interest on wages due otherwise than under crew agreement.

95. In any proceedings by the master of a ship or person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages, the court, unless it appears to it that the delay in paying the sum was due to a mistake, to a reasonable dispute as to liability or to the act or default of the person claiming the amount or to any other cause not being the wrongful act or default of the person liable to make the payment or his servant or agents, may order them to pay in addition to the sum due, interest on it at the rate of twenty percent per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

96. (1) Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Minister, allot to any person part of the wages to which he will become entitled in the course of his employment in a ship or ships registered in Antigua and Barbuda. Allotment notes.

(2) The Minister shall make regulations relating:

(a) to the limitations to which a seaman's right to make an allotment are subject;

(b) to the form of allotment notes;

(c) to the right of a person named in an allotment note to sue in his own name.

97. (1) Where the service of any seaman engaged under this Act terminates before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside Antigua and Barbuda under a certificate granted under this Act of his unfitness or inability to proceed on the voyage, the seaman shall be entitled to receive: Wages on termination of service by wreck, illness, etc.

(a) in the case of wreck, loss or abandonment of the ship;

(i) wages at the rate to which he was entitled on the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrived at a proper return port; provided that the period for which he shall be entitled to receive wages shall be not less than one month; and

(ii) compensation for the loss of his effects in the case of a seaman employed on a home trade ship, of not less than one month's wages; and in the case of a seaman employed on a foreign going ship, of not less than three months' wages;

(b) in the case of unfitness or inability to proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port.

(2) A seaman shall not be entitled to receive wages under subsection (1)(a) in respect of any period during which;

(a) he was or could have been suitably employed; or

(b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman.

(3) Any amount payable by way of compensation under subsection (1)(a)(ii) shall be deposited with the Director or proper officer at the port of engagement in Antigua and Barbuda for payment to the seaman or, in the case of a deceased seaman, to his legal heirs.

(4) When a ship registered in Antigua and Barbuda is sold while outside Antigua and Barbuda or ceased to be so registered and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, 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 on the date on which his employment is terminated for the period for which he remains unemployed, subject to a maximum period of two months.

(5) A seaman shall not be entitled to wages under subsection (4) for any period for which he was unemployed if it is shown:

(a) that the unemployment was not due to the termination of his employment on the sale of the ship or its ceasing to be registered in Antigua and Barbuda; or

(b) that the seaman was able to obtain suitable employment for that period but unreasonably refused or failed to take it.

Protection of
rights and
remedies.

98. (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his 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) Subsection (1) does not affect such of the terms of any agreement made with the seamen belonging to a ship

which in accordance with the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services rendered by that ship.

99. The Minister shall make regulations relating to claims against seamen's wages for maintenance, and similar matters of dependants.

Claims against
seamen's wages,
etc. of
dependants.

100. The master of a ship shall have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act as well as for the recovery of all disbursements or liabilities properly made or incurred by him on account of the ship.

Remedies of
master.

101. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of section 91, except in respect of a matter happening after such delivery.

Deduction from
wages.

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

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

Wages not to
depend on
freight.

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

Refusal to work.

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

Illness caused by own default.

104. Where a seaman 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, he shall not be entitled to wages for the period during which he is, by reason of the illness, incapable of performing his duty.

Rate of exchange.

105. Where a seaman is paid in respect of, or on account of his wages, in a currency other than that specified in the agreement, payment shall, notwithstanding anything in the agreement, be made at the rate of exchange for money specified in the agreement for the time being in force at the place where the payment is made, and such rate of exchange shall be endorsed on the agreement by the diplomatic or consular officer at that place.

General.

106. In addition to the powers conferred upon him under this Part, the Minister may make regulations relating to wages for those matters which are not expressly mentioned under this Part. In no case, however, shall regulations made by the Minister derogate from national and international law relating to wages.

CHAPTER IV

Safety, Health and Welfare

Safety regulations.

107. The Minister shall make regulations for securing, as far as practicable, safe working conditions and safe means of access for masters and seamen employed in ships registered in Antigua and Barbuda and requiring the reporting of injuries sustained by them.

Crew accommodation.

108. (1) The Minister shall make regulations with respect to the crew accommodation to be provided in ships registered in Antigua and Barbuda.

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

(a) prescribe the minimum space for each person which must be provided by way of sleeping accommodation for seamen and apprentices 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 of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and

(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.

(3) Regulations under this section may make different provisions with respect to different descriptions of ships or with respect to ships which are registered in Antigua and Barbuda at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.

(4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Minister may grant other exemptions from any such requirement with respect to any ship.

(5) Regulations made under this section may require the master of a ship or any officer authorised by him for the purpose or any officer duly authorised in this regard by the Minister to carry out such inspections of the crew accommodation as may be prescribed by the regulations.

(6) If the provisions of any regulations made under this section are contravened in the case of a ship, the owner or

master is guilty of an offence under this section and the ship if in Antigua and Barbuda, may be detained.

(7) For the purposes of 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 seamen but does not include any accommodation which is also used by or provided for the use of passengers.

(8) In no case the regulations made under this section shall derogate from the standards and requirements laid down in the Convention of the International Labour Organisation concerning crew accommodation on board ship (92 of 1949) as amended by the Convention (133 of 1970).

Regulations.

109. The Minister shall make regulations relating to:

- (a) provisions and water;
- (b) maintenance on board of power weights and measures for serving provisions and other articles;
- (c) medical stores;
- (d) medical treatment on board ship;
- (e) expenses of medical treatment, etc., during voyage;
- (f) procedure to be followed by the seamen in lodging complaints with the appropriate authorities in regard to matters provided by the regulations;
- (g) periodical inspection by duly authorised officers to secure compliance with this section.

**Welfare of
seamen.**

110. (1) The Minister may by notification in the *Gazette*, constitute an advisory board to be called the National Welfare Board for the purposes of advising the Minister on the measures to be taken for promoting the welfare of seamen and make regulations regarding the constitution and functions of the Board.

(2) The Minister may make regulations relating to welfare measures for seamen such as sickness insurance,

medical care, compensation for death or injury, protection of seamen in respect of litigation and other connected matters.

(3) The Minister may appoint a Seamen's Welfare Officer to look after the welfare of seamen.

CHAPTER V

Provisions as to Discipline

111. If the master or any member of the crew of a ship, registered in Antigua and Barbuda by wilful breach of duty, or by neglect of duty, or by reason of drunkenness:

Endangering safety of ship or of persons on board.

(a) does any act tending to the loss or destruction of or serious damage to the ship, or tending to endanger the life of or cause injury to any 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 immediate danger to life or from injury;

he commits an offence.

112. A seaman or apprentice engaged on an Antigua and Barbudan ship who commits any of the following acts is guilty of an offence—

General offences against discipline.

(a) if he quits the ship without leave after her arrival at a port and before she is placed in security;

(b) if he is guilty of wilful disobedience to any lawful command;

(c) if he assaults the master or any mate or officer of the ship;

(d) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage;

(e) if he wilfully damages his ship or dishonestly misappropriates or converts to his own use, or commits criminal breach of trust in respect of or wilfully damages, any of her stores or cargo;

(f) if he commits an act of smuggling whereby loss or damage is occasioned to the master or owner of the ship.

**Refusal to serve
on unseaworthy
ship.**

113. Notwithstanding anything contained in the regulations issued under section 112, a seaman or apprentice who refuses to join the ship or proceed to sea, if the ship on which he is engaged or to which he belongs is unseaworthy, shall not be deemed to have committed an offence against discipline; provided that the seaman or apprentice has, before refusing to do so, complained to the master, the Director or the proper officer that the ship is unseaworthy.

**Trade disputes
involving
seamen.**

114. (1) Notwithstanding anything in any agreement a seaman employed in a ship registered in Antigua and Barbuda may terminate his employment in that ship by leaving the ship in contemplation or furtherance of a trade dispute after giving to the master not less than forty-eight hours' notice of his intention to do so, and shall not be compelled (unless the notice is withdrawn) to go to sea in the forty-eight hours following the giving of such notice; but such a notice shall be of no effect unless at the time it is given the ship is in Antigua and Barbuda and securely moored in a safe berth.

Cap. 27.

(2) In this section "trade dispute" has the same meaning as in Section A5 of the Antigua and Barbuda Labour Code.

**Entry of offences
in log-book.**

115. If any offence, within the meaning of this Act, of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine, and it is intended to enforce the fine—

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

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port or if she is at the time in port before her departure therefrom, either be furnished with a copy of the entry

or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;

(c) a statement of a copy of the entry having been so furnished, or of the entry having been so read over, and in either case, the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

1 1 (1) Any seaman, who on or before being engaged wilfully and fraudulently makes a false statement of the name of the ship on which he served last, or wilfully and fraudulently makes a false statement of his own name, commits an offence. **Offence of making false statement.**

(2) Any fine imposed pursuant to subsection (1) may be deducted from any wages which the seaman may earn by virtue of his engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as any other fine under this Act.

117. If it is shown to the satisfaction of the Registrar that a seaman is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason or has been seriously negligent in the discharge of his duties, the Registrar may direct that the Seaman's Certificate of discharge which entitles him to work as seaman and which shall be prescribed under the regulations to be made under section 80 relating to discharge of seamen shall be withheld for such period as may be specified in the direction. **Suspension of certificate of discharge.**

118. The Minister shall make regulations relating to— **Minister to make regulations.**

(a) disqualification of holder of certificate other than officers;

(b) inquiry into fitness or conduct of seamen other than officers.

CHAPTER VI

Relief and Repatriation of Seaman Left Behind

Maintenance and repatriation of seamen left behind.

119. (1) Where a seaman or apprentice serving in a ship registered in Antigua and Barbuda—

(a) is left behind in any country outside Antigua and Barbuda or is taken to such a country on being shipwrecked;

(b) is discharged without his consent at a port outside Antigua and Barbuda before the expiration of the period for which the seaman was engaged or apprentice was bound;

(c) is discharged at a port outside Antigua and Barbuda by reason of transfer of registry or sale of the ship as provided for in section 97(4);

the master or owner of the ship shall, in addition to any other relative obligation imposed on either of them by this Act, make adequate provision for the maintenance of the seaman or apprentice and for the return to a proper return port.

(2) The provision to be made may include, in the case of a ship-wrecked seaman or apprentice, the repayment of expenses incurred in bringing him ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman or apprentice who dies before he can be returned.

(3) The provisions of subsections (1) and (2) relating to the liability of the master or owner of a ship in respect of a seaman or apprentice left behind or discharged in a country outside Antigua and Barbuda shall also apply in respect of a seaman or apprentice who was signed on under an agreement entered into outside Antigua and Barbuda and is left behind or discharged in Antigua and Barbuda owing to occurrences mentioned in paragraphs (a) to (c) of subsection (1).

(4) If the master or owner fails, without reasonable cause, to comply with subsection (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman or apprentice, be recoverable as wages due to him and, if defrayed by an Antiguan and Barbudan diplomatic or consular officer, be regarded as expenses falling within the scope of section 120.

120. The Antiguan and Barbudan diplomatic or consular officer at or near the place where the seaman or apprentice is in distress shall, on application being made to him by the distressed seaman or apprentice, provide, in accordance with the regulations made under this Act, for his return to a proper return port and also for his maintenance until his arrival at such port.

Relief of distressed seaman.

121. (1) The Minister shall make regulations relating to grant of relief to distressed seamen or apprentices and provide for matters which are not covered by the preceding sections of this Chapter, and in particular, such regulations may provide for the following matters:

Regulations relating to relief of distressed seaman.

- (i) the extent of relief and the conditions on which it is granted to distressed seamen;
- (ii) recovery of expenses incurred on Government account on relief and repatriation of a distressed seaman from the owner or agent of the ship concerned and the seaman concerned;
- (iii) the limit of the shipowner's liability for relief and repatriation expenses;
- (iv) determining the proper return port to which the distressed person is to be returned;
- (v) requiring the master of an Antiguan and Barbudan ship to convey a distressed person to a proper return port and for enabling a superintendent or proper officer to give the master directions for that purpose;
- (vi) for the making of payments in respect of the conveyance of a distressed person;

(vii) for the keeping of records and rendering of accounts.

(2) Any person contravening any of the regulations made under this section shall be guilty of an offence.

CHAPTER VII

Property of Deceased *Seamen*

Definition.

122. For the purpose of this Act, the property of a deceased seaman or apprentice shall mean the wages and other monies due to a seaman or apprentice at the time of his death and other effects belonging to him.

Regulations relating to property of deceased seaman.

123. (1) The Minister shall make regulations providing for the custody of and dealing with:

(a) any property left on board a ship registered in Antigua and Barbuda by a seaman dying while or after being employed in the ship;

(b) any property left in a country outside Antigua and Barbuda by a seaman dying while or within six months after being employed in such a ship; and

(c) any property left in a country outside Antigua and Barbuda by a citizen of Antigua and Barbuda dying while or within six months after being employed as a seaman in a ship registered outside Antigua and Barbuda.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulation may provide for the following matters:

(a) the obligations of masters of Antiguan and Barbudan ships to:

(i) report the death of a seaman or apprentice occurring during a voyage to the next-of-kin and to the Registrar or proper officer when the port of engagement is in Antigua and Barbuda or to the Antiguan and Barbudan diplomatic or consular officer concerned when the port of engagement is outside Antigua and Barbuda;

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- (ii) deliver and pay the property of the deceased seaman or apprentice to the Registrar or proper officer in Antigua and Barbuda or the Antiguan and Barbudan diplomatic or consular officer, as the case may be;
 - (b) authorising the Registrar or proper officer in Antigua and Barbuda or the Antiguan and Barbudan diplomatic or consular officer, as the case may be, to sell, if he thinks fit, the personal effects of a deceased seaman or apprentice and deal with the proceeds of such sale in the prescribed manner.
 - (c) requiring the masters of ships to record particulars and render accounts in regard to the property of a deceased seaman or apprentice in the prescribed manner;
 - (d) requiring the Registrar or proper officer to deliver the property of a deceased seaman or apprentice to the rightful claimants and the procedure to be followed in effecting such delivery;
 - (e) the manner of recovering property of a deceased seaman or apprentice through court proceedings;
 - (f) disposal of unclaimed property of a deceased seaman or apprentice.

CHAPTER VIII

Log-Books

124. (1) An official log-book shall be kept in the prescribed form in every Antiguan and Barbudan ship except a home trade ship of less than two hundred tons gross.

Form, maintenance and custody of log-book.

(2) The Minister shall prescribe forms of official log-books which may be different for different classes of ships so that each such form shall contain proper places for the entries required by this Act.

(3) The official log-book may, at the discretion of the master, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(4) An entry required by this Act in an official log-book shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

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

(6) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

**Entries required
in official log-
book.**

125. The master of a ship for which an official log-book is required shall enter or cause to be entered in the official log-book the following matters, namely:

(a) every conviction by a court of competent jurisdiction of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or to exact a fine together with such statement concerning the copy or reading over of that entry and concerning the reply, if any, made to the charge as required by this Act;

(c) every offence for which punishment is inflicted on board and the punishment inflicted;

(d) a statement of the conduct, character and qualifications of each of his crew and a report on the quality of his work or a statement that he declines to give an opinion on the quality of his work together with a statement of his reasons for so declining;

(e) every case of illness or injury happening to a member of the crew with the nature thereof and the medical treatment adopted, if any;

(f) every refusal of a member of the crew to take anti-scorbutics or medicines;

(g) every birth of a child and death of a person happening on board his ship together with such particulars of those occurrences as may be prescribed;

(h) every marriage taking place on board with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death with the place, time, manner and cause thereof;

(j) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;

(k) the money and other property taken over of any seaman or apprentice who dies during the voyage;

(l) the sale of the effects of any seaman or apprentice who dies during the voyage including a statement of each article sold and the sum received for it;

(m) every collision with any other ship and the circumstances under which the same occurred and other accidents causing damage to the ship or cargo;

(n) the date and time of posting up in the ship of a notice containing particulars of the ship's draught and freeboard; and

(o) any other matter directed by this Act.

126. (1) The master of every ship to which section 124 applies other than a ship whose crew is engaged on a running agreement, shall, within forty-eight hours after the ship's arrival at her port of destination in Antigua and Barbuda or upon the discharge of the crew, whichever first happens, deliver or transmit the official log-book and radio log-book of the voyage to the Director before whom the crew is discharged.

**Delivering of
official log-book
and radio-book
of the voyage to
the Director.**

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

Delivery of
official log-book
to Director when
not required.

127. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log-book ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the ship is then within Antigua and Barbuda within one month, and if she is elsewhere, within six months after each cessation deliver or transmit to the Director the official log-book and the agreement with the crew duly made out to the time of the cessation.

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

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

Offence in
respect of log-
book.

128. (1) If an official log-book is not kept in the manner required by this Act, or if any entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master of the ship is guilty of an offence.

(2) Any person who makes, or procures to be made, or assists in making an entry in an official log-book in respect of any occurrence happening previous to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival is guilty of an offence.

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

CHAPTER IX

Rights and Duties of Master

Rights and duties
of master.

129. The master shall exercise command of the vessel and have, among others, the following rights and duties:

(a) he shall be responsible for maintaining order and discipline on board;

(b) he shall assume full responsibility for the safety of the vessel, passengers, crew and cargo, and shall take all necessary and appropriate steps in this behalf;

(c) he shall assume full responsibility for navigation at all times and he is bound to be in personal control of the vessel when entering or leaving ports, canals and rivers and also while within port areas and the employment of a pilot or tug boat on such occasions, as required under the local laws, does not relieve him of his responsibility for the safety of the vessel;

(d) he shall take care at the beginning of and during the voyage that the vessel is seaworthy in all respects, that the cargo has been properly loaded and secured and that all reasonable measures have been taken to protect the cargo from damage, pilferage or loss;

(e) while away from home port, the master shall have authority, if necessary, to raise loans and enter into contracts in the name of the owners or take such other steps as may be considered necessary, for carrying out repairs, for supplying the vessel with bunkers, provisions, stores and similar articles in order to avoid detention to the vessel on its voyage;

(f) he shall see that the ship's log-books are properly and correctly maintained and shall keep in his custody the log-book and all other ships' documents;

(g) he shall render, so far as he can do so without exposing his vessel and persons on board to serious danger, every assistance to vessels and persons in distress at sea as required under section 140;

(h) in the event of the vessel encountering foul weather or any other accident during a voyage causing damage to or loss of cargo, he shall, at the next port of call, file a marine protest with the prescribed authority giving a detailed description of the accident;

(i) when the ship is at sea, the master is authorised to—

(a) conduct marriages of passengers or other persons on board;

(b) issue birth certificates for children born at sea;

(c) bury persons who have died on board the vessel;

(j) when the vessel is in imminent danger of loss or destruction, the master is bound to take all possible measures to save first the passengers and then the crew; he is the last to leave the vessel taking care, if possible, to save the log-book and other documents of the ship and valuables and money belonging to the vessel.

CHAPTER X

Documentation and Returns

Regulations with respect to documentation and returns.

130. The Minister may make regulations as he considers necessary or expedient to provide for documentation and returns and, in particular, relating to—

(a) official log-books;

(b) return of births and deaths in Antiguan and Barbudan ships and of citizens of Antigua and Barbuda in foreign ships;

(c) register of seamen who serve in ships whose tonnage exceeds fifteen tons registered tonnage.

PART V

Safety of Navigation

CHAPTER I

Prevention of Collisions

Collision Regulations.

131. (1) The Minister shall make regulations, called "Collision Regulations", for prevention of collisions at sea; containing such requirements as may be considered necessary to implement the provisions and carry out the objects and purposes of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, and those of any amendment and replacement of the Convention which may

be accepted from time to time on behalf of Antigua and Barbuda.

(2) The provisions of the Convention mentioned in subsection (1) shall apply to all Antiguan and Barbudan vessels and seaplanes, wherever they may be, and to any other ship or seaplane while they are within the territorial sea of Antigua and Barbuda; and the owner or master of any such vessel or the person in charge of any such seaplane shall comply with the requirements.

132. (1) All owners and masters of ships and seaplanes and other craft when on or in close proximity to the water shall obey the Collision Regulations and shall not carry or exhibit any other lights or use any other signal than such as are required by regulations made under this Part.

**Observance of
Collision
Regulations.**

(2) If an infringement of the Collision Regulations is caused by the wilful default of a master or owner, that master or owner is guilty of an offence.

