

**SAINT VINCENT AND THE GRENADINES**

**SHIPPING ACT, 2004**

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SAINT VINCENT AND THE GRENADINES

ACT NO. OF 2004

I ASSENT

[L.S.]

**AN ACT** to provide for the registration of ships, the national character and flags of ships; to regulate proprietary interests in ships and terms of engagement of masters and seafarers and matters ancillary thereto; to provide for the prevention of collisions at sea, the safety of navigation and of life at sea, the safety of submersibles, the regulation of load lines, the carriage of bulk and dangerous cargoes, unsafe ships, wreck and salvage; the control of persons on ships, the liability of shipowners and others and inquiries and investigations into marine casualties; to consolidate the law relating to shipping, and for incidental and connected purposes.

[ ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:-

**PART I**

**PRELIMINARY**

1. This Act may be cited as the Shipping Act 2004. Short title
2. In this Act, unless the context otherwise requires- Interpretation  
"Administration" means the Maritime Administration established under section 393(1);

- “Caribbean Community” means the Caribbean Community including the Caricom Single Market and Economy (CSME) created by the revised Treaty Establishing the Caribbean Community signed at Nassau the Bahamas on the 24th day of February 2001;
- “CARICOM State” means a member State of the Caribbean Community;
- “Collision Convention” means the International Convention on Regulations for the Prevention of Collisions at Sea, 1972 as amended;
- “Commission” means the Maritime Commission referred to in section 393(3);
- “Commissioner” means the Commissioner for Maritime Affairs appointed under section 12;
- “competent Authority” means the Minister or any person designated by him as the competent authority for the purposes of this Act;
- “contravention” includes failure or refusal to comply;
- “consular officer” means a person discharging the duties of a consular officer on behalf of the Government of Saint Vincent and the Grenadines and when used in relation to a State other than Saint Vincent and the Grenadines means the officer recognised by the Government of Saint Vincent and the Grenadines as a consular officer of that other State;
- “Court” means the Supreme Court;
- “declaration of transfer” refers to the declaration made under section 62;
- “declaration of transmission” refers to the declaration made under section 64;
- “Director” means the Director for Maritime Administration appointed pursuant to section 356;
- “fishing vessel” means a vessel for the time being used or, intended to be used, for or in connection with fishing other than a vessel used or intended to be used for fishing otherwise than for profit or a vessel for the time being



used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;

“foreign” in relation to a ship means a ship which is not registered under this Act;

“former Act” means Merchant Shipping Act;

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“Government ship” means any ship owned by the Government or held by any person on behalf of or for the benefit of the Government;

“harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

“internal waters”, in relation to Saint Vincent and the Grenadines, means internal waters ascertained in accordance with section 3 of the Maritime Areas Act;

Cap. 333

“length” has the same meaning as in the tonnage regulations made pursuant to this Act;

“Load Lines Convention” means the “Load Lines Convention of 1966” as defined in section 194;

“master” includes every person, except a pilot, having command or charge of a ship and, in relation to a fishing vessel, means the skipper;

“mile” means an international nautical mile of 1852 metres;

“Minister” means the Minister responsible for shipping and seafarers for the time being;

“Organization” or “IMO” means the International Maritime Organization;

“owner” in relation to a ship, or “shipowner” means, in respect of a registered ship, the registered owner and includes a demise charterer and a managing owner or a managing agent;

“passenger” means any person carried on a ship except-

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

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

(c) a child under one year of age;

“passenger ship” means a ship which is constructed for, or which is habitually or on any particular occasion used for carrying more than twelve passengers and includes a ship that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house, guest house or other establishment;

“pleasure vessel” means-

- (a) any vessel including a dive boat which at the time it is being used is
- (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
  - (ii) in the case of a vessel owned by a body corporate, one on which the persons are employees, officers or shareholders of the body corporate, or their immediate family or friends; and
  - (iii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family, and for the use of which any charges levied

are paid into club funds and applied for the general use of the club;

and in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of the users of the vessel, other than by the owner.