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

133. A surveyor of ships may inspect a ship of any nationality for the purpose of seeing that the ship is properly provided with lights and shapes and the means of making sound signals in conformity with the Collision Regulations; and if the surveyor finds that the ship is not so provided, he shall state what is requisite to remedy the deficiency and shall detain the ship until the deficiency is remedied to his satisfaction.

**Inspection for
enforcing
Collision
Regulations.**

134. (1) In every case of collision between two ships, the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any, shall—

**Duty of vessel to
assist the other
in case of
collision.**

(a) render to the other ship, her master, crew and passengers, if any, such assistance as may be practicable and necessary to save them from any danger caused by the collision, and shall stay by the other ship until he has ascertained that there is no need of further assistance; and

(b) give to the master or person in charge of the other ship the name of his own ship and of the port at which she is registered or to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) The master or person in charge of a ship who fails, without reasonable cause, to comply with this section is guilty of an offence and if he is a certificated officer, an inquiry into his conduct may be held and his certificate cancelled or suspended.

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

Collisions to be
entered in the
official log-book.

135. (1) In every case of collision in which it is practicable so to do, the master of every ship shall immediately after the occurrence, cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log-book, and the entry shall be signed by the master, and also by the mate or one of the crew.

(2) Any master who fails to comply with this section is guilty of an offence.

Record of boat
drill or fire drill.

136. (1) The master of every Antiguan and Barbudan ship shall cause to be entered in the official log-book a statement or, if there is no official log-book, cause other record to be kept of every occasion on which boat drill or fire drill is practised on board the ship; and if—

(a) in the case of a passenger ship, boat drill or fire drill is not practised on board the ship in any week;

(b) in the case of any other ship, boat drill or fire drill is not practised on board the ship in any two weeks,

the master shall cause a statement to be entered or other record to be kept as aforesaid of the reasons why the drill was not practised in that week or two-weeks period, as the case may be.

(2) The master of a ship who fails to comply with the requirements of this section is guilty of an offence.

CHAPTER 1A

General Safety Precautions Relating to Crew Obligation to Notify Hazards to Navigation, Signal of Distress, Obligation to Assist Vessels in Distress

137. Every ship shall be manned with the prescribed complement of crew, duly certificated, applicable to the intended voyage and shall during such voyage be kept so manned.

Prescribed complement of certificate crew.

138. (1) The master of any Antiguan and Barbudan ship on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information accordingly by all means of communication at his disposal and in accordance with any regulations that the Minister may make or adopt for the purpose of this section to ships in the vicinity or to such authorities on shore as may be prescribed by those regulations.

Obligation to notify hazards of navigation.

(2) Every person in charge of a radio station in Antigua and Barbuda or on board any Antiguan and Barbudan ship shall, on receiving the signal prescribed in the regulations for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and if so required by the Minister, shall transmit the message in such a manner as may be required by him.

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

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

(5) The master of a ship who fails to comply with this section is guilty of an offence.

Master to
proceed
moderately in a
danger area.

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

(2) The master of a ship who fails to comply with this section is guilty of an offence.

Obligation to
assist vessels or
persons in
distress.

140. (1) The master of an Antiguan and Barbudan ship at sea on receiving a signal from any source that a ship or aircraft or survival craft thereof 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, but if he is unable, or in the special circumstances of the case, considers it unreasonable or unnecessary, to proceed to their assistance, he shall enter in the official log-book the reason for failing to proceed to the assistance of the persons in distress.

(2) The master of every Antiguan and Barbudan ship shall render assistance to every person found at sea in danger of being lost, unless he is unable or in the special circumstances of the case, considers that such assistance cannot be rendered without serious danger to his ship or the persons thereon in which case he shall cause a statement to be entered in the official log-book of the reasons for not going to the assistance of the person in distress.

(3) The master who fails to comply with the provisions of subsections (1) and (2) is guilty of an offence.

(4) Compliance with the provisions of this section shall not affect the right of salvage.

Signals of
distress.

141. (1) The Minister shall make regulations as to what signals shall be signals of distress and urgency and the signals prescribed by the regulations shall be deemed to be signals of distress and urgency respectively.

(2) Such regulations shall further prescribe, so far as is necessary and expedient, the circumstances in which and the purposes for which any signals prescribed by such regulations shall be used, and the circumstances in which they shall be revoked.

(3) If a master of a ship uses or displays or causes or permits any person under his authority to use or display—

(a) any signal prescribed by regulations under this section except in the circumstances and for the purposes prescribed by the regulations; or

(b) any private signal whether registered or not that is liable to be mistaken for any signal as prescribed by regulations,

he is guilty of an offence and in addition to any penalty imposed upon him on conviction 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.

142. (1) When any ship to which this section applies has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or, in the case of a ship propelled by mechanical power, in any part of her machinery, or has been in collision with another ship, the master shall transmit to the Director of Marine Services or such other officer as may be specified in this behalf a report of the accident or damage, and of the probable cause thereof, stating the name of the ship, her official number, if any, the port at which she is registered or to which she belongs and the place where she is.

**Report of
accident and loss
of ship.**

(2) If the managing owner, or in the event of there being no managing owner or no such owner resident in Antigua and Barbuda, the agent, of any ship to which this section applies has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1), he shall satisfy himself that the accident or damage has been reported by the master to

the proper officer mentioned in subsection (1); and if any such managing owner or agent has reason to apprehend that the accident or damage has not been so reported, he shall as soon thereafter as possible, send to the proper officer notice in writing stating the name of the ship, her official number if any, and the port at which she is registered or to which she belongs, and stating also, to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the place where the ship then is.

(3) This section applies to any ship to which any such accident or damage, as is mentioned in the foregoing provisions of this section, occurs or is believed to have occurred, on or near the coasts of Antigua and Barbuda.

(4) The master or managing owner or agent who fails, without reasonable cause, to comply with this section is guilty of an offence.

**Apprehended loss
of the ship.**

143. (1) If the managing owner or, in the event of there being no managing owner, or no such owner resident in Antigua and Barbuda, the agent of any ship to which this section applies, has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been totally lost, he shall, as soon thereafter as possible, send to the officer mentioned in section 142(1) notice in writing stating the name of the ship, her official number, if any, and the port at which she is registered or to which she belongs and stating also to the best of his knowledge and belief, the probable cause of the loss.

(2) The section applies to:

(a) Antiguan and Barbudan ships, and

(b) other ships which are lost or are supposed to have been lost on or near the coast of Antigua and Barbuda.

(3) A managing owner or agent who fails without reasonable cause to comply with this section within a reasonable time is guilty of an offence.

CHAPTER II

Application of the Convention for the Safety of Life at Sea

144. In this Part—

Interpretation.

"cargo ship" means a ship which is not a passenger ship;

"fishing vessel" means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

"international voyage" means a voyage from a port in one country to a port outside such country, or conversely;

"short international voyage" means an international voyage—

(a) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety; and

(b) does not exceed six hundred nautical miles in length between the last port of call in the country where the voyage begins and the final destination,

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

"passenger" means person other than—

(a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(b) a child under one year of age;

"passenger ship" means a ship which carries more than twelve passengers;

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974, together with such amendments thereto or replacements

therefor as the Minister may, by order in the *Gazette* declare to be in effect;

"Safety Convention Certificate" means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes a safety certificate, safety construction certificate, safety equipment certificate, safety radio-telephony certificate, safety radio-telegraphy certificate and any such certificate that is limited, modified or restricted by an exemption certificate;

"Safety Convention ship" means a ship to which the International Convention for the Safety of Life at Sea 1974, applies;

"surveyor" includes any person or organization, duly authorised by the Minister to act as surveyor for the purpose of surveying ships and issuing Safety Convention certificates.

Countries to which Safety Convention applies.

145. The Minister, if satisfied—

(a) that the government of any country has ratified, acceded to or denounced the Safety Convention; or

(b) that the Safety Convention has been applied or has ceased to apply to any country,

may, by notification in the *Gazette* make a declaration to that effect.

Minister to make regulations.

146. The Minister shall make such regulations as may be considered necessary or expedient to give effect to and carry out the objects and purposes of the Safety Convention, provided, in respect of ships to which the Convention applies:

(a) such regulations shall not conflict with any of the provisions of the Safety Convention;

(b) the regulations annexed to the Safety Convention shall, unless exempted by those regulations, apply to Antigua and Barbudan ships, wherever they may

be, and to other ships while they are on the coast or in the territorial sea of Antigua and Barbuda.

(2) The regulations made under subsection (1) may—

(a) apply also to—

(i) ships to which the Safety Convention does not apply;

(ii) ships to which the Safety Convention applies, in respect of matters for which it has not expressly provided;

(b) provide for the following matters in respect of coastal trade ships—

(i) licensing;

(ii) examination and certification;

(iii) examination and certification of masters and engineers;

(iv) appointment of surveyors;

(c) provide for adequate standards of safety for pleasure yachts.

147. The Safety Convention and the regulations relating thereto and made thereunder, unless it is otherwise provided by such regulations, do not apply to: **Exceptions.**

(a) ships of war or troopships;

(b) cargo ships of less than five hundred tons gross tonnage;

(c) ships not propelled by mechanical means;

(d) wooden ships of primitive build;

(e) pleasure yachts not engaged in trade;

(f) fishing vessels.

148. The Minister may make regulations prescribing safety requirements and providing for the issue of local safety certificates in respect of— **Local safety certificate.**

(a) any ship or class of ship to which the Safety Convention does not apply; and

(b) any ship or class of ship to which the Safety Convention applies, in respect of matters for which it has not expressly provided.

Breach of safety rules.

149. In the case of any ship—

(a) if the ship is required, by the Safety Convention or by the rules relating to safety of life at sea, to be provided with safety appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship;

(b) if any of the safety appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful or negligence of the owner or master;

(c) if the owner or master wilfully neglects to replace or repair, at the first opportunity, any such appliances lost or injured in the course of the voyage or excursion;

(d) if such appliances are not kept so as to be at all times fit and ready for use;

(e) if any provision of the rules relating to safety of life at sea applicable to the ship, save such provisions as relate to the carriage of dangerous goods, is contravened or not complied with,

the owner of the ship is guilty of an offence.

Survey of passenger ship and cargo ships.

150. (1) Every Antiguan and Barbudan passenger ship shall be subjected to the surveys specified below, namely,

(a) a survey before the ship is put into service;

(b) a periodic survey at intervals of not more than twelve months;

(c) additional surveys as occasion arises.

(2) Every cargo ship registered in Antigua and Barbuda shall be subject to survey in respect of hull, machinery and equipment (other than items in respect of which Cargo Ship Safety Equipment Certificates, Cargo Ship Safety Radio Telegraphy Certificate or Cargo Ship Radiotelephony Certificates are issued) on completion and thereafter in such a manner and at such intervals as may be prescribed.

151. (1) The Minister shall make rules (in this Act referred to as "Cargo Ship Construction and Survey Rules") prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any such ship which is registered in Antigua and Barbuda to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the Rules.

Rules relating to survey of cargo ships.

(2) The Rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention relating to the hull, equipment and machinery of such ships.

(3) This section applies to—

(a) sea-going ships of not less than five hundred tons gross tonnage; and

(b) sea-going ships of not less than such lower tonnage and of such description as the Minister may, by order made by statutory instrument, specify;

other than passenger steamers, troop-ships, pleasure yachts, fishing vessels and ships not propelled by mechanical means; except that it applies to ships not registered in Antigua and Barbuda only while they are within a port in Antigua and Barbuda.

152. The Minister shall make rules relating to the survey of passenger ships and in particular such rules shall provide for the manner in which surveys are to be carried out, the duties of the surveyor carrying out the survey and the requirements as to construction, machinery and equipment which are to be fulfilled by ships generally and by any class of ships in particular.

Construction and survey of passenger ship rules.

153. When a survey under section 150 is completed, the surveyor shall, if satisfied that he can with propriety do so, forward a report called the declaration of survey to the Director which shall contain a statement showing—

Surveyor's report.

(a) that the hull and machinery are sufficient for the service intended and in good condition;

(b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;

(c) that the equipment that is required under any regulations is on board and in good condition;

(d) that the master, mates and engineers are persons duly certificated as required under this Act and that the ship has the prescribed complement of officers and crew;

(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) if 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.

CHAPTER III

Certificates

Issue of
Certificates to
passenger and
cargo ships.

154. (1) Where an Antiguan and Barbudan ship being a Safety Convention ship is intended to carry more than twelve passengers on an international voyage and the Director on receipt of the report of survey provided for under section 153 is satisfied that all relevant provisions of this Act have been complied with, there shall be issued the appropriate Safety Convention certificate or certificates and an inspection certificate in respect of that ship.

(2) Where an Antiguan and Barbudan ship, being a cargo ship of five hundred tons gross tonnage or more, is intended to be employed on an international voyage and a surveyor is satisfied that all relevant provisions of this Act have been complied with, there shall be issued under this Act, the appropriate Safety Convention certificate and inspection certificate for that ship.

Safety certificates
for passenger
ships.

155. If the Director, on receipt of declarations of survey, in respect of a passenger ship registered in Antigua and Barbuda is satisfied that the ship complies with—

(a) the requirement of the Safety Convention as regards construction, life-saving appliance, radio and direction finders; and

(b) such of the rules relating to safety of life at sea as are applicable to the ship and to such international voyages as she is to engage on, and that she is properly provided with the lights, shapes and means of making for signals required by the Collision Regulations;

he shall, on the application of the owner, issue in respect of the ship a certificate hereinafter referred to as a general safety certificate, showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid.

156. Where the voyages on which the ship is to be engaged are short international voyages and she complies only with such of those Rules as are applicable to those voyages, the Director shall issue a certificate hereinafter referred to as a short voyage certificate, showing that the ship complies with the requirements of the Safety Convention applicable to her as a ship plying on short international voyages.

**Short voyage
certificate.**

157. If the Director, on receipt of declarations of survey in respect of any passenger ship as aforesaid is satisfied—

**Exemption
certificate-
qualified
certificate.**

(a) that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him, from any of the requirements of those Rules or of the Safety Convention applicable to the ship and to such international voyages as she is to be engaged on, whether short voyages or otherwise;

(b) that she complies with the rest of those requirements and that she is properly provided with the lights, shapes and means of making fog signals required by the Collision Regulations;

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

- (i) an exemption certificate stating from which of the requirements of the Safety Convention, applicable as aforesaid, the ship is exempt, and

that the exemption is conditional on the ship's plying only on the voyages and being engaged only in the trades and complying with the other conditions, if any in the certificates, and specified;

- (ii) a certificate hereinafter referred to as a qualified safety certificate or as the case may be, a qualified short voyage safety certificate, showing that the ship complies with the rest of these requirements.

Issue of
passenger ship
safety certificate—
number of
passengers to be
carried on board.

158. Every passenger ship shall, before plying or proceeding to sea, to or from or between any port in Antigua and Barbuda be surveyed and be issued with a passenger ship safety certificate which shall be issued by the Director on receipt of declaration of survey and which shall show—

(a) the limits, if any, beyond which the ship is not fit to ply; and

(b) the number of passengers which the ship is fit to carry, distinguishing, if necessary, the number to be carried in each part of the ship, and any conditions and variations to which the number is subject;

but where such ship is a foreign passenger ship and the Director is satisfied by the production of a passenger certificate issued in a country outside Antigua and Barbuda that the requirements of this Act have been substantially complied with, he may accept such certificates as if it had been issued under this section.

Form of safety
certificate.

159. Any safety certificate under this Act may be issued in one document with a passenger certificate.

Penalty for
carrying excess
passengers.

160. If a passenger ship has on board a number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger certificate, the owner or master of the ship is, without prejudice to any other remedy or penalty under this Act, guilty of an offence.

161. (1) If the Director is satisfied, on receipt of declarations of survey in respect of a cargo ship which is registered in Antigua and Barbuda that the ship complies with the cargo ship construction and survey rules applicable to the ship and such voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship—

Cargo ship safety construction certificates and qualified cargo ship safety construction certificates.

(a) if the ship is of not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Convention;

(b) in any other case, a certificate showing that she complies with the said rules;

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

(2) If the Director on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred on him, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of these requirements, he shall, on the application of the owner, issue in respect of the ship—

(a) if she is of not less than five hundred tons gross tonnage and is to be engaged on international voyages—

(i) an exemption certificate stating which of the requirements of the Convention, being requirements implemented by the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate; and

(ii) a certificate showing that the ship complies with the rest of those requirements;

(b) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey rules applicable to the ship and to the voyages she is to be engaged on and she is not exempt from;

and any certificate issued under paragraph (a) (ii) or paragraph (b) of this subsection is in this Act referred to as a qualified Cargo Ship Safety Construction Certificate.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for five years or such shorter period as may be specified therein, but without prejudice to the Director's power to cancel it, and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

(4) The Director may, by order made by statutory instrument, extend the period for which a certificate under this section may be issued to a period not exceeding six years.

(5) Without prejudice to the power of extension conferred under this Act, where a certificate under this section is in force in respect of a ship and the certificate ~~was~~ issued for a shorter period than is allowed under the foregoing provisions of this section, the Director or any person authorised by him for the purpose may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year and not exceeding together a period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

Safety equipment
certificate for
cargo ships.

162. If the Director on receipt of a declaration of survey in respect of an Antiguan and Barbudan cargo ship, is satisfied that:

(a) the ship complies with the requirements of the Safety Convention as regards life-saving appliances and with such of the rules relating to safety of life at sea as are applicable to the ship in regard to such life-saving appliances and to such international voyages as she is to be engaged on; and

(b) that she is properly provided with the lights, shapes and means of making sound signals required by the Collision Regulations,

he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid. Any certificate issued under this subsection is in this Act referred to as "safety equipment certificate".

163. If the Director on receipt of a declaration of survey in respect of an Antiguan and Barbudan cargo ship is satisfied that—

Exemption
certificate—
qualified safety
equipment
certificate.

(a) the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him, from any of the requirements of those regulations or of the Safety Convention applicable to the ship and to such international voyages as she is to be engaged on; and

(b) the ship complies with the rest of those requirements and is properly provided with the lights, shapes and means of making sound signals, required by the Collision Regulations,

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

- (i) an exemption certificate stating from which of the requirements of the safety Convention, being requirements of the regulations relating to safety of life at sea and applicable as aforesaid, the ship is exempt and that exemption is conditional on the ship's plying only on the voyages and complying with the other conditions, if any, specified in the certificate, and
- (ii) a certificate hereinafter referred to as a "qualified safety equipment certificate" showing that the ship complies with the rest of those requirements.

164. If the Director on receipt of a declaration of survey in respect of an Antiguan and Barbudan cargo ship is satisfied that the ship complies with the requirements of the Safety Conventions as regards radio-telegraphy, radio-telephony and direction finders and with such of the regulations relating to safety of life at sea as are applicable to the

Radio certificate.

ship in regard to such radio-telephony, radio-telegraphy and direction finders and to such international voyages as she is to be engaged on, he shall on the application of the owner issue in respect of the ship a certificate hereinafter referred to as a "radio certificate" showing that the ship complies with such of the requirements of the Safety Convention relating to radio-telegraphy, radio telephony and direction finders as are applicable as aforesaid.

Exemption
certificate-
qualified radio
certificate.

165. If the Director, on receipt of a declaration of survey in respect of any Antiguan and Barbudan cargo ship is satisfied that—

(a) the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or by the regulations in question, from any of the requirements of those regulations or of the Safety Convention applicable to the ship and to such international voyages as she is to be engaged on; and

(b) the ship complies with the rest of those requirements, he shall, on the application of the owner issue in respect of the ship—

- (i) an exemption certificate stating from which requirements of Safety Convention relating to radio-telegraphy, radio-telephony and direction finders, being requirements applicable as aforesaid, the ship is exempt and that the exemption is conditional on the ships plying only on the voyages and complying with the other conditions if any, specified in the certificate; and
- (ii) a certificate hereinafter referred to as a "qualified radio certificate" showing that the ship complies with the rest of those requirements.

Radio exemption
certificates.

166. Where an Antiguan and Barbudan ship is wholly exempt from the requirements of the regulations relating to safety of life at sea and the Safety Convention as regards radio-telegraphy, radio-telephony and direction finders, the Director on the application of the owner, may issue an exemption certificate hereinafter referred to as "radio

exemption certificate" stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders, and specifying the voyages on which, and conditions if any, on which, the ship is so exempt.

167. Where a ship complies with all the requirements of the regulations relating to safety of life at sea applicable to a ship and to the voyages on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Director may issue in respect of the ship a general safety certificate, short-voyage safety certificate, safety equipment certificate or radio certificate, as the case may be notwithstanding that she is exempt from, or for some other reason does not comply with, any requirements of those regulations that are not applicable requirements of the Safety Convention.

Issue of safety certificates on partial compliance with rules.

168. (1) A passenger certificate, a safety certificate, a radio certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders shall be in force for one year and a safety equipment certificate shall be in force for two years from the date of its issue or for such shorter period as may be specified in the certificate;

Duration of certificates.

but no such certificate shall remain in force after notice is given by the Director to the owner, agent or master of the ship, in respect of which it has been issued that he has cancelled the certificate.

(2) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders, shall be in force for the same period as the corresponding qualified certificate.

(3) Any certificate issued by the Minister under this Act, and any passenger ship's certificate, whether or not combined in one document with a safety certificate under section 159 shall be admissible in evidence.

Prorogation of
validity of
certificates.

169. The Director or any person authorised by him for the purpose may grant an extension of any certificate issued under this Act in respect of an Antiguan and Barbudan ship for a period not exceeding five months from that date when the certificate would, but for that extension, have expired or, if the ship is absent from Antigua and Barbuda on that date, for a period not exceeding five months from that date so as to enable the ship to proceed to Antigua and Barbuda or to a country in which she is to be surveyed for the purpose of renewal of such a certificate.

Validity of
qualified
certificate.

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

Penalty for non-
compliance with
conditions of
exemption
certificates.

171. Where an exemption certificate, issued in respect of any Antiguan and Barbudan ship specified any conditions on which the certificate is issued and any of these conditions is not complied with, the owner or the master of the ship is guilty of an offence.

Posting of
certificates.

172. (1) All certificates or certified copies thereof issued under this Act except exemption certificates or certified copies thereof shall be posted up in a prominent and accessible place in the ship.

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

Survey of ships
in respect of
which an
accepted safety
certificate is
issued.

173. A surveyor may board any ship for the purpose of verifying—

(a) that there is in force in respect of a Safety Convention ship not being an Antiguan and Barbudan ship, an accepted Safety Convention certificate; or

(b) that the condition of the hull, equipment and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate, or

(6) except where the certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy and radio-telephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or

(d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with.

174. (1) The master of every Safety Convention ship, not being an Antigua and Barbudan ship, shall produce to the appropriate authorities from whom a clearance for the ship is demanded in respect of an international voyage from a port in Antigua and Barbuda, accepted Safety Convention certificates that are equivalent to the Safety Convention certificate issued by the Director under this Act that would be required to be in force in respect of the ship if she were an Antiguan and Barbudan ship, and a clearance shall not be granted, and the ship may be detained until these certificates are so produced.

Production of
accepted Safety
Convention
certificates.

(2) The production of an accepted Safety Convention certificate being the equivalent of—

(a) a qualified certificate; or

(b) an exemption certificate, other than a certificate stating that the ship is wholly exempt from the provisions of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders,

shall not be accepted for the purpose of subsection (1) unless there is also produced the corresponding exemption certificate or qualified certificate, as the case may be.

175. (1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship not registered in Antigua and Barbuda the ship shall be exempt from any Rules which relate to life-saving appliances.

Miscellaneous
ships holding
accepted Safety
Convention
certificates.

(2) Where an accepted Safety Convention certificate, being the equivalent of a safety equipment certificate, is produced in respect of a Safety Convention ship other than a

passenger ship not registered in Antigua and Barbuda the ship shall be exempt from any rules which relate to life-saving appliances.

(3) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not registered in Antigua and Barbuda and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders, or that she is exempt from some of those requirements and complies with the rest, the ship shall be exempt from any rules which relate to radio direction finders.

Unseaworthy or
unsafe ship to be
detained.

176. (1) Where, on complaint or representation made to him or without any complaint, a detaining officer has reason to believe that any ship at a port or place in Antigua and Barbuda is an unseaworthy or unsafe ship, that is to say, is by reason of the defective condition of her hull, equipment or machinery or by reason of undermanning, overloading or improper loading, unfit to proceed to sea or to make any voyage or trip without serious danger to life, he shall detain such ship until he is satisfied that she is a safe ship.

(2) Where any ship is detained under subsection (1), a detaining officer may, before releasing her, demand that the owner or master have her inspected by a surveyor to investigate any defects believed to exist.

(3) The owner or master may require that a person whom he may choose shall accompany the surveyor making inspection under this section.

(4) Any surveyor who makes an inspection under this section shall report fully to the detaining officer who has detained the ship under this section and the detaining officer shall report fully to the Director, setting out all the particulars in regard to any such detention, and his report shall be accompanied by a copy of the report of the surveyor who has made the inspection.

Prohibition on
proceeding to sea
without
appropriate
certificate.

177. No Antiguan and Barbudan Ship shall proceed to sea on an international voyage from a port in Antigua and Barbuda unless there is in force in respect of the ship—

(a) if she is a passenger ship, a general safety certificate, a short voyage safety certificate, a qualified safety certificate, or a qualified short voyage safety certificate which, subject to the provisions of this section relating to short voyage certificates, is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged;

(b) if she is not a passenger ship, both—

- (i) a cargo ship safety convention certificate or a qualified cargo ship safety construction certificate, a safety equipment certificate or a qualified safety equipment certificate; and
- (ii) a radio certificate, or a qualified radio certificate or an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radio-telegraphy, radio-telephony and direction finders;

but this subsection does not prohibit a ship not being a passenger ship from proceeding to sea as aforesaid if there is in force in respect of the ship such certificates as would be required if she were a passenger ship.

178. The master of every Antiguan and Barbudan ship shall produce to the appropriate authorities from whom a clearance for the ship is demanded for an international voyage the certificate or certificates required by this Part to be in force when the ship proceeds to sea, and a clearance shall not be granted, and the ship may be detained, until the certificate or certificates are so produced.

Detention of ship for lack of production of certificates.

179. Where the Director permits any passenger ship in respect of which there is in force a short-voyage certificate, whether qualified or not, to proceed to sea on an international voyage from a port in Antigua and Barbuda not exceeding one thousand two hundred nautical miles in length between that port and the final port of destination, the certificate shall, for the purposes of this section be deemed to be applicable to the voyage on which the ship is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between those ports.

Validity of short-voyage certificate for passenger ship.

Liability for
costs of detention
and damages.

180. (1) If it appears that there was no reasonable and probable cause by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part as an unsafe or unseaworthy ship, the Government shall be liable to pay to the owner of the ship his cost, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of that detention an unsafe or unseaworthy ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Government the costs of, and incidental to, the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Security for
costs.

181. (1) Where a complaint is made to a detaining officer that a ship is unsafe or unseaworthy he may, if he thinks fit, require the complainant to give security to his satisfaction for the costs and compensation which the complainant may become liable to pay as hereinafter mentioned.

(2) The security mentioned in subsection (1) shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the detaining officer frivolous or vexatious and the detaining officer shall, if the complaint is made in insufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant is liable to pay to Government all such costs and compensations as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Ship's stability.

182. (1) There shall be carried on board every Antiguan and Barbudan ship whose keel is laid after the commencement of this Act such information about the ship's

stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The information, a copy of which shall be sent to the Director shall be based on the determination of the ship's stability by means of an inclining test of the ship, but the Director may allow the information to be based on similar determination of the stability of a sister ship.

(3) If any such ship proceeds, or attempts to proceed, to sea without such information as aforesaid on board, the owner **and** the master are guilty of an offence.

183. Any person who,

Penal provisions.

(a) knowingly and wilfully makes, or assists in making, or procures to be made a false or fraudulent declaration of survey under this Part; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any such declaration or certificate, or anything contained in or any signature to any such declaration or certificate,

is guilty of an offence.

184. (1) The owner or master of a passenger ship in respect of which a general safety certificate issued under this Act is in force shall, as soon as possible, after any alteration is made in the ship's hull, equipment or machinery affecting the efficiency thereof or the seaworthiness of the ship, give written notice to the Minister containing full particulars of the alteration.

Notice of alterations affecting the efficiency or seaworthiness of the ship.

(2) The owner or master of a ship, other than a passenger ship in respect of which any certificate issued under this Act is in force shall, as soon as possible after any alteration is made in the appliances or equipment required by the regulations for safety of life at sea, the Safety Convention or the Collision Regulations to be carried by the ship, being all alterations affecting the efficiency or completeness of those appliances or equipment, give written notice to the Director containing full particulars of the alteration.

(3) If notice of any alteration is not given as required by this section, the owner or master of the ship is guilty of an offence.

Renewal of
survey of ship
ordered by the
Minister at any
time.

185. (1) If the Director has reason to believe that since the making of the last declaration of survey in respect of any ship—

(a) any alteration has been made as is mentioned in section 184;

(b) the hull, equipment or machinery of a passenger ship has sustained any damage or are otherwise insufficient, or

(c) the appliances or equipment of a ship other than a passenger ship has sustained any damage or are otherwise insufficient,

he may require the ship to be again surveyed to such extent as he thinks fit, and if such requirement is not complied with, may cancel any certificate issued in respect of the ship under this Act.

(2) For the purpose of this section "alteration", in relation to anything, includes the renewal of any part of it.

Application of
this part to
foreign vessels—
exemption from
compliance with
this part.

186. (1) The Minister may direct that this Part or any of the provisions thereof shall apply to any foreign vessel or class of vessel whilst within the territorial sea of Antigua and Barbuda.

(2) Notwithstanding anything in this Part, the Minister may relieve any Antiguan and Barbudan ship or the owner of any such ship from compliance with any of the provisions of this Part or regulations made thereunder relating to inspection, in any specified case of emergency where the Minister may deem it necessary or advisable in the public interest, to such extent and in such manner and upon such terms as he may consider proper in the circumstances; but the Minister shall not relieve the ship or owner from compliance with any such provision to such extent or in such manner as would permit any ship to proceed to sea or to make any voyage or trip in an unseaworthy or unsafe condition.

(3) This section does not apply to Safety Convention ships or international load line ships.

187. (1) The Minister may, at the request of the Government of a country to which the Safety Convention applies, cause a ship to be surveyed, and if satisfied that the requirements of the said Convention are complied with, shall issue certificates to the ship in accordance with the Safety Convention.

Issue of accepted safety Convention certificates in respect of foreign registered ships.

(2) Any certificate so issued must contain a statement to the effect that it has been issued at the request of the Government of the country in which the ship is or will be registered, and it shall have the same force and receive the same recognition as a certificate issued under this Part.

188. The Minister may request the Government of a country to which the Safety Convention applies or any organisation authorised to act in that behalf by the Minister to issue in respect of an Antiguan and Barbudan ship any certificate the issue of which is authorised under this Act, and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister.

Issue of certificates by other Governments.

189. (1) The Minister may, from time to time, appoint at such places as he deems advisable, persons competent to inspect—

Appointment of surveyors.

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

(2) A person so appointed is in this Part referred to as a surveyor, and the same person may be appointed in several capacities.

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

Surveyor's
powers of
inspection.

190. (1) A surveyor may at all reasonable times inspect any ship for the purpose of seeing that the Safety Convention, the Load Line Convention, the Collision Regulations and the relevant ministerial regulations have been complied with in her case.

(2) If the surveyor finds that the said Conventions or the Regulations have not been complied with, he shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what, in his opinion, is required to make good the deficiency.

(3) Every notice so given shall be communicated in a manner directly by the Minister to the proper officer of customs of any port at which the ship may seek to obtain a clearance or transire, and a clearance or transire shall not be granted to the ship and the ship shall be detained until a certificate under the hand of a surveyor is produced to the effect that the deficiency has been made good.

(4) If the surveyor considers such ship unsafe, or, if a passenger ship, unfit to carry passengers, or the machinery or equipment defective in any way so as to expose persons on board to serious danger, he shall detain that ship, and a surveyor may also detain any ship in respect of which any of the provisions of this Act have not been complied with, if in his opinion such detention is warranted in the circumstances.

(5) When, under this section, a surveyor visits any ship he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge, any questions concerning any

accident that has happened thereto as he thinks fit and every such person shall fully and truly answer every such question.

(6) A surveyor may require that the machinery be put in motion so that he may satisfy himself as to its condition.

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

Record of inspections and certificates.

192. If the owner of a ship feels aggrieved, after his ship has been surveyed, by the withholding of any certificate required to be carried on board the ship under this Act or by his ship being detained in accordance with section 190 he may appeal in the prescribed manner to the Minister and the Minister may refer the matter to the Court of Survey constituted under Chapter IV of Part VII of this Act.

Appeals against withholding of certificates of detention of ship.

CHAPTER IV

Load Lines

193. The rules of the International Convention on Load Lines and its Annexes or any amendment to it or any other convention which may be adopted in the place of that Convention and accepted from time to time on behalf of Antigua and Barbuda shall apply to Antiguan and Barbudan ships.

Rules applicable.

194. For the purposes of this Chapter —

Interpretation.

- (1) "fishing vessel" means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;
- (2) "Load Lines Rules" means the rules made by the Minister to give effect to the Load Line Convention;
- (3) "Load Line Convention" means the International Convention on load lines, 1966, together with any

amendment thereto which the Minister may, by order in the Gazette, declare to be in effect;

- (4) "Load Line Regulations" means the Regulations annexed to the Load Line Convention;
- (5) "new ship" means a ship whose keel is laid or which is at a similar stage of construction or on after—
 - (a) in the case of a ship registered in or flying the flag of a country which is a Convention country (other than Antigua and Barbuda), the date from which it is declared that the government of that country has accepted or acceded to the Load Line Convention, or that it is a country to which that Convention has been extended, or
 - (b) in the case of any other ship, the date of the coming into force of this chapter;
- (6) "existing ship" means a ship which is not a new ship;
- (7) "Convention Country" means a country, the government of which has been declared by the Minister, by order in the Gazette, to have accepted the Load Line Convention and which has not been so declared to have denounced that Convention;
- (8) "international voyage" means a voyage from Antigua and Barbuda to a port or place outside Antigua and Barbuda or conversely.

Load Line ships.

195. (1) Ships which are not exempt from the provisions of this chapter are hereinafter referred to as "Load Line Ships" and for the purposes of this chapter are divided into the following classes, namely

- (a) international Load Line Ships, that is to say, existing ships of not less than one hundred and fifty tons gross tonnage, or new ships of not less than twenty-four metres in length which carry cargo or passengers on international voyages,

(b) local Load Line Ships, that is to say, ships other than international Load Line Ships which carry cargo or passengers.

(2) International Load Line Ships belonging to countries to which the Load Line Convention applies are hereinafter referred to as "Load Line Convention Ships".

196. This Chapter does not apply to—

Exceptions.

- (a) ships of war;
- (b) new ships of less than twenty-four metres (seventy-nine feet) in length;
- (c) existing ships of less than one hundred and fifty tons gross;
- (d) pleasure yachts not engaged in trade;
- (e) fishing vessels.

197. The Minister may make rules in accordance with the load line provisions of this Act, and in making these rules the Minister shall have regard in particular to the International Convention entitled the International Convention on Load Lines signed in London on 5th April 1966 (hereinafter referred to in this Act as the Load Line Rules) and such Rules may prescribe load line requirements and provide for the issue of local Load Line certificates in respect of ships to which the Load Line Convention does not apply.

Load Line Rules.

198. (1) No load line ship registered in Antigua and Barbuda shall proceed to sea unless—

Ships not to proceed to sea unless complying with Load Line Rules.

(a) the ship has been surveyed in accordance with the Load Line Rules either by a surveyor or by any organisation authorised to act on that behalf by the Minister or at the request of the Minister by the Government of any country to which the Load Line Convention applies;

(b) the ship complies with the conditions for the assignment of load lines prescribed in the Load Line Rules;

(c) the ship is marked on each side with a mark, hereinafter referred to as a deck-line, indicating the position of the uppermost deck and with marks hereinafter referred to as load lines, indicating the several maximum depths to which the ship is allowed to load in various circumstances prescribed by the Load Line Rules; and

(d) the deck-line and load lines are of the description and in the position required by the Load Line Rules.

(2) If any ship proceeds or attempts to proceed to sea in contravention of any of the provisions of this section, the master or owner thereof is guilty of an offence and the ship may be detained until she has been so surveyed and marked.

Production of
Load Line
Certificates in
respect of foreign
ships.

199. Unless a valid Load Line Convention Certificate is produced in respect of a load line ship, not registered in Antigua and Barbuda, the provisions of section 198 shall apply to that ship proceeding or attempting to proceed to sea from a port in Antigua and Barbuda as they apply to an Antiguan and Barbudan ship.

Certificates to be
issued.

200. (1) Where a ship to which this chapter applies being a ship registered in Antigua and Barbuda has been surveyed and marked in accordance with the Load Line Rules, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee—

(a) an International Load Line Certificate (1966) in the case of an international load line ship;

(b) an International Load Line Exemption certificate in the case of a ship to which exemption has been granted in accordance with the Load Line Convention;

(c) a Local Load Line Certificate in the case of a local Load Line Ship.

(2) A Certificate mentioned in subsection (1) shall be issued by the Director or by any other person or organisation duly authorised by the Minister.

201. Where a certificate, issued in pursuance of section 200 and for the time being in force, is produced in respect of the ship to which the certificate relates; **Effect of load line certificates.**

(a) the ship shall be deemed to have been surveyed in accordance with the Load Line Rules; and

(b) if lines are marked on the ship corresponding in number and description to the deck line and load lines as required by the Load Line Rules, and the positions of those lines so marked correspond to the positions of the deck line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by those rules.

202. (1) Every load line certificate issued under Section 200, unless it is renewed in accordance with the provisions of subsection (2) expires at the end of such period, not exceeding five years from the date of its issue, as may be specified therein. **Duration, renewal and cancellation of Load Line Certificates.**

(2) Any such load line certificate may, after a survey not less effective than the survey required by the Load Line Rules before the issue of the certificate, be renewed from time to time by the Director or by any person duly authorised by the Minister in this behalf for such period not exceeding five years on any one occasion as the person renewing the certificate thinks fit; but where it is not possible to issue a new certificate before the expiry of the existing certificate, the person authorised to issue the certificate may, on being satisfied that no material alterations affecting the ship's freeboard have been made after the last survey of the ship under subsection (3), extend the validity of the existing certificate by such period not exceeding five months, as he may deem fit and endorse the extension on the Certificate.

(3) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner once at least in each year after the issue of the certificate for the purpose of determining whether the certificate should have regard to the provisions of subsection (2), remain in force; but he may, if satisfied in any case that it is necessary or expedient so to do, extend the time

within which a ship shall be caused to be so surveyed and particulars of the periodical surveys carried out under this subsection should be endorsed on the certificate by the surveyor carrying out the survey.

(4) If the owner fails to cause the ship to be surveyed as aforesaid, the Director or any other person duly authorised by the Minister in this behalf may, after giving the owner a reasonable opportunity to represent his case and without prejudice to any other action that may be taken under this Act in respect of such failure, cancel the Certificate.

**Ships not to
proceed to sea
without Load
Line Certificates.**

203. (1) No Antiguan and Barbudan ship shall proceed to sea unless there is in force in respect of such ship a Load Line Certificate issued under the provisions of Section 200.

(2) The master of every Antiguan and Barbudan ship shall produce to the owner from whom a clearance for the ship is demanded the certificate that is required by the foregoing provisions of this section to be in force when the ship proceeds to sea; and a clearance shall not be granted and the ship shall be detained until that certificate is so produced.

**Production of
certificate to
customs.**

204. The master of every Load Line Convention Ship not being an Antiguan and Barbudan ship shall produce a valid Load Line Certificate to the officer from whom a clearance for the ship from a port in Antigua and Barbuda is demanded and a clearance shall not be granted and the ship may be detained until the Certificate required by this section is produced.

**Certificates
issued by other
Governments—
certificates issued
by the
Government of
Antigua and
Barbuda at the
request of other
Governments.**

205. (1) The Minister may request the government of a country which is a party to the Load Line Convention to issue a Load Line Certificate in respect of an Antiguan and Barbudan Ship, and a Certificate so issued shall have effect for the purposes of this Part as if it had been issued under this Act.