In this definition

- (i) “immediate family” means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the relative’s husband or wife;
- (ii) “relative” means brother, sister, ancestor or lineal descendant; and
- (iii) “owner” includes charterer;

“port” includes place;

“Port Authority” includes the Port Authority established under the Port Authority Act and all persons entrusted with the function of managing, regulating and maintaining a harbour;

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“proper officer” in relation to any function or activity under this Act means a person authorised by the competent authority to perform that function or activity and includes a consular officer;

“registration regulations” means regulations made pursuant to sections 49, and 52;

“Registrar of Ships” means the person appointed as Registrar under this Act;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping, 1978 as amended in 1995;

“seafarer” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

“Safety Convention” has the same meaning as in Section 159;

“safety regulations” means regulations made pursuant to sections 162, 163, 164 or 193 as appropriate;

“Saint Vincent and the Grenadines ship” means a ship registered in Saint Vincent and the Grenadines under this Act, and “Saint Vincent and the Grenadines vessel” and “Saint Vincent and the Grenadines fishing vessel” shall be construed accordingly;

“ship” includes every description of vessel used in navigation;

“small ship” means a ship of less than 24 metres in length;

“surveyor of ships” means a person appointed under section 356;

“Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969 as amended;

“tonnage regulations” means regulations made under section 39;

“wages” includes emoluments;

“Waters of Saint Vincent and the Grenadines ” has the same meaning as in the Maritime Areas Act;

Cap. 333

## **PART II**

### **RESTRICTION ON OPERATION OF SHIPS**

Trade in the waters of Saint Vincent and the Grenadines

3. (1) No ship shall trade in or from the waters of Saint Vincent and the Grenadines unless the ship-

(a) is a Saint Vincent and the Grenadines ship; or

(b) is provided with a certificate of foreign registry.

(2) Subject to subsection (3) and subject to the provisions of any regulation made under this section or any international agreement in force in relation to Saint Vincent and the Grenadines only Saint Vincent and the Grenadines ships may be engaged in any local trade in the waters of Saint Vincent and the Grenadines.

(3) The Minister may by regulations prescribe a system of licensing for Saint Vincent and the Grenadines

ships to engage in local trade in the waters of Saint Vincent and the Grenadines.

(4) The Minister may by regulations under this section provide for the terms and conditions for the licensing of ships under subsection (3).

(5) The Minister may make regulations under this section to provide for the circumstances under which foreign ships may engage in local trade in the waters of Saint Vincent and the Grenadines.

(6) The owner, agent and master of every ship who contravenes subsection (1) or (2) is guilty of an offence and is liable to a fine of fifteen thousand dollars and the ship shall be liable to be detained.

4. (1) Every Saint Vincent and the Grenadines ship shall carry insurance cover against risks of loss or damage to third parties, and in particular-

Requirement for insurance cover

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

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

(3) Where a ship is in contravention of this section, the owner thereof is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars.

### **PART III**

#### **REGISTRATION OF SHIPS**

5. A ship shall be a Saint Vincent and the Grenadines ship for the purposes of this Act if the ship is registered in Saint Vincent and the Grenadines under this Part.

Saint Vincent and the Grenadines ship

5A. (1) For the purposes of this section, unless the context otherwise requires-

Bareboat chartering and reduction of fees

“bareboat” means a ship without a crew;

“bareboat charter” means the contract for the lease or sub-lease of a vessel, in this section referred to as a charter, for a stipulated period of time by virtue of which the charterer shall acquire full control and complete possession of the vessel including the right to appoint her master and crew for the duration of the charter but excluding the right to sell or mortgage the vessel;

“bareboat charter registration” means the registration of a vessel in a barefoot charter registry under the name of the charterer;

“barefoot charter registry” means the registry of the State whose flag the vessel is entitled to fly during the period in which the charterer is registered as the bareboat charterer;

“compatible registry” means a vessel registry of a foreign State declared by the Registrar or Commissioner to be a compatible registry in terms of subsection (2);

“day” means calendar day;

“underlying registry” means the registry of the State that the owners of a vessel are registered as owners and where jurisdiction and control will revert upon termination of the bareboat charter registration and “underlying register” and “underlying registration” shall be construed accordingly.

(2) Whenever it appears to the Commissioner that the provisions of the law of a State with regard to bareboat charter registration are compatible with the provisions of this Act, he may declare the ship registry of that State to be a compatible registry for the purposes of this section.

(3) Notwithstanding anything contained in section 6 of this Act, a vessel not eligible under that section to be registered as a Saint Vincent and the Grenadines vessel shall be eligible to be registered at the discretion of the Commissioner as a Saint Vincent and the Grenadines vessel pursuant to this section provided that-

- (a) the vessel is bareboat chartered to a citizen or national of Saint Vincent and the Grenadines domiciled in Saint Vincent and the Grenadines or to any person authorised under section 6 (2);