(2) Where a Load Line Certificate issued in pursuance of subsection (1) of section 200 and for the time being in force is produced in respect of a ship, that ship shall, for the purpose of the foregoing provisions of this Part be deemed to have been surveyed as required by those provisions; and

if the deck line and load lines correspond with the position specified in the Certificate, the ship shall be deemed to be marked as required by those provisions.

(3) The Minister may, at the request of the government of a country to which the Load Line Convention applies, cause a Load Line Convention Certificate to be issued in respect of a ship registered or to be registered in that country if he is satisfied, in like manner as in the case of an Antiguan and Barbudan ship that he can properly issue the Certificate and where a Certificate is issued at such a request, it shall contain a statement that it has been so issued.

(4) An international load line certificate or, as the case may be, an international load line exemption certificate issued in respect of any ships other than Antiguan and Barbudan ships by the Government of the country to which the ship belongs, shall, subject to such rules as the Minister may make in this behalf, have the same effect in Antigua and Barbuda as an international load line certificate or international load line exemption certificate issued in respect of an Antiguan and Barbudan ship under this Act, and for the purpose of the provisions hereinafter contained in this Part relating to the Load Line Convention ships not registered in Antigua and Barbuda the expression "a valid Load Line Certificate" means a certificate complying with such of those regulations as are applicable in the circumstances.

206. (1) If in the opinion of the Minister the sheltered nature and conditions of international voyages—

Exemptions from provisions relating to load lines.

(a) between near neighbouring ports in Antigua and Barbuda and in another Convention country; or

(b) between near neighbouring ports in any two or more countries or territories outside Antigua and Barbuda.

make it unreasonable or impracticable to apply the provisions of this chapter relating to load lines to ships plying on such voyages, and the Minister is satisfied that the government of the other country or territory (or, as the case may be, of each of the other countries or territories) concurs in that opinion the Minister 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 chapter relating to load lines.

(2) The Minister may by order, direct that ships under eighty tons registered, engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the provisions of this chapter relating to load lines while not carrying cargo, or (if the order so provides) shall be exempt from the provisions of this chapter relating to load lines whether carrying cargo or not.

(3) The Minister may grant exemption—

- (i) from all the provisions of this chapter and of the Load Line Rules, or
- (ii) from such of those provisions as are specified in the instrument granting the exemption in the following cases—

(a) on the application of the owner of a ship to which this chapter applies, which is registered in Antigua and Barbuda and is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less **than** twenty-four metres in length, if in the opinion of the Minister, the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this chapter and of the Load Lines Rules, the development of those features and their incorporation in ships engaged in international voyages might be seriously impeded.

(b) on the application of the owner of a ship to which this chapter applies, which is registered in Antigua and Barbuda and which does not ply on international voyages.

(4) Without prejudice to the last preceding subsection where a ship to which this chapter applies, which is registered in Antigua and Barbuda and is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Minister, on the application of the

owner of the ship, specifying the international voyage in question may exempt the ship while engaged on that voyage.

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

(6) The Minister shall issue in the form prescribed by the Load Line Rules, an "International Load Line Exemption Certificate" in respect of exemptions granted under subsections (3)(a) and (4) and an "Antiguan and Barbudan Local Load Line Exemption Certificate" in respect of exemptions granted under subsection (3)(b).

(7) The exemptions granted under this section shall remain valid for such periods as may be prescribed by the Load Line Rules and may be terminated on the expiry of that period or extended within such limits and in such circumstances as may be prescribed by those Rules.

207. (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 chapter applies; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances. **Deck cargo.**

(2) If the Load Line Rules 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 carried, then (without prejudice to the generality of the preceding subsection) the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such requirements as are mentioned in the last preceding subsection, the Minister shall have regard in particular to the provisions of Chapter IV of the Load Line Convention.

(4) If any provisions of the deck cargo regulations are contravened—

(a) in the case of a ship registered in Antigua and Barbuda; or

(b) in the case of any other ship while the ship is within any port in Antigua and Barbuda,

the master of the ship is, subject to subsection (5), guilty of an offence.

(5) Where a person is charged with an offence under subsection (4), it is a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) For the purpose of securing compliance with the deck cargo regulations, any person authorised in that behalf by the Minister may inspect the ship to which this chapter applies which is carrying cargo in any uncovered space on deck.

Inspection of
load line ships.

208. A surveyor of ships may inspect any load line ship registered in Antigua and Barbuda for the purposes of seeing that the provisions of this Part have been complied with.

Alterations of the
ship affecting the
position of Load
Lines.

209. (1) The owner or master of a ship in respect of which a Load Line Certificate is issued under this Chapter is in force shall, as soon as possible after any structural alteration which affects the position of the load lines is made in the hull or superstructure of the ship, give notice in writing to the Director containing full particulars of the alteration.

(2) If notice of any alteration is not given as required by subsection (1) the owner, if in fault, and the master, if in fault, is each guilty of an offence.

(3) The Master may exercise with respect to any such ship his powers specified where he has reason to believe that—

(a) material alterations have taken place in the hull or superstructure of the ship which affect the position of the load lines; or

(b) fittings and appliances for the protection of openings, guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective condition as they were when the Certificate was issued.

(4) Where a Load Line Certificate has expired or has been cancelled, the Director or any other person authorised by the Minister in this behalf may require the owner or master of the ship to which the Certificate relates to deliver the Certificate as he directs and the ship may be detained until such requirement has been complied with; and if the owner or master fails without reasonable cause to comply with such requirements he is guilty of an offence.

(5) On the survey of any ship pursuant to the provisions of this section, there shall be paid by the owner of the ship such fee as may be prescribed by the Load Line Rules.

210. (1) A load line ship registered in Antigua and Barbuda shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship, that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Rules to be loaded.

**Submersion of
load lines.**

(2) If any ship is loaded in contravention of this section, the owner or master of the ship is liable to a fine of fifty thousand dollars and to such additional fine, not exceeding the amount hereinafter specified, as the Court thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been increased by reason of the submersion.

(3) The said additional fine shall not exceed five thousand dollars for every inch or fraction of an inch by which the appropriate load line on each side of the ship was submerged or would have been submerged if the ship had been in salt water and had had no list.

(4) In any proceedings against an owner or master in respect of a contravention of this section, it is a defence to prove that the contravention was due solely to deviation or

delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(5) Without prejudice to any proceedings under the foregoing provisions of this section, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

Submersion of
load lines of
foreign ships.

211. The provisions of section 210 shall apply to load line ships not registered in Antigua and Barbuda while they are in a port in Antigua and Barbuda as they apply to Antiguan and Barbudan ships, subject to the following modifications, namely—

(a) no Load Line Convention ship shall be detained, and no proceedings shall be taken against the owner or master thereof, by virtue of that section except after an inspection by a surveyor as hereinbefore provided;

(b) the expression "the appropriate load line" means—

- (i) in the case where a valid Load Line Convention Certificate in respect of the ship is produced on such an inspection as aforesaid, the load line appearing by the Certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention to be loaded;
- (ii) in the case where a valid Load Line Convention Certificate is not so produced, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled in accordance with the Load Line Rule to be loaded.

Alteration or
defacement of
marks.

212. If—

(a) the owner or master of an Antiguan and Barbudan load line ship which has been marked in accordance with the foregoing provisions of this chapter

fails without reasonable cause to keep the ship so marked; or

(b) any person conceals, removes, alters or defaces or obliterates or suffers any person under his control to conceal, remove, alter or obliterate any mark placed on any ship in accordance with the foregoing provisions of this chapter, except with the authority of a person entitled under the Load Line Rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy ship or by a foreign ship of war in the exercise of some belligerent right, he is guilty of an offence.

213. (1) When a Load Line Certificate has been issued in pursuance of the foregoing provisions of this Chapter in respect of an Antiguan and Barbudan load line ship—

Publication and posting of Load Line Certificates—entry into Log-Book of particulars of load lines.

(a) the owner of the ship shall forthwith, on the receipt of the Certificate, cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and legible so long as the Certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log-book, shall enter therein the particulars as to the position of the deck-line and load lines specified in the Certificate.

(2) Before any Antiguan and Barbudan load line ship leaves any dock, wharf, port, harbour or any other place for the purpose of proceeding to sea, the master thereof shall—

(a) enter in the official log-book the draught of water and freeboard relating to the depth to which the ship is for the time being loaded, the density of the water in which the ship is floating and all other particulars relating thereto in the form as set out in the official log-book;

(b) cause a notice on an approved form and containing such of the said particulars as are provided for on such form, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, port, harbour or place.

(3) The master or owner of any Antiguan and Barbudan load line ship who fails to comply with the provisions of this section is guilty of an offence.

Inspection of
ships other than
Antiguan and
Barbudan ships.

214. (1) A surveyor may go on board any Load Line Convention ship not being an Antiguan and Barbudan ship when within any port in Antigua and Barbuda for the purpose of demanding the production of any Load Line Certificate for the time being in force in respect of the ship.

(2) If a valid Load Line Certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load line shall be limited to seeing—

(a) that the ship is not loaded beyond the limits allowed by the Certificate;

(b) that the position of the load lines on the ship correspond with the position specified in the Certificate;

(c) that no material alterations have taken place in the hull or superstructure of the ship which affect the position of the load lines;

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the Certificate was issued.

(3) If a valid Load Line Convention Certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part have been complied with as if the ship were an Antiguan and Barbudan ship.

(4) A surveyor shall have the same power to inspect load line ships or Load Line Convention ships other than Antiguan and Barbudan ships while they are within any port in Antigua and Barbuda as they apply to Antiguan and Barbudan load line ships.

215. (1) If it is found on any inspection referred to in section 214 that a ship is loaded beyond the limits allowed by the certificates, within the meaning of section 210(1), the ship may be detained and proceedings may be taken against the master or owner thereof under the provisions of section 210.

Contravention of Load Line Rules and detention of ships other than Antiguan and Barbudan ships.

(2) If the load lines on the ship are not in the position specified in the Certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(3) If a ship has been so materially altered that she is manifestly unfit to proceed to sea without danger to human life, the ship shall be detained; but where the ship has been so detained the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

CHAPTER V

Carriage of Bulk Cargoes

216. The Minister shall make regulations as he deems necessary for the safe carriage and stowage of bulk cargoes, and such regulations shall comply with the IMCO Code of Safety Practice for Bulk Cargoes.

Regulations regarding carriage of bulk cargoes.

217. (1) Where grain is loaded on board any Antiguan and Barbudan ship or is loaded within any port in Antigua and Barbuda 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 or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

Regulations regarding carriage of grain.

(2) Where any ship, having been loaded with grain outside Antigua and Barbuda without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Antigua and Barbuda so laden, the owner or master is guilty of an offence under this section and the ship shall be deemed for the purposes of this

Act to be unsafe by reason of improper loading; but this subsection shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(3) Any person having a general or special authority in that behalf from the Minister may, for securing the observance of the provisions of this section, inspect any grain, and the mode in which it is stowed and for that purpose, shall have all the powers of a surveyor of ships under this Act.

(4) The Minister shall make regulations for the safe carriage and stowage of grain, and such regulations shall comply with the requirements of Chapter VI of the Convention for the Safety of Life at Sea, 1960, and any amendments thereto, as they come into force and are accepted by the Government of Antigua and Barbuda.

CHAPTER VI

Dangerous Goods

Regulations as to
dangerous goods.

218. (1) The Minister shall establish by regulations which goods, articles or materials to be carried in a ship are dangerous goods in conformity with Chapter VII of the Convention on Safety of Life at Sea, 1960, relating to carriage of dangerous goods and to any amendments to it or with any other Convention which from time to time may be accepted on behalf of Antigua and Barbuda and such regulations shall also comply with IMCO International Maritime Dangerous Goods (IMDG) Codes and in particular, the Minister shall prescribe—

- (a) the method of packing and stowing such goods;
- (b) the quantity of such goods which may be carried in any ship;
- (c) the place or places within a ship in which they may be carried;
- (d) the marking that is to be placed on any package or container in which goods may be placed for shipment;

(e) the precautions that shall be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the provisions of such regulations.

(2) No person shall send or attempt to send by or carry or attempt to carry in any Antiguan and Barbudan ship, except in accordance with any regulations made pursuant to subsection (1), any dangerous goods; but the provisions of this subsection do not apply to ships' distress signals or to the carriage of military stores for the public service under conditions authorised by the Minister.

(3) No person shall send or attempt to send by or, if he is not the master or owner of the ship, carry or attempt to carry in any Antiguan and Barbudan 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 from time to time make and without first giving written evidence of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship at or before the time of sending the same to be taken on board the ship.

(4) The provisions of this section and any regulations made thereunder apply to all ships not registered in Antigua and Barbuda while loading at any place in Antigua and Barbuda as they apply to Antiguan and Barbudan ships.

(5) Any person who contravenes the provisions of this section or of any regulations made thereunder is guilty of an offence under this section and the ship shall be, for the purposes of this Act, unsafe by reason of improper loading.

PART VI

Wreck and Salvage

CHAPTER I

Preliminary Interpretation

219. In this Part, unless the context otherwise **Interpretation.** requires;

"Receiver" means a receiver of wreck and includes a deputy receiver;

"salvage" includes all expenses properly incurred by a salvor in the performance of salvage services;

"shipwrecked persons" means persons belonging to any ship referred to in section 222;

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

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

Principal
Receiver of
Wreck and
Receivers.

220. (1) The Director of Marine Services shall be the Principal Receiver of Wreck for Antigua and Barbuda and shall have all the powers of a Receiver of wreck throughout Antigua and Barbuda.

(2) The Principal Receiver of Wreck shall exercise general direction and supervision over all matters relating to receivers, wreck and salvage.

(3) The Minister shall by notice in the Gazette, appoint any person to be a Receiver of Wreck in any district or order that all or any of the functions of the Receiver of Wreck shall be exercised by such persons as may be specified in the order.

Fees of Receiver
of Wreck.

221. (1) There shall be paid to every Receiver of Wreck the expenses properly incurred by him in the performance of his duties, and also in respect of any such other matters as may be specified, fees at the prescribed rates.

(2) A Receiver of Wreck shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any Receiver of Wreck, in respect of expenses or fees, such dispute shall be determined by the Minister whose decision shall be final.

(4) All fees received by a Receiver of Wreck in respect of any services performed by him as such receiver shall be accounted for to the Government, and shall be applied in defraying any expenses duly incurred in the performance of his duties and, subject to such application, shall be paid into the Consolidated Fund of Antigua and Barbuda.

CHAPTER II

Vessels in Distress

Functions of Receiver of Wreck

222. (1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Antigua and Barbuda, the Receiver of Wreck, hereinafter referred to as the Receiver for the district in which that place is situated shall, upon being made acquainted with the circumstances, forthwith proceed there and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, hereinafter referred to as shipwrecked persons, and of the cargo and apparel of the vessel; but the Receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

**Duty of Receiver
on receipt of
report of wreck.**

(2) Any person who wilfully disobeys the directions of the Receiver is guilty of an offence.

223. (1) The Receiver of Wreck may, with a view to such preservation as aforesaid of shipwrecked persons, or of the vessel, cargo or apparel—

**Power of
Receiver of
Wreck.**

(a) require such persons as he thinks necessary to assist him;

(b) require the master or other person having the charge of any vessel, near at hand to give such aid with his men or vessel, as may be in his power;

(c) demand the use of any pumps, machinery or vehicles that may be obtainable.

(2) The Receiver may cause to be apprehended and kept in custody until he can be conveniently taken before a magistrate to be dealt with in accordance with the law, any person who plunders, creates disorder or obstructs the preservation of a vessel wrecked, stranded or in distress on or near the coasts of Antigua and Barbuda and may use reasonable force for the suppression of such plundering, disorder or obstruction and may command all persons in the vicinity to assist him.

(3) Every person who wilfully impedes or obstructs a Receiver or any person acting under his orders in the execution of his duty is guilty of an offence.

Power to pass
over adjoining
lands.

224. (1) Whenever a vessel is wrecked, stranded or in distress as aforesaid all persons may, for the purpose of rendering assistance to the vessel or of saving the lives of the shipwrecked persons or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass and repass, with or without vehicles and equipment, over any adjoining lands without being subject to interruption by the owner or occupier, so, however, that they do as little damage as possible and may also on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an 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 or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is, under this chapter, determined or recoverable.

(3) Any owner or occupier of land who—

(a) impedes or hinders any person in the exercise of the rights conferred by this section;

(b) impedes or hinders the deposit of any cargo or other article recovered from the vessel on any land, or

(c) prevents or endeavours to prevent any such cargo or other articles from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

is guilty of an offence.

225. (1) Where any Antiguan and Barbudan or foreign vessel is or has been in distress on the coasts of Antigua and Barbuda, a Receiver or, in his absence, a magistrate, shall, as soon as is convenient, examine on oath (which he is hereby empowered to administer) any person belonging to the vessel or any other person who is able to give any account thereof or of the cargo or stores thereof as to the following matters—

Examination in respect of ship in distress.

- (a) the name and description of the vessel;
- (b) the name of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports, from and to which, the vessel was bound;
- (e) the occasion of the distress of the vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel or to the cargo on board the vessel as the person holding the examination thinks necessary.

(2) The person holding the examination under subsection (1) in relation to any vessel shall make a record thereof in writing, and shall send one copy to the Minister and another to the Director; and the Director shall, if he thinks fit, cause a copy of such record to be placed in a conspicuous place in the office of the marine officer for the area in which such ship was in distress.

CHAPTER III

Measures to be taken in respect of Wreck

226. (1) Where any person finds or takes possession of any wreck within the seaward limits of the territorial sea of Antigua and Barbuda or brings within such seaward limits any wreck found outside these limits he shall,

Duties of persons finding wreck.

(a) if he is the owner thereof, give notice to the Receiver of the district stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised; or

(b) if he is not the owner thereof, as soon as possible deliver the same to the Receiver of the district.

(2) Any person who fails without reasonable cause to comply with this section is guilty of an offence and shall, in addition, if he is not the owner, forfeit any claim to salvage and is liable to pay to the owner of the wreck if it is claimed or if it is unclaimed to the person entitled to the same double the value thereof to be recovered in the same way as a fine of a like amount under this Act.

Notice of wreck.

227. Where a Receiver of Wreck takes possession of any wreck, he shall, within **forty-eight hours**—

(a) cause to be posted at the nearest police station and otherwise publish in such manner as he may deem fit, a description of the wreck, the time at which and the place where it was found and of any marks by which it could be distinguished; and

(b) if in his opinion the value of the wreck exceeds five hundred dollars, send a copy of such description to the Director of Marine Services.

Claims of owners to wreck.

228. (1) The owner or his agent of any wreck in the possession of the Receiver is entitled to have the wreck or the proceeds thereof delivered to him—

(a) upon establishing his claim to the same satisfaction of the Receiver within one year from the time at which the wreck came into the possession of the Receiver; and

(b) upon paying the salvage, fees and expenses due.

(2) Where any article belonging to or forming part of a foreign ship which has been wrecked on or near the coast of Antigua and Barbuda or belonging to and forming part of the cargo of any such ship are found on or near the coast or are brought within any port in Antigua and Barbuda,

the Receiver of Wreck shall send a report containing all relevant particulars to the consular officer of the country to which the ship, or in the case of cargo, to which the owner of the cargo may have belonged as the case may be. In the absence of the owner, master or other agent of the owner, the consular officer concerned is deemed to be the agent of the owner so far as relates to the custody and disposal of the articles or of the ship under like circumstances.

229. (1) A Receiver of Wreck may at any time sell ~~any wreck in his custody, if in his opinion—~~ **Sale of wreck in certain cases.**

- (a) it is under the value of five hundred dollars;
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value for warehousing.

(2) The proceeds of any sale made under subsection (1) shall, after defraying the expenses thereof, be held by the Receiver for the same purposes and subject to the same claims, and liabilities as if the wreck had remained unsold.

CHAPTER IV

Unclaimed Wreck

230. The Government of Antigua and Barbuda is entitled to all unclaimed wreck found within any port of Antigua and Barbuda or found or taken possession of outside Antigua and Barbuda and brought within Antigua and Barbuda. **Unclaimed wreck property of Government.**

231. Where no owner establishes a claim to any wreck in the possession of a Receiver within one year after it came into his possession, the Receiver may sell the same and shall pay the proceeds of the sale into the Consolidated Fund of Antigua and Barbuda after— **Sale of wreck by Receiver.**

(a) deducting therefrom the expenses of the sale and any other expenses incurred by him; and

(b) paying thereout to the salvors such amount of salvage as the Minister may in each case determine.