- (b) the vessel is not a Saint Vincent and the Grenadines vessel and is registered in a compatible registry;
- (c) subject to subsection (6) the vessel is not registered in another bareboat charter registry; and
- (d) such certified documents as the Commissioner may require are submitted to him shall include but shall not be limited to the following:
  - (i) an application for registration under this Part made by the charterer or his authorised agent containing such information as may be required by the Commissioner;
  - (ii) a declaration of bareboat charter made by the charterer accompanied by a copy of the charter agreement (such charter Agreement shall not be available for public inspection);
  - (iii) a copy of the existing Tonnage Certificate;
  - (iv) payment of the relevant fees and taxes;
  - (v) a Certificate of Goodstanding of the Bareboat Charterers (if foreign);
  - (vi) true copies of all relevant mortgages and the copies shall be in the English language or an authenticated translation, indicating the name of the vessel, the name of the parties, the total original amount, the discharge amount and the date of maturity;
  - (vii) confirmation from the relevant Classification Society that the vessel is in class and has valid statutory certificates;
  - (viii) a transcript or an extract of the underlying registration of the vessel that shall include a description of the vessel, the owners and where applicable all registered mortgages and encumbrances of the vessel and the document shall be available for public inspection; and
  - (ix) the consent in writing, for the vessel to be bareboat charter registered in Saint Vincent

and the Grenadines, of the appropriate authorities of the underlying registry who may be further required by the Commissioner to declare that during the period of bareboat charter registration the vessel will not be entitled to fly their flag; the owners of the vessel and all holders of registered mortgages, hypothèques and charges.

(4) The charterer shall produce to the Commissioner within thirty days any amendments or modifications to the bareboat charter.

(5) Where amendments or modifications are affected to the underlying registration the charterer shall

(a) within seven days from the amendments being effected, communicate to the Commissioner the amendments or modifications; and

(b) within thirty days of the amendments or modifications having been entered into the underlying register, produce to the Commissioner a transcript or an extract of the underlying registration showing the amendments or modifications.

(6) The Commissioner may, under such circumstances and conditions as may be prescribed by him, permit the registration of a vessel pursuant to this section that is already bareboat chartered with a foreign registry.

(7) The tonnage of a vessel to be registered pursuant to this section shall be ascertained in accordance with the tonnage regulations made under this Act; provided that at the request of the charterer the Commissioner may accept the tonnage of the vessel to be that registered in the underlying registry if he is satisfied that the provisions of the International Convention on Tonnage Measurement of Ships signed in London on 23 June 1969, if applicable to the vessel and unless the vessel has been exempted from them, have been adhered to and the certificate of survey issued under section 14 shall be that issued by the underlying registry.

(8) Subject to subsection (9), a vessel shall be registered pursuant to this section by the name under which it is registered in the underlying registry, provided that the name is not already the



name of a registered Saint Vincent and the Grenadines vessel or a name so similar as to be calculated to deceive.

(9) The name of a vessel to be registered or of a vessel already registered under this section may be changed prior or subsequent to registration pursuant to this section as the case may be provided that the appropriate authorities of the underlying registry, the owners and the registered mortgages, if any, have consented to it and provided also that the change is made in accordance with the provisions of section 33 of this Act.

(10) Where the Registrar or Commissioner is satisfied that all conditions for registration specified in this section and in other parts of this Act, where applicable, have been complied with and upon payment of the prescribed fee, the Registrar or Commissioner shall:

- (a) enter in the register of Saint Vincent and the Grenadines ships provided for in section 13 of this Act all particulars of the vessel and its underlying registration, owners and charterers, stating that it is a bareboat charter registration, the expiry date of the registration and that the register official record of any mortgages affecting the vessel;
- (b) inform the appropriate authorities of the underlying registry of the registration under this section; and
- (c) issue a certificate of bareboat charter registration that includes the name and particulars of the vessel, the name of the home port Kingstown - Saint Vincent and the Grenadines and the expiry date of the registration.

(11) Upon the issue of a certificate of bareboat charter registration all documents issued to the vessel by the underlying registry shall be surrendered to the appropriate authorities of that registry and within thirty days of the issue of the certificate, the charterer shall make and deliver to the Commissioner a declaration to that effect.

(12) Subject to subsection (13), the duration of such registration shall be for a period not exceeding the duration of the bareboat charter or the expiry date of the underlying registration, whichever is the shorter period but in no case for a period exceeding four years.

(13) At the request of the charterer or his authorised agent the Commissioner may extend and further extend the bareboat registration for the remaining period of the charter or until the expiry date of the underlying registry, whichever is the shorter period but in no case for periods exceeding two years at a time, provided that he has received written consent to this extension from the appropriate authorities of the underlying registry, the owners and the registered mortgagees, if any, within seven days from the Commissioner having informed them of the request for extension.

(14) Upon the grant of an extension in terms stipulated under subsection (1), the Registrar shall

- (a) enter the new date of expiry in the register of the vessel;
- (b) issue a certificate of extension of bareboat charter registration that includes the date of expiry; and
- (c) inform the appropriate authorities of the underlying registry.

(15) No extension of a bareboat charter registration pursuant to subsection (14) shall be permitted beyond a period of four years from the date of first registration of the bareboat charter; and in the event that the charterer or his authorised agent wishes to extend a bareboat charter beyond four years, the bareboat charter must be re-registered under this section as if it were the first registration of such a bareboat charter.

(16) A vessel registered pursuant to this section shall be deemed to be a Saint Vincent and the Grenadines vessel and except where otherwise provided shall be under the jurisdiction and control of Saint Vincent and the Grenadines and shall comply with the laws applicable to Saint Vincent and the Grenadines.

(17) A vessel registered under this section shall only hoist the Saint Vincent and the Grenadines flag as provided for in this Act.

(18) The home port of a vessel registered under this section shall be Kingstown-Saint Vincent and the Grenadines, and shall be shown on the certificate of bareboat charter registration and shall be marked in the stern accordance with section 15 of this Act.

(19) This Act shall not assert any ownership over a vessel registered under this section and it shall have no effect with regards to title and transfer and transmission of such vessel.

(20) The charterers shall notify the Commissioner of any transfer of ownership of a vessel registered pursuant to this section and the registration of the vessel under this section shall be closed, unless the new owners, within seven days, inform the Commissioner that they have no objection to the registration of the vessel in accordance with this section, and within thirty days of having made the declaration, deliver in writing to the Commissioner their consent to the registration.

(21) In exceptional cases the Commissioner may reduce the registration fee payable on the registration of any vessel under this Act.

(22) The registration fee of vessels on bareboat charter will be one dollar and twenty-five cents per N.T. provided that the period during which vessels are registered does not exceed a combined total of four years.

(23) No certificate of registration shall be issued to a vessel unless a sum equal to two years annual tax is paid prior to registration.

5B. (1) Mortgages and encumbrances may not be registered under this Act in respect of a ship registered pursuant to section 5A (3), (4), (5) and (6) and the Commissioner and Registrar shall refuse to register any such mortgages and encumbrances; such power of registration shall remain vested in the underlying registry.

Mortgages and  
encumbrances

(2) Extracts of mortgages, hypothèques and charges shall be recorded in a bareboat charter registry book in the same order as recorded in the foreign registry.

(3) The bareboat charter book shall be maintained at the offices of the Registrar and the Commissioner and the information contained in the statement affixed to the document shall be endorsed upon the vessels bareboat charter certificate of registration.

5C. (1) The Minister or the Commissioner may order that the registration of a vessel under this Part be closed

Closure of bareboat  
charter registration

(a) if any of the provisions of this Act, in so far as the same may be applicable to a vessel registered pursuant to this section, are not complied with; or

- (b) for any reason specified in section 9 of this Act, in so far as the same may be applicable to a vessel registered under this section.

(2) Where the charterer of a ship, registered pursuant to this section, desires to close the bareboat charter registration of such vessel, he shall make an application to that effect to the Commissioner giving all particulars and information which the Commissioner may require for the purpose and the application made and substantiated as aforesaid shall acceded to if all liabilities and obligations in respect of the vessel towards the State of Saint Vincent and the Grenadines whether for fees, charges, fines or otherwise have been paid.

(3) The Registrar shall close the registration of a vessel under this section of the Act, and shall make an entry to that effect in the register, if

- (a) the Minister or Commissioner has ordered the closure in terms of subsection (1);
- (b) a voluntary closure of registry has been requested and the request has been acceded to by the Commissioner in terms of subsection (2) of this section;
- (c) the appropriate authorities of the underlying registry, or the owners or any of the mortgagees, if any, have withdrawn their consent to the bareboat charter registration in Saint Vincent and the Grenadines;
- (d) the registration in the underlying registry has for any reason been terminated;
- (e) the charter lapses or is terminated by any of the parties to it; or
- (f) the period for which the vessel has been bareboat charter registered lapses and no extension has been granted in accordance with section 5A (13), (14) and (15) of this Act.

(4) Upon the closure of a registration in terms of subsection (3) the vessel shall cease to be a Saint Vincent and the Grenadines vessel and the Commissioner shall immediately notify the appropriate authorities of the underlying registry and the owners of the closure.

(5) The Commissioner may refuse to issue a deletion certificate or a transcript of registry showing the closure of registry until

- (a) the certificate of bareboat charter registration issued in terms of section 5A (10) and (11) has been surrendered to him; and
- (b) all liabilities and obligations in respect of the vessel towards the State of Saint Vincent and the Grenadines whether for fees, charges, fines or otherwise have been paid.