Discharge of
Receiver.

232. Upon delivery of wreck or payment of the proceeds of sale of wreck by a Receiver in pursuance of the provisions of this Part, the Receiver shall be discharged from all liability in respect thereof but such delivery or payment shall not prejudice or affect any question which may be raised by third parties concerning such wreck.

CHAPTER V

Removal of Wrecks

Removal of
wreck being a
hindrance to
navigation.

233. (1) Subject to the provisions of any enactment relating to ports where any vessel is sunk, stranded or abandoned in any port, harbour or tidal water in Antigua and Barbuda or in or near any approach to any such port, harbour or tidal water in such manner as in the opinion of the competent authority to be likely to become an obstruction or danger to navigation, that authority may—

(a) take possession of and raise, remove or destroy the whole or any part of the vessel;

(b) light or buoy any such vessel or part until the raising, removal or destruction thereof;

(c) subject to the provision of subsections (2) and (3), sell in such manner as that authority thinks fit, any vessel or part so raised or removed, and also any other property recovered in the exercise of its powers under this section and out of the proceeds of the sale reimburse itself for the expenses incurred by that authority in relation thereto under this section and that authority shall hold the surplus, if any, of the said proceeds in deposit for payment to the person thereafter establishing his right thereto; but the deposit shall be paid into the Consolidated Fund of Antigua and Barbuda unless such person makes his claim within three years of the sale.

(2) A sale shall not, except in the case of property which is of a perishable nature or which would deteriorate in value by delay, be made under this section until at least seven clear days' notice of the intended sale has been given in the *Gazette*.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the Receiver of the fair

market value thereof, to be determined by agreement between that authority and the owner, or failing such agreement, by some person to be named for the purpose by the Director and the sum paid to the Receiver as the value of any property under this subsection is, for the purposes of this section deemed to be the proceeds of sale of that property.

(4) If the proceeds of any such property as is mentioned in this section are less than the costs incurred by the authority referred to in subsection (1), that authority may recover such difference from the owner of the vessel by civil action.

234. (1) If any person being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel, or the duly authorised agent or servant of such owner is desirous of breaking up such vessel prior to removal thereof from Antigua and Barbuda, such person shall, before commencing salvage or breaking up operations, obtain the written permission of the Receiver who shall be entitled to grant permission and in his discretion, require security in such reasonable amount as he may consider necessary to ensure the effective removal of such vessel or any portion thereof, from Antigua and Barbuda.

**Breaking up and
removing wreck.**

(2) Any person who without previous written permission of the Receiver does or causes to be done any salvage or breaking up operation of any vessel or any wrecked, submerged, sunken or stranded vessel lying within Antigua and Barbuda is guilty of an offence.

235. The provisions of this Part relating to the removal of wrecks apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores, or ballast of a vessel in the same manner as if it were included in the word "vessel"; and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof or any other property recovered therefrom, shall be regarded as a common fund.

**Extent of power
of removal.**

CHAPTER VI

Offences Related to Wreck

Removal to
foreign port for
sale.

236. Any person who takes into any foreign port and there sells any vessel, whether stranded, derelict or otherwise in distress, found in Antigua and Barbuda or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found in Antigua and Barbuda is guilty of an offence.

Unauthorised
boarding of
wreck.

237. A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress unless that person is or acts by command of the Receiver or a person lawfully acting as such; and if any person acts in contravention of this section he is guilty of an offence and the master of the vessel may repel him by force.

Interfering with
wreck.

238. (1) A person shall not—

(a) impede or hinder or endeavour in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near any coast or tidal water or of any part of the cargo or apparel thereof or of any wreck;

(b) conceal any wreck or deface or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress on or near any coast or tidal water or any part of the cargo or apparel thereof, or any wreck.

(2) Any person who contravenes subsection (1) is guilty of an offence.

Summary
procedure for
concealment of
wreck.

239. (1) Where a Receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any magistrate for a search warrant and that magistrate shall have power to grant such a warrant and the Receiver, by virtue thereof, may enter any house or other place wherever

situated and also any vessel and search for, seize and detain any wreck there found.

(2) If any such seizure of wreck is made in consequence of information given by any person to the Receiver on a warrant being issued under this section, the informer shall be entitled by way of salvage, to such sum not exceeding in any case two hundred dollars as the Receiver may allow.

240. (1) Where a ship is wrecked, stranded or in distress at any place on or near the coast of Antigua and Barbuda or any tidal water within Antigua and Barbuda, any cargo or other articles belonging to or separated from the ship which are washed on shore or otherwise lost or taken from the ship shall be delivered to a Receiver of Wreck.

Taking wreck at the time of casualty.

(2) Any person (whether or not the owner of any cargo or article) referred to in the preceding subsection who—

(a) conceals or keeps possession of any cargo or article; or

(b) refuses to deliver any such cargo or article to a Receiver of Wreck or any person authorised by the Receiver to demand such cargo or article,

is guilty of an offence.

(3) A Receiver of Wreck or any person authorised by the Receiver to demand the delivery to him of any cargo or article referred to in subsection (1) may take such cargo or article by force from any person refusing to deliver it to him.

CHAPTER VII

Salvage

241. Any service for saving life or maritime property imperilled at sea is deemed a salvage service.

Definition.

242. (1) Where services are rendered—

(a) wholly or in part within the territorial sea of Antigua and Barbuda in saving life from any aircraft or vessel, or elsewhere in saving life from any vessel registered in Antigua and Barbuda;

Salvage of life, vessel, aircraft, or wreck, apparel cargo.

(b) within the territorial sea of Antigua and Barbuda, in assisting a vessel or aircraft which is wrecked, abandoned, stranded or in distress or in saving wreck;

(c) in assisting a vessel or saving its cargo or apparel or any part thereof when she is wrecked, stranded or in distress at any place on or near the coasts of Antigua and Barbuda or in any tidal water within Antigua and Barbuda,

by any person other than the Receiver of Wreck, there shall be payable to the salvor by the owner of such aircraft, vessel, wreck, cargo, or apparel, a reasonable amount of salvage, including expenses properly incurred, to be determined in the case of dispute, in the manner set out hereinafter.

(2) Salvage in respect of the preservation of life shall be payable in priority to all other claims for salvage.

(3) Where a vessel, cargo and apparel are destroyed or the value thereof is insufficient after payment of the actual expenses incurred to pay the amount of salvage payable in respect of the preservation of life, the Minister of Finance may, in his discretion, award to the salvor out of the Consolidated Fund of Antigua and Barbuda, such sum as he, with the concurrence of the Minister, may determine, in whole or part, satisfaction of any amount of salvage left unpaid.

Cases when
remuneration not
admissible.

243. Nothing in section 242 entitles any person to remuneration—

(a) in respect of services rendered contrary to an express and reasonable prohibition of such services on that part of the vessel to which such services are rendered;

(b) in respect of services rendered by a tug or in respect of the vessel which she is towing or the cargo thereof, except where such services are of exceptional character such as are outside the scope of the contract of towage;

(c) if he has caused the distress giving rise to the salvage, either intentionally or through negligence;

(d) if and to such extent as it appears that he has concealed or unlawfully disposed of any property salvaged.

244. (1) A dispute as to the amount of salvage, whether of life or property and whether the services for which it is claimed to have been rendered be within or outside Antigua and Barbuda arising between the salvor and the owner of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, in the following cases—

(a) in any case where the parties in the dispute consent;

(b) in any case where the amount claimed does not exceed fifteen thousand dollars;

(c) in any case where the value of the property saved does not exceed one hundred and fifty thousand dollars;

be referred to and determined by a court of competent jurisdiction at or near the place where the wreck was found, or in the case of services rendered, at or near the port in Antigua and Barbuda into which the vessel is first brought after the occurrence by reason whereof the claim of salvage arises

(2) Subject to subsection (1), any dispute as to salvage shall be determined by the High Court but if the claimant does not recover in that court more than one thousand dollars, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim, unless the Court certifies that the case was a fit one to be tried otherwise than in manner provided under subsection (1).

(3) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property saved or of their respective agents.

(4) The court or arbitrators to whom a dispute as to salvage is referred for determination may for the purpose of determining any such dispute call into their assistance as assessor, any person conversant with maritime affairs and there shall be paid as part of the cost of the proceedings to

every such assessor in respect of his services such sum as the Minister may direct.

Rescission of
salvage
agreements.

245. Every agreement relating to salvage entered into at the moment and under the influence of danger may at the request of either party, be annulled or modified by the High Court if the High Court considers that the conditions of such agreement are not equitable.

Jurisdiction in
relation to
disputes.

246. The Minister shall designate the Courts having jurisdiction to adjudicate disputes regarding salvage to be determined summarily as set out in section 244.

Appeal in salvage
dispute.

247. Where a dispute relating to salvage has been determined by the High Court, any party aggrieved by the decision may appeal therefrom in accordance with rules of Court; but no such appeal shall be allowed unless the sum in dispute exceeds thirty thousand dollars.

Valuation of
property by the
Receiver.

248. (1) Where any dispute as to salvage claim is made, the Receiver may, on the application of either party, appoint a valuer to value that property and shall give copies of the valuation to both parties.

(2) A copy of the valuation purporting to be signed by the valuer and certified as a true copy by the Receiver shall be admissible as evidence in any subsequent proceedings.

(3) There shall be paid in respect of the valuation by the person applying for the same such fee as the Minister may direct.

Detention of
property liable to
salvage by
Receiver.

249. (1) Where salvage is due to any person under the Act, the Receiver shall—

(a) if the salvage is due in respect of services rendered in assisting any vessels or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel, and

(b) if the salvage is due in respect of the saving of any wreck and the wreck is not sold unclaimed under this Act, detain the wreck.

(2) Subject as hereinafter mentioned, the Receiver shall detain the vessel and the cargo and apparel or the wreck, hereinafter referred to as detained property, until payments are made for salvage or warrants are issued for the arrest or detention thereof by a court of competent jurisdiction.

(3) A Receiver may release any detained property if security is given to his satisfaction or if the claim for salvage exceeds one thousand dollars and any question is raised as to the sufficiency of the security to the satisfaction of the High Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding two thousand dollars may be enforced by the court in the same manner as if bail had been given in that court.

250. (1) The Receiver 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 in the following cases, namely:

**Sale of detained
property by
Receiver.**

(a) where the amount is not disputed and payment of the amount due is not made within twenty days after the amount is due;

(b) where the amount is disputed, but no appeal lies from the decision of the first court to which the dispute was referred and payment is not made within twenty days after the decision of the first court; or

(c) where the amount is disputed and an appeal lies from the decision of the first court to which the dispute was referred to some other court and within thirty days of the decision of the first court, neither payment of the sum due is made nor proceedings are commenced for the purpose of the appeal.

(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 the expenses, fees and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the same.

Apportionment of
salvage in
relation to
foreign vessel.

251. Where any dispute arises as to the apportionment of any amount of salvage among the owners, masters, pilot, crew and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

Apportionment of
salvage by
Receiver.

252. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Antigua and Barbuda has been finally determined, either summarily in the manner provided by this Chapter or by agreement, and does not exceed five thousand dollars but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the Receiver for liberty to pay such amount to him.

(2) The Receiver shall, if he thinks fit, receive the amount referred to in subsection (1) accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid.

(3) A certificate granted under subsection (2) in respect of any amount shall be a full discharge and indemnity to the person by whom the amount is paid and to his vessel, cargo, apparel and effects, against the claims of all persons in respect of the services mentioned in the certificate.

(4) The Receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled thereto on such evidence and in such shares and proportions as he thinks fit and may retain any money which appears to him to be payable to any person who is absent.

(5) A distribution of any amount made by a Receiver of Wreck in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Apportionment
by the High
Court.

253. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Antigua and Barbuda has been finally ascertained and exceeds five thousand dollars, and whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Antigua and Barbuda has been finally ascertained

(whatever that amount may be), then if any delay or dispute arises as to the apportionment thereof, the High Court—

(a) may cause such amount to be apportioned amongst the persons entitled thereto in such manner as it thinks just and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;

(b) may compel any person in whose hands or under whose control the amount may be to distribute such amount or to bring it into Court to be there dealt with as the Court directs; and

(c) may for the purpose aforesaid issue such processes as it thinks fit.

254. (1) Where salvage services are rendered by or on behalf of the Government or with the aid of government property, the Receiver on behalf of the Government is entitled to claim salvage in respect of those services to the same extent as any other salvor and shall have the same rights and remedies in respect of those services as any other salvor.

Salvage services rendered by Government.

(2) No claim shall be made for a Receiver's fee or expenses if salvage is claimed on behalf of the Government other than fees or expenses which may be included in such salvage claim.

(3) Any salvage award due to a Receiver in any salvage award to Government shall be for the Receiver's own remuneration.

255. No action shall be maintainable in respect of any salvage services unless proceedings thereinafter commenced within one year from the date when the salvage services were rendered; but the Court may extend any such period to such extent and on such conditions as it thinks fit.

Time limit for salvage proceedings.

256. (1) All wreck being foreign goods coming into Antigua and Barbuda shall be subject to the same duties as those to which such goods would be subject if they were imported into Antigua and Barbuda.

Provisions as to duties on wrecked goods.

(2) If any question arises as to the origin of any goods referred to in subsection (1), they shall be deemed to be the product of such country as the Comptroller of Customs may on investigation determine.

(3) The Comptroller of Customs shall permit all goods, wares or merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped, but the Comptroller of Customs shall take security for the due protection of the Consolidated Fund of Antigua and Barbuda in respect of those goods.

PART VII

Shipping Casualties, Enquiries, Courts and Legal Proceedings

CHAPTER I

Casualties and Accidents on Ships

Shipping casualties.

257. For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

(a) on or near the coasts of Antigua and Barbuda any ship is stranded, lost, abandoned or materially damaged;

(b) on or near the coasts of Antigua and Barbuda any ship causes loss or material damage to any other ship;

(c) on or near the coasts of Antigua and Barbuda, any loss of life occurs by reason of any accident happening to or on board any ship;

(d) in any place any such loss, abandonment, stranding, material damage or casualty occurs to or on board a ship registered in Antigua and Barbuda and any competent witness thereof is found in Antigua and Barbuda;

(e) any ship registered in Antigua and Barbuda is lost or is supposed to have been lost and any evidence is obtainable in Antigua and Barbuda as to the circumstances under which she proceeded to sea or was last heard of.

258. (1) The Minister may by notice in the *Gazette*, **Preliminary inquiry.** appoint officers for the purpose of holding preliminary inquiries into shipping casualties.

(2) Notice of a shipping casualty may be made to the officer appointed under subsection (1) by the master, pilot, harbour master in charge of ship or ships concerned or any other person having knowledge of the shipping casualty.

(3) On receipt of a notice of shipping casualty, the officer appointed under subsection (1), shall immediately report the same to the Director of Marine services and may proceed to make a preliminary inquiry into the casualty and after completing the preliminary inquiry, he shall send a report thereof to the Director of Marine services.

259. (1) The officer appointed under subsection (1) of section 258, whether he has made a preliminary inquiry or not, shall, where the Minister so directs, apply to a Magistrate's court to hold a formal investigation, and that court shall thereupon hold the formal investigation. **Formal investigation.**

(2) The court holding any formal investigation shall hold the same with the assistance of such number of assessors possessing nautical, engineering or other special skill or having knowledge of maritime or mercantile affairs as may be appointed by the Minister.

(3) Where a formal investigation involves or appears likely to involve any question as to the cancellation or suspension of the certificate of a master, mate or engineer, the court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service.

(4) It shall be the duty of the person who has applied to a court to hold a formal investigation to superintend the management of the case, and to render such assistance to the court as lies in his power to render.

(5) The court, after hearing the case, shall make a report to the Minister containing a full statement of the case and of the opinion of the court thereon, accompanied by such report of, or extracts from, the evidence, and such observations as the court thinks fit.

(6) Each assessor shall either sign the report and, if he dissents therefrom state in writing to the Minister the reasons for his dissent.

(7) The Court may make such order as the court thinks fit respecting the costs of the investigation, or any part thereof, and any such order shall be enforced by the court as if it were an order for costs made by a magistrate.

(8) When the investigation affects the master or any other officer of a ship not registered in Antigua and Barbuda holding a certificate granted under the law of any country outside Antigua and Barbuda, a copy of the report of the investigation together with the evidence shall be forwarded by the Minister to the proper authority in that country.

(9) For the purposes of this section, the court holding a formal investigation shall have all the powers of a court of summary jurisdiction when acting as a court in exercise of its summary jurisdiction.

(10) Every formal investigation into a shipping casualty shall be conducted in such a manner that, if a charge is made against any person, that person shall have an opportunity of making a defence either in person or otherwise.

Power of court to
investigate into
charges against
Masters, etc.

260. (1) Any court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct or of a wrongful act or default as aforesaid, arises against any master, mate or engineer in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case up to which the inquiry has been directed.

Inquiries as to
competency and
conduct of
Master, etc.

261. (1) If the Director of Marine Services has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, other-

wise than in the course of a formal investigation into shipping casualty, the Director of Marine Services—

(a) if the master, mate or engineer holds a certificate issued under this Act, in any case;

(b) if the master, mate or engineer holds a certificate issued under the law of any country outside Antigua and Barbuda in any case where the incompetency or misconduct has occurred on board an Antiguan or Barbudan ship,

may transmit a statement of the case to any court having jurisdiction under section 260, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend and may direct that court to make an inquiry into that charge and the court holding an inquiry under this section will have the same powers and be subject to the same rules as the court holding a formal investigation under section 259.

(2) Before commencing the inquiry the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Director.

262. If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest and may for the purpose of affecting the arrest authorise any officer, subject, nevertheless, to any general or special instructions from the Director of Marine Services to enter any vessel, and any officer so authorised, may, for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

**Power to arrest
witnesses, etc.**

263. Whenever in the course of any such investigation or inquiry it appears that any person has committed in Antigua and Barbuda an offence punishable under any law in force in Antigua and Barbuda, the court making the investigation or inquiry may, subject to such rules consistent with this Act as the Supreme Court may from time to time make, cause him to be arrested or commit him or hold him to bail or take his trial before the proper court and may bind over any person to give evidence at the trial, and may,

**Power to commit
for trial.**

for the purposes of this section exercise all its powers as a criminal court.

Cancellation or
suspension of
certificates.

264. (1) The certificate of a master, mate or engineer may be cancelled or suspended by a court making an investigation or inquiry under this Part if it finds that he is incompetent or has been guilty of a gross act of misconduct or in case of collision has failed to render such assistance or give such information as required by section 134 or that loss, abandonment or stranding of or serious damage to any ship has been caused by his wrongful act or default.

(2) Where any case before the court involves a question as to the cancellation or suspension of a certificate, the court shall, at the conclusion of the case or as soon thereafter as possible, state in open sitting the decision to which it has come with respect to that question.

(3) The court shall, in all cases, send a full report of the case with the evidence to the Minister, and shall also, if it cancels or suspends any certificate, send the certificate to the Minister with the report.

(4) A certificate shall not be cancelled or suspended by a court under this section, unless a statement of the case on which the investigation has been ordered has been furnished before the commencement of the investigation to the holder of the certificate.

(5) Where it appears to the court that having regard to the circumstances of the case, an order of cancellation or suspension is not justified, the court may make an order censuring the master, mate or engineer in respect of his conduct.

Removal of
master by court.

265. (1) The High Court may remove the master of any Antiguan and Barbudan ship whilst within the jurisdiction of that court, if that removal is shown to the satisfaction of the court by evidence on oath to be necessary.

(2) The removal may be made upon the application of the owner of any ship or his agent or of the consignee of the ship or of any certificated officer or of one-third or more of the crew of the ship.

(3) The court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the court such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The court may also make such order and require such security in respect of the costs of the matter as the court thinks fit.

266. A master, mate or engineer whose certificate is cancelled or suspended by a court shall deliver his certificate to that court on demand and if he fails to comply with this section, shall be guilty of an offence.

**Delivery of
certificate in
court.**

267. (1) The cancellation or suspension of a certificate by the Director or by a court shall—

**Effect of
cancellation or
suspension of
certificates.**

(a) if the certificate was issued under this Act, be effective everywhere and in respect of all ships;

(b) if the certificate was issued outside Antigua and Barbuda be effective—

(i) within Antigua and Barbuda and the territorial sea of Antigua and Barbuda in respect of all ships; and

(ii) outside Antigua and Barbuda in respect of Antiguan and Barbudan ships only.

(2) No endorsement shall be made on the said certificate.

268. (1) An appeal shall lie from the Magistrate's Court to the Court of Appeal from a decision in the case of an investigation into the conduct of a holder of a certificate of competency under this Act, and the Court of Appeal may hear the appeal and may remit the case for rehearing either generally or as to any part thereof, and shall remit the case—

Appeal.

(a) if new evidence which could not be produced at the investigation has been discovered, or

(b) if for any other reason there is in the opinion of the Court ground for suspecting that there has been a miscarriage of justice.

(2) The owner of the ship, or any other person who, having an interest in the investigation, has appeared at the hearing and is affected by the decision of the court, may appeal from that decision in the same manner and subject to the same conditions in and subject to which a master may appeal under this section against a decision with respect to the cancellation or suspension of his certificate.

Power of the
Director to
cancel and
suspend
certificates.

269. Any certificate which has been granted under this Act to any master, mate or engineer of a ship may be cancelled or suspended for any specified period by the Director in the following cases—

(a) if, on any investigation or inquiry made by any court, tribunal or other authority for the time being authorised by the legislative authority in any country outside Antigua and Barbuda, the court, tribunal or other authority reports that the master, mate or engineer of the ship is incompetent or has been guilty of any gross act of misconduct or drunkenness or tyranny, or in a case of collision has failed to render assistance or to give such information as is referred to in Part V or that the loss, stranding or abandonment or damage to any ship, or loss of life, has been caused by his wrongful act or default;

(b) if the master, mate or engineer of the ship is proved to have been convicted—

- (i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in Antigua and Barbuda, or
- (ii) of an offence committed outside Antigua and Barbuda which if committed in Antigua and Barbuda would be a non-bailable offence;

(c) if in the case of a master of an Antiguan and Barbudan ship he has been superseded by the order of any court of competent jurisdiction in Antigua and Barbuda or outside Antigua and Barbuda.

Minister's power
to revoke order
of cancellation,
suspension, etc.

270. The Minister may at any time, if he thinks the justice of the case so requires—

(a) revoke any order of cancellation or suspension of certificate made by the Director of Marine Services earlier;

(b) shorten or lengthen the period of suspension ordered by the Director of Marine Services or by a court or cancel a certificate suspended by a court, after giving an opportunity to the person concerned of making a representation before lengthening the period of suspension or cancelling a certificate;

(c) grant without examination a new certificate of the same or any lower grade in the case of any certificate cancelled or suspended.

CHAPTER II

Jurisdiction

271. (1) For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be. Jurisdiction.

(2) Where, in any legal proceedings under this Act, a question arises whether any ship or person is or is not within the provisions of this Act or of some Part of this Act, the ship or person shall be deemed to be within those provisions unless the contrary is proved.

272. Where any district within which any court has jurisdiction either under this Act or any other enactment or at common law for any purpose whatsoever is situated on the coast of any sea or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such court shall have jurisdiction over any vessel being in or near that bay, channel, lake, river or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court. Jurisdiction over vessel lying or passing off the coasts.

273. Notwithstanding anything contained in any other law in force in Antigua and Barbuda but subject to the provisions of section 272 — Jurisdiction to try offences on board ships.

(a) where any person being a citizen of Antigua and Barbuda is charged with having committed any offence on board any Antiguan and Barbudan ship wherever the ship may be;

(b) where any person not being a citizen of Antigua and Barbuda is charged with having committed any offence on board an Antiguan and Barbudan ship, in the territorial sea of Antigua and Barbuda or on the high seas;

(c) where any person not being a citizen of Antigua and Barbuda is charged with having committed any offence on board a ship, other than an Antiguan and Barbudan ship, at any port in Antigua and Barbuda or in the territorial sea of Antigua and Barbuda,

and that person is found in Antigua and Barbuda, any court that would have heard the offence if it had been committed within the limits of its ordinary jurisdiction shall have jurisdiction to try the offence as if it had been so committed.

Jurisdiction as to
offences by
seamen in
foreign ports.

274. All offences against property or person committed on any Antiguan and Barbudan ship at any place outside Antigua and Barbuda by any master, seaman, or apprentice, who at the time when the offence is committed is employed in any Antiguan and Barbudan ship, shall be deemed to be offences of the same nature respectively and be liable to the same punishments respectively, and be inquired into, heard, tried, determined and adjudged in the same manner and by the same courts and in the same places as if those offences had been committed within the country of the port of registry of their ship.

Jurisdiction in
collision and
other cases.

275. (1) No court in Antigua and Barbuda shall entertain an action in personam to enforce a claim to which this section applies unless—

- (i) the defendant has his habitual residence or a place of business within Antigua and Barbuda;
- (ii) the cause of action arose within the waters of Antigua and Barbuda or within the limits of a harbour or port of Antigua and Barbuda; or

-
- (iii) an action arising out of the same incident or series of incidents is proceeding in the court, or has been heard and determined by the court.

(2) No court in Antigua and Barbuda shall entertain an action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside Antigua and Barbuda against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(3) The provisions of subsection (1) and (2) apply to counter-claims in proceedings arising out of the same incident or series of incidents, as they apply to actions in personam, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counterclaim and the defendant to the counter-claim.

(4) The provisions of subsections (1), (2) and (3) do not apply to any action or counter-claim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.

(5) Subject to the provisions of subsection (2), where a court has jurisdiction for the purposes of this Act, the jurisdiction shall extend to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in paragraph (a) of subsection (1) is satisfied; and the rules of court relating to the service of process outside the jurisdiction apply as appropriate having regard to the provisions of this subsection.

(6) Nothing in this section shall—

(a) prevent an action or counter-claim which is brought under this section from being transferred to some other court of competent jurisdiction; or

(b) affect proceedings in respect of any cause of action arising before the coming into operation of this section.

(7) The claims to which this section applies are claims for damage, loss of life, personal injury arising out of a collision between ships, or out of the carrying out of or omission to carry out a manoeuvre in the case of one or more or two or more ships or out of non-compliance, on the part of one or more of two ships, with the collision rules.

(8) For the avoidance of doubt, it is hereby declared that this section shall apply in relation to the jurisdiction of any court not being admiralty jurisdiction, as well as in relation to its admiralty jurisdiction, if any.

Jurisdiction as to
unsatisfied
mortgages.

276. Where the registration of a ship is considered to be closed on account of a transfer to persons not qualified to own a registered Antiguan and Barbudan ship, any unsatisfied mortgage may, if the ship comes within the jurisdiction of any court in Antigua and Barbuda which has jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court notwithstanding the transfer, without prejudice, in cases where the ship has been sold under a judgment of a court, to the effect of that judgment.

CHAPTER III

Detention and Distress on Ship

Power to detain
foreign ship that
has occasioned
damage.

277. (1) Whenever any damage has in Antigua and Barbuda or in any part of the World been caused to any property belonging to an Antiguan and Barbudan citizen by any ship not registered in Antigua and Barbuda or where a claim is made for damages by or on behalf of any Antiguan and Barbudan citizen in respect of personal injuries including fatal injuries against the owners of any such ship and at any time thereafter that ship is found in any part of or place in Antigua and Barbuda or within the territorial limits thereof, a Judge of the High Court may, upon it being shown to him by any person applying summarily that the damage or injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any officer of customs or other officer named by the Judge requiring him to detain the ship until such time as the owner, or agent thereof has made satisfaction in respect of the damage or injury, or has given security to be approved by the Judge to abide the event of any action, suit or other

legal proceedings that may be instituted in respect of the damage or injury, and pay all costs and damages that may be awarded thereon.

(2) Any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(3) Where it appears that before an application can be made under this section the ship in respect of which the application is to be made will have departed from the limits of Antigua and Barbuda, the ship may be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention, unless the same is proved to have been made without reasonable grounds.

(4) In any legal proceedings in relation to any such damage or personal injury, the person giving security shall be made defendant and shall be stated to be the owner of the ship that has occasioned the damage or injury; and the production of the order of the Judge made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceeding.

278. Where death has occurred out of Antigua and Barbuda on board any Antiguan and Barbudan ship arriving at a port in Antigua and Barbuda the Director shall inquire into the cause of death, and shall make in the official log-book an endorsement to the effect that the statement of the cause of death in the log-book is, in his opinion, true or untrue according to the result of the inquiry.

**Inquiries into
causes of death.**

279. The Director shall, for the purpose of an inquiry under section 278, have all the powers of a surveyor under this Act, and if, in the course of any such inquiry, it appears to the Director that any such death has been caused on board the ship by violence or other improper means, he shall report the matter to the Minister or, if the emergency of the case so requires, do all he can to bring the offender to justice, and may for that purpose, if in his discretion he thinks it necessary, cause him to be arrested and thereafter dealt with in due course of law.

**Power of the
officer charged
with inquiries.**

Enforcement of
detention of ship.

280. (1) Where, under this Act, a ship is to be, or may be detained, any person generally or specially authorised by this Act or by the Minister, may detain the ship.

(2) If the ship, after detention or after service on the master of any notice of an order for detention, proceeds to sea before it is released by a competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if that owner or person is party or privy to the master's offence, commits an offence.

(3) Where a ship so proceeding to sea takes to sea and has on board thereof in the execution of his duty any officer authorised to detain the ship, or any surveyor or officer appointed under this Act or any other enactment, or any officer of customs, the owner and master of the ship shall be liable to pay all the expenses of and incidental to the officer or surveyor being so taken to sea, and also to a fine of five hundred dollars for every day until the officer or surveyor returns or until such time as would enable him after leaving the ship to return to the port from which he is taken, whichever is the greater; and the expenses ordered to be paid may be recovered in like manner as the fine.

(4) Where under this Act a ship is to be detained, the Comptroller of Customs shall refuse to grant port clearance; and in any other case authorising the detention of a ship, the Comptroller of Customs may refuse port clearance.

Seizure and sale
of ship in default
of payment of
penalty.

281. (1) In every case in which a conviction has been secured against the owner of a ship for a contravention of any of the provisions of this Act, and a fine has been imposed, the ship shall, if the fine is not paid forthwith, be liable to be seized and, after such reasonable notice as the Minister may, in each case, prescribe, may be sold by any person authorised for that purpose in writing by the Minister, and that person may, by bill of sale, give to the purchaser a valid title to the ship free from any mortgage or other claim thereon which at the time of the sale may be in existence.

(2) Any surplus money remaining from the proceeds of sale after paying the amount of the fine and the costs of conviction, together with the costs of the seizure and sale,

shall be paid over to any person who has a maritime lien or other preferential claims in respect of the ship or the mortgagee, or the owner as the case may be.

282. Where any foreign ship is detained under this Act, and any proceedings are taken under this Act against the owner or master of any such ship, notice shall forthwith be given to 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, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Notice to
consular office in
case of detention
of foreign ship.

283. Where a ship is held under any provision of this Act requiring detention until the happening of a certain event, the ship shall be deemed to be finally detained for the purposes of section 277; and the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey, if any, of such ship, and these costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Cost of detaining
ship.

284. Where any court may make an order under this Act directing payment to be made of any seaman's wages, fines or other sums of money, then, if the party who is so directed to pay the same is the owner or master of a ship, and the same is not paid at the time or in the manner prescribed in the order, the court which made the order may, in addition to any other powers it may have for the purpose of compelling payment, direct the amount remaining unpaid to be realised by distress sale of the ship, her tackle, furniture and apparel; or the order may be removed into any other court for the purpose.

Distress sale.

285. (1) Subject to the provisions of this section, no action shall be maintainable to enforce any claim or lien against a ship or her owners in respect of any damage or loss to another ship, her cargo or freight, or any property on board, or damages for loss of life or personal injuries suffered by any person on board, caused by the fault of the former ship, whether such ship be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within one year from the date when

Limitation of
actions in civil
proceedings.

the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(2) Any court of competent jurisdiction may in accordance with the rules of court extend any such period to such extent and on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of arresting the defendant ship at any port in Antigua and Barbuda, or within twelve miles of the coast thereof, or locally within the jurisdiction of the country to which the ship of the plaintiff belongs or in which the plaintiff resides or has his principal place of business, extend the period to the extent necessary to give such a reasonable opportunity.

(3) Nothing in this section shall affect statutory provisions as to compensation for workmen.

Depositions in cases in which witnesses cannot be produced.

286. (1) Subject to the provisions of this section, where in the course of any proceedings instituted under this Act before any court or person authorised to receive evidence, the testimony of any witness is required in relation to the subject matter of the proceedings and the witness cannot be found in Antigua and Barbuda, any deposition that the witness has previously made on oath in relation to the same subject matter before any judge or magistrate in any country other than Antigua and Barbuda or before any diplomatic or consular officer of Antigua and Barbuda in any foreign country shall be admissible in evidence.

(2) No deposition shall be admissible in criminal proceedings unless the deposition was taken in the presence of the person accused, and the judge, magistrate or diplomatic or consular officer when authenticating the deposition made before him certifies that the accused was present at the taking thereof.

(3) A deposition admissible for the purposes of this section shall be deemed to be duly authenticated if it purports

to have been signed by the judge, magistrate or diplomatic or consular officer before whom it was taken.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, a certificate purporting to have been signed by the judge, magistrate or diplomatic or consular officer before whom the deposition was taken that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the fact.

(5) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other enactment.

287. Notwithstanding anything in any other enactment where any document is required by this Act to be executed in the presence of, or to be attested by, any witness, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness.

Evidence and
service of
document.

288. (1) Where a document is under this Act declared to be admissible in evidence, such document shall, on its production from the proper custody be admissible in any court or before any person having proper authority to receive evidence, and unless admission is refused on any other ground, shall be evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

Admissibility of
documents in
evidence.

(2) A copy of any such document or extract therefrom shall also be admissible in evidence if proved to be a copy or extract made from or compared with the original, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted.

(3) Any person having authority to receive evidence shall have the same powers as a court to impound any document to which this section applies, which has a false or counterfeit seal, stamp or signature attached thereto, and

the restrictions which apply for the admission of secondary evidence shall have effect accordingly.

Service of
documents.

289. (1) Where, for the purposes of this Act, a document is to be served on any person, that document may be served—

(a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being, or appearing to be, in command or charge of the ship;

(c) if the document is to be served on the master of the ship, where there is no master, and the ship is within Antigua and Barbuda, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in Antigua and Barbuda, or where no such agent is known or can be found by affixing a copy thereof in some conspicuous place in the ship.

(2) If any person obstructs the service on the master of the ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy, that person commits an offence; and, if the owner or master of the ship is party to the obstruction, he commits an offence.

Protection of
public officers.

290. No suit shall be maintained against any public officer or other person appointed or authorised under this Act in respect of anything done or omitted to be done by him in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed on him under this Act.

CHAPTER IV

Court of Survey

Constitution of
Court of Survey.

291. (1) A Court of Survey for a port shall consist of a judge of the High Court sitting with two assessors.

(2) The assessors shall be persons of nautical, engineering or other special skill and experience, one of whom shall be appointed by the Minister, or in the case of a foreign ship, by the consular officer at or near the port, and the other shall be summoned by the judge of the Court.

292. (1) If a surveyor authorised to inspect a ship under this Act, makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied or gives notice of any defect in the ship with which the owner or his agent or the master does not agree or declines to give any certificate under this Act, the owner or master or agent, as the case may be, may, subject to the provisions of subsection (2) of section 294 appeal to the Court of Survey.

**Appeal from
surveyor to
Court of Survey.**

(2) Whenever a surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent as the case may be, and if the person so nominated agrees with the surveyor as to the statement made or the notice given by the surveyor or by the refusal by the surveyor to give a certificate, there shall be no appeal to a Court of Survey from that statement, notice or refusal.

293. (1) The following provisions shall have effect in relation to a Court of Survey concerning any ship—

**Jurisdiction of
the Court of
Survey.**

(a) the case shall be heard in open Court;

(b) the judge, each assessor, and any person appointed by the judge may survey the ship and may go on board the ship and inspect the ship and every part thereof and the machinery, equipment and cargo, and may require the unloading and removal of any cargo, ballast or tackle, and shall for such purpose have all the powers of an inspector;

(c) the Court may order the ship to be surveyed, and may appoint any competent person or persons to survey the ship and report thereon to the Court;

(d) the judge shall have the same power as the Director has to order the ship to be released or finally detained but, unless one of the assessors concurs in an

order for the detention of the ship, the ship shall be released; and

(e) the owner and the master of the ship, and any person appointed by the owner or master, may attend at any inspection or survey made in pursuance of this section.

(2) The Court may make such order with respect to the costs of any inquiry or investigation under this Act as it may think fit, and such costs shall be recoverable in the same manner as a civil debt.

(3) Any person who wilfully impedes the judge of the Court of Survey, or any assessors under this section, or fails to comply with any requisition made by him is guilty of an offence.

Scientific
referees.

294. (1) If the Minister is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty or important principle, he may refer the matter to such one or more out of a list of scientific referees from time to time approved by the Minister as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between the Director of Marine Services and the appellant or, in default of any such agreement, by the Minister, and thereupon the appeal shall be determined by the referee or referees, instead of by the Court of Survey.

(2) The Minister, if the appellant in any appeal so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, shall refer the appeal to the referee or referees selected under subsection (1).

(3) A referee or referees selected under subsection (1) shall have the same powers as a judge of a Court of Survey.

Minister to make
rules.

295. The Minister shall make rules of procedure for the Court of Survey; the said rules shall, as far as compatible, be the same or similar to those applied before the High Court in Antigua and Barbuda; in particular the said rules shall deal with—

- (a) the right of appeal against decisions of the Court of Survey and security for costs;
- (b) the sending of reports to the Minister by the Court of Survey;
- (c) payment to officers of the Court and fees.

PART VIII

*Pollution of the Sea by oil***296.** For the purposes of this Part—

Interpretation.

"discharge" in relation to oil or oily mixtures means any discharge or escape or leak howsoever caused;

"heavy diesel oil" means marine diesel oil other than distillates of which more than 50 per centum by volume distils at a temperature not exceeding three hundred and forty degrees centigrade when tested by the American Society for Testing Materials Standard Method D.D.86/59;

"mile" means a nautical mile of six thousand and eighty feet, or one thousand eight hundred and fifty-three metres;

"Oil" means crude oil, fuel oil, heavy diesel oil and lubricating oil and includes coal-tar and bitumen, and "oily" should be construed accordingly;

"oily mixture" means a mixture containing not less than one hundred parts of oil in one million parts of the mixture.

297. (1) If any oil or oily mixture is discharged from— **Prohibition of discharge of oil.**

(a) any ship into a harbour or into the sea within one hundred miles from the coast; or

(b) any ship into the sea within one hundred miles of any land,

the owner or master of such ship is guilty of an offence.

(2) Any person laying information or giving evidence leading to the conviction of any master or owner of any 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 has been convicted of an offence under this section and it appears to the Court that any person has incurred or will incur any expense in removing pollution, or making good any damage attributable to the offence, the Court may order the person so convicted to defray such expense.

Ratification of
international
conventions and
Regulations.

298. (1) In order to prevent, combat or contain damage done by pollution of the sea by oil from ships and also to compensate the victims of oil pollution, the Minister may by notice ratify the following international conventions—

- (i) International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended from time to time;
- (ii) International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Damage, 1962;
- (iii) International Convention on Civil Liability for Oil Pollution Damage, 1969;
- (iv) International Convention for the Prevention of Pollution from Ships, 1973, as amended by the 1978 Protocol.

(2) The Minister shall make regulations for implementing the provisions of this Part relating to the prohibitions of discharge of oil.

PART IX

Passenger Ships

Issue of contract
ticket.

299. (1) If any person receives money from any person for or in respect of a passage in any ship proceeding from any place in Antigua and Barbuda, he shall give to the person paying the same a contract ticket signed by or on behalf of the owner or charterer of the ship.

(2) The contract ticket required by this section shall set out—

- (a) the amount of the fare paid;
- (b) the places between which the passenger is to be carried;
- (c) whether the passenger is to be berthed or unberthed;
- (d) whether the passenger is entitled to be supplied with food or must purchase his own food for the journey;
- (e) the amount of baggage the passenger is permitted to carry free of charge; and
- (f) any other rights or obligations of the parties,

but such contract ticket shall not contain any clause, condition or stipulation or refer to any clause, condition or stipulation, not contained therein which purports to indemnify the owner or charterer of the ship from the consequences of any neglect to ensure that the ship was seaworthy or of the consequence of any neglect in the management or navigation of the ship or which would deprive the passenger of any right or remedy which he would have enjoyed were it not for such clause, condition or stipulation or reference, and if any clause, condition or stipulation or reference as aforesaid is contained in any contract ticket in contravention of this section, it shall be void.

(2) Any question which arises, respecting the breach or non-performance of any stipulation in any such contract ticket at the option of the passenger interested, may be tried before a magistrate and the magistrate may award the complainant such damages and costs as he thinks just not exceeding three times the amount of the passage money specified in the contract ticket.

300. The Minister may make regulations providing for all or any of the following matters—

- (a) respecting scale of accommodation, scale of food, fuel and water to be provided to passengers from a port in Antigua and Barbuda;

**Regulations
regarding
carriage of
passengers.**

(b) requiring the preparation and furnishing of particulars as to all passengers carried to or from a port in Antigua and Barbuda;

(c) regulating the number of passengers which a ship may carry from a port in Antigua and Barbuda whether or not the ship is a passenger ship;

(d) prescribing the terms and conditions upon which ships may carry passengers between ports in Antigua and Barbuda;

(e) the scale of provisions of dining room, wash places and latrines;

(f) scale of hospital accommodation and medical stores to be provided on board;

(g) sanitation, medical care of passengers and provision of medical officers on board;

(h) distribution and disposal of baggage of passengers on board;

(i) conduct of passengers on board and the powers of the master or other officers to deal with disorderly passengers;

(j) advertisement of sailings;

(k) reporting of the death, if any, of passengers on board;

(l) obligation of consular officers to look after passengers stranded at foreign ports.

Athens
Convention
relating to
Carriage of
Passengers and
their Luggage.
1974.

301. The Minister may, by notice ratify the Athens Convention relating to Carriage of Passengers and their Luggage, 1974, and apply the provisions of that Convention regarding liability for damage suffered as a result of death or personal injury to passengers' luggage, to passenger services operating to and from Antigua and Barbuda.

PART X

Carriage of Goods by Sea

Charter of
Foreign ships.

302. No citizen of Antigua and Barbuda or a Company registered in Antigua and Barbuda shall charter foreign

ships for employment in coastal or overseas trades except with the approval of the Minister or any other person duly authorised by him in this behalf.

303. Charter of Ships may be on—

Types and Terms
of Charter.

(a) bareboat basis,

(b) voyage basis,

(c) time basis, and

the terms of charter and the form of charter party to be used for the different types of charter shall conform to those approved by organisations like the Baltic International Maritime Conference and the U.K. Chamber of Shipping.

304. When goods are carried under bills of lading from any port in Antigua and Barbuda to any port outside Antigua and Barbuda, the Carriage of Goods by Sea Act shall govern the rights and obligations of carriers and shippers.

Carriage under
bills of lading.

Cap. 76.

305. The Minister may, by notice in the *Gazette* give effect to the Brussels Protocol, 1968 (which amends the International Convention for the Unification of certain Rules relating to Bills of Lading, 1924.)

Brussels Protocol,
1968.

306. The Minister may, by notice in the *Gazette* ratify the United Nations Convention on a Code of Conduct for Liner Conferences, 1974, and take such measures as may be considered necessary to implement the provisions of that Convention when it enters into force.

Code of Conduct
for Liner
Conferences.

307. An owner of a ship registered in Antigua and Barbuda shall have a lien on the goods carried, for—

Lien on goods.

(a) freight;

(b) general average contributions;

(c) salvage expenditure.

308. The losses admissible in General Average shall be assessed and apportioned in accordance with the York Antwerp Rules, as amended from time to time.

General Average.

PART XI

Limitation and *Division* of Liability

CHAPTER I

Limitation of Liability

Interpretation.

309. For the purposes of this Part—

(a) "ship" includes any structure launched and intended for use in navigation as a ship or as a part of a ship;

(b) "gold franc" means a unit consisting of sixty-five and one half Milligrams of gold of millesimal fineness 900;

(c) "occurrence" means an occurrence referred to in subsection (1) of section 310;

(d) "personal claim" means a claim resulting from loss of life or personal injury;

(e) "property claim" means any claim other than a personal claim arising from an occurrence.

Limitation of
liability.

310. (1) The owner of a ship may limit his liability in accordance with the provisions of section 311 in respect of any claim arising from any of the following occurrences unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner—

(a) loss of life, or personal injury to, any person being carried in the ship or loss of, or damage to any property on board the ship;

(b) loss of life, or personal injury to, any other person (whether on land or on water), loss of or damage to any other property or infringement of any rights—

(i) which is caused by the act, neglect or default for which the owner is responsible;

(ii) which is caused by the act, neglect or default of any person not on board the ship for whose act, neglect or default, the owner is responsible;

but the owner is entitled to limit his liability in respect of any claim arising out of any act, neglect or default as is referred to in sub-paragraph (b)(ii) only when the act, neglect or default is one which occurs in the management of the ship or in the loading, carriage or discharge of cargo or in the embarkation, carriage or disembarkation of its passengers.

(2) The burden of proving that the occurrence giving rise to a claim against the owner of a ship did not result from his actual fault or privity shall be on the owner.

(3) Nothing in this section applies to—

(a) any obligation or liability imposed by any law relating to the removal of wreck and arising from or in connection with the raising, removal or destruction of any vessel which is sunk, stranded (including anything which may be on board such vessel), and any obligations or liability arising out of damage caused to harbour wrecks, navigation and navigable waterways;

(b) claims for salvage or to claims for contribution in general average;

(c) any claim by the master or a member of the crew of the ship or any servant of the owner who is on board the ship or whose duties are connected with the ship (including any claim by the legal representative of such master, member of the crew or servant) if the contract of service between the owner and such master or member of the crew or servant is governed by the law of any foreign country and that law either does not set any limit to the liability in respect of such claims or sets a limit exceeding that set to it by section 311.

(4) Any action on the part of the owner of a ship to limit his liability under subsection (1) shall not merely by reason of such action constitute an admission of liability.

(5) An owner of a ship shall be entitled to limit his liability under subsection (1) in respect of any occurrence even in cases where his liability arises without proof of negligence on the part of the owner or of persons for whose conduct he is responsible by reason of his ownership, possession, custody or control of the ship.

**Limits of
liability.**

311. (1) The amounts to which the owner of a ship may limit his liability under subsection (1) of section 310 shall be—

(a) where the occurrence has given rise to property claims only, an aggregate amount not exceeding the amount equivalent to one thousand gold francs for each ton of the ship's tonnage;

(b) where the occurrence has given rise to personal claims only, an aggregate amount not exceeding the amount equivalent to three thousand and one hundred gold francs for each ton of the ship's tonnage;

(c) where the occurrence has given rise to both personal claims and property claims, an aggregate amount not exceeding the amount equivalent to three thousand and one hundred gold francs for each ton of the ship's tonnage of which the first portion of the amount equivalent to two thousand and one hundred gold francs for each ton of the ship's tonnage shall be appropriated to the payment of property claims.

but in cases where the first portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payments against the second portion of the amount.

(2) The limits set by subsection (1) to the liabilities mentioned therein apply to the aggregate of such liabilities which are incurred on any distinct occasion, and so apply in respect of each distinct occasion without regard to any liability incurred on another occasion.

(3) If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part only apply to the balance, if any.

(4) Where the aggregate of the liabilities which are incurred on any distinct occasion exceeds the limits provided for in this section, the total sum representing such limits of liability may be constituted as one distinct limitation fund to be deposited by the owner with a court of competent jurisdiction.

(5) The fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(6) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the owner in respect of his claim against the fund, if the limitation fund is actually available for the benefit of the claimant.

312. Where any liability is alleged to have been incurred by the owner of a ship in respect of any loss of life or personal injury or any loss of or damage to property or any infringement of any right in respect of which liability is limited by section 311 and several claims are made or apprehended in respect of that liability, the court may, on the application of that owner, determine the amount of his liability and distribute that amount rateably among the several claimants; and such court may stay any proceedings pending in any court in relation to the same matter and the court may proceed in such manner and subject to such rules of court as to making persons interested parties to the proceedings and as to the exclusions of any claimants who do not apply to be joined in the proceedings within a certain time and as to requiring security from the owner and as to the payment of any costs, as the court thinks just.

Power of the
Court to
consolidate
claims.

313. The provisions of sections 310 and 311 extend and apply to—

Extension of
limitation of
liability.

- (a) the charterer of a ship;
- (b) any person having an interest in or possession of a ship from and including the launching thereof;
- (c) the manager or operator of a ship where any of the events mentioned in paragraphs (a) and (b) of subsection (1) of section 310 occur without their actual fault or privity; and
- (d) to any person acting in the capacity of master or member of the crew of a ship and to any servant of the owner or any person, where any of the events described in paragraphs (a) and (b) of subsection (1) of section 310 occur whether with or without his actual fault or privity.

Vessels less than
300 tons.

314. For the purposes of sections 310 and 311, the tonnage of any ship that is less than three hundred shall be deemed to be three hundred tons.

Calculation of
tonnage.

315. (1) For the purposes of sections 309 to 313 inclusive, the tonnage of a steamship is the registered tonnage with the addition of any engine room space deducted for the purpose of ascertaining that tonnage and the tonnage of a sailing ship is her registered tonnage.

(2) There shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use.

(3) The measurement of such tonnage in the case of a foreign ship shall be according to the provisions of this Act if it is capable of being so measured.

(4) In the case of any ship which is incapable of being measured under the provisions of this Act, the Minister shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as it is found practicable to furnish, give a certificate under his hand stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to the provisions of this Act and the tonnage so stated in such certificate shall for the purposes of sections 311 and 312 be deemed to be the tonnage of such ship.

Several claims
arising on one
occasion.

316. The limitation of liability under sections 311 and 313 shall relate to the whole of any losses and damages which may be sustained by more than one person and shall apply whether the liability arises at common law or under any statute and notwithstanding anything contained in such statute.

Release of ship
on security.

317. (1) Where a ship or other property is arrested in connection with a claim which appears to the court to be founded on a liability to which a limit is set by sections 311 and 313 of this Act or security is given to prevent or obtain release from such an arrest, the court may, and in the circumstances mentioned in subsection (3) shall, order the release of the ship, property or security if the conditions specified in subsection (2) are satisfied; and where the release is ordered the person on whose application it is ordered is

deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim.

(2) The conditions referred to in subsection (1) are—

(a) that security, which in the opinion of the Court is satisfactory, in this section referred to **as** the guarantee, has previously been given whether in Antigua and Barbuda or elsewhere in respect of the said liability or any other liability incurred on the occasion and the Court is satisfied that if the claim is established the amount for which the guarantee was given or such part thereof as corresponds to the claim would be actually available to the claimant; and

(b) that either the guarantee is for an amount not less than the said limit, or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances mentioned in subsection (1) shall be that the guarantee was given in a port which in relation to the claims is the relevant port or, as the case may be, a relevant port and that such port is in a Convention country.

(4) For the purposes of this section—

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which the security was last given;

(b) any question whether the amount of any security is either by itself or together with any other amount not less than any limit set under the provisions of this Part shall be decided as at the time when the security is given;

(c) where part only of the amount for which a guarantee was given will be available to a claimant, that part shall not be taken to correspond to his claim if **any** other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in subsection (1).

(5) In this section—

“Convention country” means any country in respect of which the International Convention relating to the Limitation of the Liability of Owners of seagoing Ships signed in Brussels on the 10th day of October, 1957 is in force (including any country to which the Convention extends by virtue of Article 14 thereof);

“relevant port”—

(a) in relation to any claim, means the port where the event giving rise to the claim occurred or if that event did not occur in a port, the first port of call after the event occurred; and

(b) in relation to a claim for loss of life or personal injury or damage to cargo includes the port of disembarkation or discharge.

CHAPTER II

Division of Liability

Division of liability.

318. (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 at 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.

(3) Nothing in this section operates so as to render any vessel liable for any loss or damage to which her fault has not contributed.

(4) Nothing in this section affects the liability of any person under contract of carriage or any contract, or is to be construed as imposing any liability upon any person from which he is exempted by any contract or by law or as affecting the right of any person to limit his liability in the manner provided by law.

(5) For the purposes of this section, the expression "freight" includes passage money and hire, and references to damages or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

319. (1) Where loss of life or personal injuries are 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.

Joint and several liability.

(2) Nothing in this section is to be construed as depriving any person of any right of defence on which independently of this section he might have relied in any action brought against him by the person injured or any person or persons entitled to sue in respect of such loss of life or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

320. (1) Where loss of life or personal injuries are 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 from the owner of one of the vessels that exceeds the proportion in which she was at fault, the owner 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 these vessels were respectively at fault; but no amount shall be so recovered that could not by reason of any statutory or contractual limitation of, or exemption from liability, or could not for any other reason have been recovered in the first instance as damages by the persons entitled to sue therefor.

Right of contribution.

(2) In addition to any other remedy provided by law, the persons entitled to any contribution under subsection (1) have, for the purpose of recovering the same subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

321. The provisions of sections 318 to 320 inclusive apply to all persons other than the owners responsible for the fault of the vessel as though the expression "owners"

Meaning of owner.

included such persons and as though such expression included all persons responsible for the navigation and management of the vessel pursuant to a charter or demise.

Principles of
international
law.

322. Antigua and Barbuda shall follow the recognised principles of international law; and in particular—

- (i) the principle of the freedom of the high seas shall be duly recognised;
- (ii) Antigua and Barbudan ships on the high seas are subject to the law of Antigua and Barbuda;
- (iii) foreign merchant ships shall have the right of innocent passage through the territorial sea of Antigua and Barbuda;
- (iv) while in the territorial sea of Antigua and Barbuda, foreign ships shall be within the jurisdiction of the Government of Antigua and Barbuda and be subject to its control, particularly in matters pertaining to safety regulations laid down by International Conventions;
- (v) foreign ships shall have free access to Antigua and Barbuda ports in the matter of port facilities such as allocation of berths, loading and unloading facilities as well as dues and charges of all kinds levied in the name of Government or public authorities, in accordance with the provisions of the Convention and Statute on International Regime of Maritime Ports, 1923.

National shipping
industry.

323. Development of a national shipping industry shall be accorded high priority in national policies and programmes and the Minister may, by notice in the *Gazette*, constitute such advisory and other bodies as may be considered necessary for the purpose.

Measures to
assist shipping
industry.

324. Without prejudice to the generality of the foregoing power, the Cabinet may adopt from time to time all or any of the following measures of assistance to the industry—

-
- (i) direct participation of Government in the shipping industry and the establishment of shipping enterprises in the public sector;
 - (ii) grant of loans on concessional terms to the shipping industry for the acquisition of ships;
 - (iii) grant of Government guarantees to commercial loans raised by shipowners;
 - (iv) grant of bonus to shipowners on the foreign exchange earned by operation in overseas trade;
 - (v) conclusion of bi-lateral agreements with neighbouring countries for the sharing of the export and import trade exclusively by the national shipping lines of the two countries;
 - (vi) tax concessions by way of tax holidays, accelerated depreciation, investment allowance, and tax free reserves;
 - (vii) tax concessions to exporters and importers who patronise national shipping;
 - (viii) control of terms of sale and purchase of commodities moving in the export and import trade so as to channel as much as possible of such commodities to national ships;
 - (ix) exemption from customs duty of ships imported from abroad;
 - (x) exemption from customs duty of equipment and spare parts of ships and material required for ship repair;
 - (xi) exemption from tax on proceeds of sale of ships when invested in the acquisition of replacement ships
 - (xii) imposition of obligation on foreign lines to appoint Antiguan and Barbudan lines as their agents in Antigua and Barbuda.

Prosecution of
offences and
instituting of
action.

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325. (1) Proceedings in respect of an offence under this Act shall be instituted and conducted summarily under the Magistrate's Code of Procedure Act.

(2) Any person who commits an offence under this Act, or does anything or omits to do anything in contravention of the provisions of this Act or of any rule or regulation made thereunder, for which no specific penalty is provided shall be liable on conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months or to both such fine and imprisonment.

(3) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance thereof elsewhere than in this section, every person who commits that offence is, in addition to any other liability, liable to a fine of one hundred dollars for every day or part of a day during which the offence continues.

Recovery of
fines.

326. (1) Fines incurred or imposed under this Act may, except as otherwise provided by this Act, be recovered in a court of summary jurisdiction.

(2) Except as otherwise provided, expressions in this Act that any person is liable to a fine shall be held to imply that that person has committed an offence under this Act, and in the absence of any express provision relating to imprisonment in case of non-payment of any fine imposed, the offender may, upon default of payment of any such fine imposed, be imprisoned for a term not exceeding six months unless such a fine is sooner paid.

Application of
fines.

327. Where any court imposes a fine under this Act for which no specific application is provided in this Act, that court may direct the whole or any part of the fine to be applied in compensating any person for any wrong or damage that he may have sustained by the offence in respect of which the fine is imposed, or to be applied in or towards payment of the expenses of the proceedings.

Limitation of
time as to
summary
proceedings.

328. (1) Neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceedings instituted in any Magistrate's Court—

(a) unless such proceedings are commenced within six months after the commission of the offence or after the cause of complaint arises, as the case may be, or

(b) if both, or either of, the parties to the proceedings happen or happens during that time to be out of Antigua and Barbuda unless the proceedings are commenced, in the case of—

(i) a conviction, within two months, and

(ii) an order, within six months

after they both first happen to arrive, or to be at one time, in Antigua and Barbuda.

(2) No written law for the time being in force which limits the time within which the proceedings may be instituted in any Magistrate's Court affects any proceedings under this Act.

329. (1) The Director of Marine Services may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding two thousand dollars. **Compounding of offences.**

(2) On the payment of any sum of money under subsection (1)—

(a) the person reasonably suspected of having committed the offence in respect of which the payment has been made shall, if in custody, be discharged;

(b) any ship detained in respect of such offence shall be released;

(c) no further proceedings shall be taken against such person or ship in respect of such offence.

330. The offences mentioned in the second column of the following table shall be punishable on summary conviction to the extent mentioned against each in the fourth column thereof— **Penalties.**

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
1. If the owner, agent or master of any ship contravenes the trading restriction imposed under section 3.	3.	Fine of three thousand dollars; in addition the ship shall be liable to detention.
2. If the master or owner uses or attempts to use for her navigation a certificate of registry not legally granted in respect of that ship	13(3)	Fine of five thousand dollars; and in addition, the ship shall be subject to forfeiture.
3. If any person having been engaged in any ship goes to sea in any capacity without being entitled to and in possession of the required certificate; and if any person employs such person in that capacity without ascertaining that he is entitled to or in possession of such certificate	64	Fine of one thousand dollars and imprisonment for three months.
4. If the master or person employing the crew takes or attempts to take a ship to sea without complying with the requirements of section 77 relating to Crew Agreement	77	Fine of one thousand dollars; but nothing herein shall affect the power to detain the ship if in Antigua and Barbuda.
5. If any person contravenes the regulations made under section 79	79	Fine of one thousand dollars.
6. If a person makes arrangements for finding employment for seamen in contravention of section 82	82	Fine of one thousand dollars.
7. If the owner or master employs an under-aged person in contravention of section 83. or without complying with the conditions laid down under the regulations made for the purposes' of this section	83	Fine of one thousand dollars and imprisonment for three months.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
8. If the master fails to send to the Director before the ship leaves Antigua and Barbuda, a full and accurate statement of every change that has taken place in his crew before finally leaving Antigua and Barbuda	87	Fine of two hundred and fifty dollars.
9. If the master fails to deliver to his successor the various documents relating to the navigation of the ship and the crew, when during the progress of a voyage, he is succeeded in command by some other person	88	Fine of five hundred dollars.
10. If the master or any other person employing the seamen fails to deliver account of the seamen's wages to each seaman and to comply with the other provisions of section 91	91	Fine of one thousand dollars.
11. If the owner or master contravenes any of the regulations relating to crew accommodation made under section 108	108	Fine of one thousand dollars; but nothing herein shall affect the power to detain the ship where the crew accommodation is not in accordance with the prescribed regulations until the defects are remedied to the satisfaction of the inspecting officer.
12. If the master or any member of the crew, by wilful breach of duty or neglect of duty or by reason of drunkenness does any act tending to the loss of the ship or tending to endanger life or refuses to do any lawful act for preserving	111	Fine of five thousand dollars and imprisonment for two years .

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
the ship from immediate loss etc. within the meaning of section 111		
13. If a seaman commits the following offences against discipline	112	
(i) desertion from the ship		He is liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the deser- tion takes place at any place not in Antigua and Barbuda to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to Antigua and Barbuda and to satisfy any excess wages paid by the master or owner of the ship from which he deserts to any substitute engag- ed in his place at a higher rate of wages than the rate stipulated to be paid to him and also to imprisonment for three months.
(ii) Neglect or refusal, without reasonable cause to join the ship or to proceed to sea in his ship or be absent without leave without suffi- cient reason		He is, if the contravention does not amount to desertion, liable to forfeit out of his wages, a sum not exceeding two days pay and in addition for every twenty-four hours of absence either a sum not exceeding six days pay or any ex- penses properly incurred in hir- ing a substitute and also to imprisonment for two months.
(iii) Wilful disobedience to any lawful command or neglect of duty		Forfeiture out of his wages a sum not exceeding two days pay.
(iv) assaulting the master or any other officer of the ship		Fine of two thousand dollars and imprisonment for three months.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
(v) combining with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or retard the progress of the voyage		Fine of two thousand dollars and imprisonment for three months.
(vi) causing wilful damage to the ship, committing criminal misappropriation or breach of trust in respect of, or causing wilful damages to any of her stores or cargo		Forfeiture out of his wages a sum equal to the loss sustained and also imprisonment for three months.
(vii) smuggling		When a seaman or apprentice is convicted of smuggling any goods, whereby loss or damage is occasioned to the master or owner of the ship, he is liable to pay to that master or owner a sum sufficient to reimburse the loss or damage and the whole or a part of his wages may be retained in satisfaction on account of that liability without prejudice to any other remedy.
14. If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or his own name	116	Fine of two thousand dollars.
15. If a master fails to deliver official log-book and radio log-book to the Director before whom the crew is discharged	126	Fine of one thousand dollars.
16. If the owner or master fails, without reasonable cause, to deliver official log-book to the Director when it is no longer required by change of ownership, change of employment,	127	Fine of one thousand dollars.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
loss or abandonment of the ship, etc, as mentioned in section 127		
17. If the master fails to maintain the official log-book in the prescribed manner or fails to make an entry as required under this Act	128	Fine of one thousand dollars.
18. If any person makes an entry in the official log-book of an occurrence previous to the arrival of the ship at the final port of discharge more than twenty-four hours after the arrival of the ship	128	Fine of fifteen hundred dollars.
19. If any person wilfully destroys, mutilates, or makes or procures to be made or assists in making false or fraudulent entry or omission from an official log-book	128	Fine of five thousand dollars
20. If the master or owner infringes the Collision Regulations by wilful default	132	Fine of five thousand dollars and imprisonment for three months;
21. In the event of collision, if the master or the person in charge of the ship fails to render assistance to the other ship and to comply with the other provisions of section 134	134	Fine of three thousand dollars and imprisonment for three months; in addition if he is a certified officer an enquiry into his conduct may be held and his certificate cancelled or suspended.
22. In the event of a collision, if the master fails to enter the occurrence of collision and other relevant particulars in official log-book	135	Fine of one thousand dollars.
23. If the master fails to maintain—	136	Fine of one thousand dollars.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
(a) record of boat drills and fire drills practised on board		
(b) if these are not practised at the prescribed intervals, statement of reasons therefor		
24. If the master fails to notify hazards of navigation to ships in the vicinity as required under section 138	138	Fine of two thousand dollars.
25. If the master fails to proceed at night at safe speed or change his course when ice is reported on or near his course	139	Fine of two thousand dollars.
26. If the master fails, without reasonable cause to proceed to assist—	140	Fine of five thousand dollars and imprisonment for six months.
(a) vessels in distress		
(b) persons found at sea in danger of being lost		
27. If the master violates the provisions relating to use or display of signals of distress under section 141	141	Fine of two thousand dollars and imprisonment for three months, or both; in addition, he 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.
28. If the master, owner or agent of a ship fails to report accidents to ships occurring on or near the coast of Antigua and Barbuda as required under section 142	142	Fine of two thousand dollars.

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
29. If the owner or agent of a ship fails to report apprehended loss of a ship as required under section 143	143	Fine of two thousands dollars.
30. If the master contravenes or fails to comply with the provisions or rules relating to safety of life at sea	149	Fine of two thousand dollars.
31. If the owner, agent or master carries passengers on a vessel in excess of the number allowed by the passenger certificate	160	Fine of five thousand dollars.
32. If the owner or master fails to comply with the conditions subject to which an exemption certificate is issued	171	Fine of two thousand dollars.
33. If the owner or master fails to post in a prominent and accessible place in the ship certificates issued in respect of that ship	172	Fine of one thousand dollars.
34. If the owner or master takes or attempts to take the ship to sea without stability information	182	Fine of five thousand dollars.
35. If any person knowingly and wilfully makes or assists in making a false or fraudulent declaration of survey or forges or assists in forging or fraudulently altering a declaration of survey	183	Fine of five thousand dollars and imprisonment for six months.
36. If the owner or master of a ship in respect of which a Safety Convention Certificate issued is in force fails to give notice of alterations	184	Fine of two thousand dollars.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
in the appliances or equipment required to be provided by the regulations for safety of life at sea		
37. If the master of a ship contravenes deck cargo regulations and is guilty of an offence within the meaning of section 207(4)	207	Fine of five thousand dollars.
38. If the owner or master fails to give notice of structural alterations affecting the position of the load lines	209	Fine of two thousand dollars; in addition the ship may be detained until this requirement has been complied with.
39. If the owner or master fails, without reasonable cause to deliver the load line certificate which has expired or has been cancelled, to the Director	209	Fine of one thousand dollars.
40. If the owner or master loads beyond the maximum depth permitted under the Load Line Rules	210	Fine of fifty thousand dollars, and to such additional fine not exceeding five thousand dollars for every inch or fraction of an inch by which the appropriate load lines on each side of the ship are submerged or would have been submerged if the ship had been in salt water and had no list, as the court thinks fit to impose having regard to the extent to which the earning capacity of the ship is or would have been increased by reason of the submersion; and nothing herein shall affect the power to detain the ship until she ceases to be overloaded.

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
41. If— (a) the owner or master of a ship which has been marked in accordance with the Load Line Rules fails to keep the ship so marked, (b) any person conceals, removes or alters or defaces any mark placed on the ship in accordance with Load Line Rules	212	Fine of two thousand dollars.
42. If the master or owner takes or attempts to take a ship to sea without the ship being surveyed and marked in accordance with Load Line Rules	198	Fine of five thousand dollars; in addition the ship may be detained until she has been so surveyed and marked.
43. If the owner or master fails to comply with the provisions of section 213 relating to posting of the load line certificate conspicuously on board the ship, entry into the log-book of particulars of load line markings, draught of water and freeboard etc.	213	Fine of one thousand dollars.
44. If the owner, agent or master of— (a) an Antiguan and Barbudan ship on which grain cargo is loaded (b) any ship on which grain cargo is loaded from any port in Antigua and Barbuda fails to take precautions to prevent shifting of grains when loading	217	Fine of five thousand dollars; in addition, the ship shall be deemed to be an unsafe ship by reason of improper loading.

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
45. If the owner, agent or master or a foreign ship brings the ship to Antigua and Barbuda loaded with grain outside Antigua and Barbuda without taking the necessary precautions to prevent shifting of grains	217	Fine of five thousand dollars; in addition, the ship shall be deemed to be an unsafe ship by reason of improper loading.
46. If any person contravenes the provisions relating to carriage of dangerous goods	218	Fine of five thousand dollars; in addition, the ship shall be deemed to be an unsafe ship by reason of improper loading.
47. If any person wilfully disobeys the directions of the Receiver of Wreck issued in the discharge of his duties for the preservation of the vessel and of the lives on board the vessel which is wrecked	222	Fine which may extend to two thousand dollars.
48. If any person wilfully impedes or obstructs a Receiver or any person acting under his orders, in the execution of his duty	223	Imprisonment for twelve months.
49. If any owner or occupier of adjoining land prevents or hinders the Receiver of Wreck or any person acting on his behalf from depositing on that land any cargo or articles recovered from a wrecked ship	224	Fine of two thousand dollars
50. If any person fails to give notice to the Receiver in respect of any wreck found by him of which he is the owner	226	Fine of five thousand dollars.

<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
51. If any person fails to deliver any wreck of which he is not the owner to the Receiver of Wreck	226	Fine of five thousand dollars; and in addition forfeiture of all claims to salvage, and liability to pay the owner of the wreck if it is claimed, or if it is unclaimed to the person entitled to the same a penalty not exceeding twice the value of such wreck.
52. If any person without the previous permission of the Receiver does or causes to be done any salvage or breaking operation of any vessel or any wrecked, sunken or stranded vessel lying with Antigua and Barbuda	234	Fine of two thousand dollars and imprisonment for three months.
53. If any person takes to a foreign port and then sells any vessel, whether stranded, derelict or otherwise in distress found in Antigua and Barbuda	236	Fine of fifty thousand dollars, and imprisonment for six months.
54. If a person without leave of the master boards or endeavours to board any vessel which is wrecked, stranded or in distress, unless he acts under the directions of the Receiver or is a person lawfully acting as such	237	Fine of two thousand dollars.
55. If any person interferes with a wreck within the meaning of section 238	238	Fine of two thousand dollars.
56. Any person who conceals or keeps possession of any cargo or article separated from a wrecked ship and refuses to deliver it to the Receiver	240	Fine of five thousand dollars.

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
57. If the owner or master of a ship is guilty of discharging oil or oily mixture within the meaning of section 297	297	Fine of ten thousand dollars; and in addition where it appears to the court that any person has incurred or will incur any expenses in removing pollution or making good any damage attributable to the offence, the court may order the person so convicted to defray such expenses.
58. If the master, mate or engineer fails to deliver to the court on demand his certificate which has been suspended or cancelled by the court	266	Fine of two thousand dollars.
59. If the owner or master or any person sends the ship to sea after detention or after an order of detention has been served	280	Fine of five thousand dollars.
60. If a ship proceeds to sea in contravention of the detention order and has on board, in the execution of his duty any officer authorised to detain the ship or any surveyor or any other officer appointed under this Act , or any officer of customs	280	The owner and master shall be liable to pay all the expenses of and incidental to such officers being taken to sea, and also a fine of five thousand dollars and five hundred dollars for every day until such officers return or until such time as would enable them after leaving the ship to return to the port from which they were taken, whichever is the greater.
61. (a) If any person obstructs the service on the master of a ship of any document relating to detention of ships as unseaworthy, (b) If the owner or master is a party to the obstruction	289	Fine of two thousand dollars.

(2) Unless otherwise provided by this Act, regulations made under any of the provisions thereof may prescribe penalties not exceeding a fine of one thousand dollars or imprisonment for a term not exceeding six months for contravention of any of the provisions of such regulations.

(3) The regulations, rules and orders specified in the Schedule, as from time to time amended, shall be deemed to have been made under the relevant provisions of this Act and shall have full force and effect accordingly; and—

(a) any reference in those regulations, rules and orders to British ships or to ships registered in the United Kingdom, shall be construed as a reference to Antigua and Barbudan ships, and any reference to ships in port in the United Kingdom shall be construed as a reference to ships in port in Antigua and Barbuda;

(b) any reference therein to the Board of Trade shall be construed as a reference to the Minister;

(c) such regulations, rules and orders shall be otherwise construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act;

(d) any certificate, form or code of instructions printed and officially published for use in compliance with those regulations, rules and orders shall apply in similar manner;

(e) those regulations, rules and orders may be amended or replaced by regulations made under this Act.

(4) The Minister may by notice in the *Gazette* add to or amend this Schedule.

334. (1) All ships which were, immediately prior to the date of commencement of Part III, British ships by virtue of being registered in Antigua and Barbuda under the Merchant Shipping Act, 1894 to 1965 of the United Kingdom, shall, on and after such date be deemed to have been registered under this Act and to be Antigua and Barbudan ships. **Transitional.**

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<i>Offences</i>	<i>Section of this Act to which offence has reference</i>	<i>Penalties</i>
referred to in item (a) above		
62. If any person wilfully impedes the judge, any assessor or any other person of the court of survey in the execution of a survey of a ship or for failure to comply with any requisition made by him	293	Fine of two thousand dollars.

**Power of Cabinet
to grant
exemptions.**

331. Subject, in the case of foreign-going or home trade ships, to the provisions of any Convention which the Government has ratified or to which the Government has acceded, the Cabinet may, in its discretion and upon such conditions as it may think fit to impose, exempt any vessel or class of vessels, or any person or class of persons from all or any of the provisions of this Act.

**Special
provisions for
coastal trade
ships.**

332. The provisions of this Act may be modified in their application to coastal-trade ships in such manner and to such extent as the Minister may prescribe.

**General power to
make regulations.**

333. (1) Without prejudice to any other power in that behalf conferred by any other provision of this Act, the Minister may make regulations—

(a) unless otherwise provided by this Act, prescribing the forms to be used, and the fees or sums to be paid, or the manner in which, or the person by whom, such fees or sums may be determined, in respect of any services performed or things done under or for the purposes of this Act or any regulations made or deemed to have been made thereunder;

(b) prescribing anything which under this Act may be prescribed;

(c) generally for carrying out the purposes of this Act.

(2) Notwithstanding subsection (1), the owner of any ship may, at any time within six months after the commencement of Part III give written notice of his desire that the ship cease to be an Antiguan and Barbudan ship, and upon receipt of such notice the Director shall delete such ship from the register; and the ship thereupon ceases to be an Antiguan and Barbudan ship.

(3) For the purposes of this Act, where a ship is deemed under this section to have been registered under this Act—

(a) the Director shall be deemed to be the original registrar in respect of the ship; and

(b) the certificate of registry of the ship in force immediately prior to the commencement of Part III shall be deemed to have been granted under section 13.

(4) Where a ship is deemed under this section to be an Antiguan and Barbudan ship—

(a) an annual fee is payable under section 13 until after the expiration of six months after the date of commencement of Part III is not payable in respect of that period or any portion thereof: and

(b) thereafter the said annual fee shall be calculated as if a registration fee, calculated in accordance with section 13 has been paid on the registered tonnage of the ship.

Repeals.

335. (1) The Merchant Shipping Act, 1894 to 1965 of the United Kingdom and any subsequent United Kingdom Law on the subject of Merchant Shipping as applicable to Antigua and Barbuda on the commencement of this Act cease to apply in relation to Antigua and Barbuda.

(2) The Receivers of Wreck Act and the Wrecks Inquiries Act are repealed.

SCHEDULE

(Section 333)

APPLIED REGULATIONS

United Kingdom Regulations, Rules and Orders

<i>Item</i>	<i>Publication</i>	<i>Title</i>
		Tonnage
	S.I. 1967 No. 172	The Merchant Shipping (Tonnage) Regulations, 1967
2.	S.I. 1967 No. 1093	Amendment Regulations, 1967
3.	S.I. 1972 No. 656	Amendment Regulations, 1972
4.	S.I. 1975 No. 594	Amendment Regulations, 1975
	S.I. 1980 No. 282	Amendment Regulations, 1980
		Competency
	S.I. 1977 No. 1152	The Merchant Shipping (Certification of Deck Officers) Regulations, 1977
7.	S.I. 1978 No. 430	Amendment Regulations, 1978
8.	S.I. 1977 No. 2072	The Merchant Shipping (Certification of Marine Engineer Officers) Regulations, 1977
9.	S.I. 1979 No. 599	Amendment Regulations, 1979
10.	S.I. 1970 No. 294	The Merchant Shipping (Certificates of Competency as A.B.) Regulations, 1970
		Crew
	S.I. 1972 No. 1871	The Merchant Shipping (Provisions and Water) Regulations, 1972
12.	S.I. 1975 No. 733	The Merchant Shipping (Provisions and Water) (Fishing and Other Vessels) Amendment Regulations, 1975

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<i>Item</i>	<i>Publication</i>	<i>Title</i>
		Crew (<i>cont.</i>)
13.	S.I. 1978 No. 36	The Merchant Shipping (Provisions and Water) Amendment Regulations, 1978
14.	S.I. 1978 No. 795	The Merchant Shipping (Crew Accommodation) Regulations, 1978
15.	S.I. 1979 No. 491	Amendment Regulations, 1979
16.	S.I. 1974 No. 1193	The Merchant Shipping (Medical Scales) Regulations, 1974
17.	S.I. 1975 No. 1581	The Merchant Shipping (Medical Scales) (Merchant Ships and Other Vessels) Amendment Regulations, 1975
18.	S.I. 1980 No. 407	The Merchant Shipping (Medical Scales) (Merchant Shipping and Other Vessels) (Amendment) Regulations, 1980
19.	S.I. 1972 No. 1874	The Merchant Shipping (Official Log Books) Regulations, 1972
20.	S.I. 1980 No. 533	Amendment Regulations, 1980
		Safety
21.	S.I. 1980 No. 543	The Merchant Shipping (Pilot Ladders and Hoists) Regulations, 1980
22.	S.I. 1972 No. 531	Amendment No 2 Rules, 1972
23.	S.I. 1980 No. 535	The Merchant Shipping (Passenger Ship Construction) Regulations, 1980
24.	S.I. 1980 No. 537	The Merchant Shipping (Cargo Ship Construction and Survey) Regulations, 1980

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<i>Item</i>	<i>Publication</i>	<i>Title</i>
		Safety (<i>cont.</i>)
25.	S.I. 1980 No. 538	The Merchant Shipping (Life Saving Appliances) Regulations, 1980
26.	S.I. 1965 No. 1106	The Merchant Shipping (Fire Appliances) Rules, 1965
27.	S.I. 1974 No. 2185	Amendment Rules, 1974
28.	S.I. 1980 No. 529	The Merchant Shipping (Radio Installations) Regulations, 1980
29.	S.I. 1980 No. 542	The Merchant Shipping (Musters) Regulations, 1980
30.	S.I. 1980 No. 540	The Merchant Shipping (Closing of Openings in Hulls and In Watertight Bulkheads) Regulations, 1980
	S.I. 1980 No. 532	The Merchant Shipping (Accepting Safety Convention Certificates) Regulations, 1980
32.	S.I. 1970 No. 1453	The Anchors and Chain Cables Rules, 1970
33.	S.I. 1975 No. 700	The Merchant Shipping (Carriage of Nautical Publications) Rules, 1975
34.	S.I. 1975 No. 927	The Merchant Shipping (Cargo and Passenger Ship Construction) (Amendment) Rules, 1975
		Navigation
35.	S.I. 1980 No. 530	The Merchant Shipping (Navigational Equipment) Regulations, 1980
36.	S.I. 1980 No. 534	The Merchant Shipping (Navigational Warnings) Regulations, 1980
37.	S.I. 1977 No. 982	The Collision Regulations and Distress Signals Order, 1977

<i>Item</i>	<i>Publication</i>	<i>Title</i>
		Navigation (<i>cont.</i>)
38.	S.I. 1977 No. 1301	Amendment Order, 1977
39.	S.I. 1978 No. 1659	Amendment Order, 1978
40.	S.I. 1977 No. 1010	The Merchant Shipping (Signals of Distress) Rules, 1977
41.	S.I. 1979 No. 1659	The Safety (Collision Regulations and Distress Signals) Regulations, 1979
		Load Lines and Cargoes
42.	S.I. 1968 No. 1053	The Merchant Shipping (Load Line) Rules, 1968
43.	S.I. 1970 No. 1003	Amendment Rules, 1970
44.	S.I. 1975 No. 595	Amendment Order, 1975
45.	S.I. 1980 No. 641	Amendment Order, 1980
46.	S.I. 1968 No. 1072	The Merchant Shipping (Load Lines) (Length of Ship) Regulations, 1968
47.	S.I. 1972 No. 1841	The Merchant Shipping (Load Lines) (Particulars of Depth of Loading) Regulations, 1972
48.	S.I. 1968 No. 1089	The Merchant Shipping (Load Lines) (Deck Cargo) Regulations, 1968
49.	S.I. 1980 No. 536	The Merchant Shipping (Grain) Regulations, 1980
50.	S.I. 1978 No. 1543	The Merchant Shipping (Dangerous Goods) Rules, 1978
51.	S.I. 1968 No. 1116	The Merchant Shipping (Load Lines) (Exemption) Order, 1968