5D. (1) Notwithstanding any other provision of this Act a Saint Vincent and the Grenadines vessel registered under this Part may be bareboat charter registered in a foreign registry if the Commissioner gives his consent in terms referred to in subsection (2) of this section.

Bareboat charter registration in foreign registry

(2) The Commissioner may, under such conditions as he may deem fit to impose give his consent referred to in subsection (1) of this section and issue a Confirmation of Registration and Letter of Authorisation to bareboat charter with a foreign registry if

- (a) the vessel is registered as a Saint Vincent and the Grenadines vessel in accordance with the relevant provision of this Act;
- (b) the bareboat charter registry where the vessel is to be registered is a compatible registry;
- (c) payment of relevant fees and taxes is forthcoming; and
- (d) the following documents stated hereto are submitted to him:
  - (i) an application for bareboat charter registration in a foreign registry made by the owners containing such information as may be required by the Commissioner;
  - (ii) the consent in writing to such registration of all registered mortgagees, if any;
  - (iii) a written undertaking by the owners to surrender the certificate of registry issued

under this Act within fifteen days from the entry into the bareboat charter registry;

- (iv) a written undertaking by the charterer that the Saint Vincent and the Grenadines Flag shall not be hoisted during the period of bareboat charter registration; and
- (v) a copy of the bareboat charter.

(3) The owners shall, within thirty days of such amendments or modifications being effected, produce to the Commissioner any amendments or modifications to the bareboat charter.

(4) Subject to the provisions of subsection (5) a vessel registered under this Part shall be bareboat charter registered in a foreign registry by the name under which it is registered under this Act.

(5) The name of a Saint Vincent and the Grenadines registered vessel, bareboat charter registered in a foreign registry may only be changed with the written permission of the Commissioner in terms of section 33 if such change is being effected also in the bareboat charter registry.

(6) The registration in a foreign bareboat charter registry of a vessel registered under this Act not made in accordance with the provisions of this Act shall be void.

(7) Upon the bareboat charter registration of a Saint Vincent and the Grenadines vessel in a foreign registry

- (a) the owners shall immediately notify the Commissioner of the registration, and within thirty days surrender to the Commissioner the certificate of registry issued to the vessel under this Act and deliver to the Commissioner a transcript or an extract of the foreign bareboat charter registration; and
- (b) where the Commissioner is satisfied that the registration has been effected according to the provisions of this Act, the Registrar shall make an entry to that effect in the register of the vessel.

(8) The owners shall immediately notify the Commissioner of the closure or lapse of the bareboat charter registration in a foreign

registry, and shall within thirty days of the closure of the registry deliver to the Commissioner a transcript or an extract of the foreign bareboat charter registration showing the closure.

(9) Unless otherwise provided for on this section, the owners of a Saint Vincent and the Grenadines vessel bareboat charter registered in a foreign registry shall comply with all the provisions of this Act as if the vessel were not so registered in the foreign registry.

(10) During the time Saint Vincent and the Grenadines vessel is bareboat charter registered in a foreign registry in accordance with the relevant provisions of this section

- (a) notwithstanding the provisions of section 56, the vessel shall not hoist the flag of Saint Vincent and the Grenadines and shall be permitted to fly the flag of the foreign bareboat registry; and
- (b) notwithstanding the provisions of section 21, the home port of the vessel shall be that of the bareboat charter registry.

(11) The owners shall, within one month from the entry into the foreign bareboat charter registry, make and deliver to the Commissioner a declaration to the effect that the name of the foreign home port has been marked on the stern of the vessel in lieu of the name Kingstown-Saint Vincent and the Grenadines.

(12) A Saint Vincent and the Grenadines vessel bareboat charter registered in a foreign registry shall, notwithstanding such registration, continue to be subject to the payment of all the fees set out in this Act, or in any regulations made under this Act, in respect of Saint Vincent and the Grenadines ships.

(13) Prior to the Commissioner giving his consent referred to in subsection (1), the payment of Annual Taxes for the whole bareboat charter period shall be due in advance.

(14) Notwithstanding that a Saint Vincent and the Grenadines vessel may be bareboat charter registered in a foreign registry, all matters with respect to title over the vessel, mortgages and encumbrances shall continue to be governed by the law of Saint Vincent and the Grenadines which includes the provisions of the International Convention on Maritime Liens and Mortgages 1993.

(15) Any transaction affecting the title over the vessel or relating to the registration, amendment, transfer and transmission and discharge of mortgages shall be made and registered in accordance with the provisions of this Act and only be the person specified therein.

(16) The registration of any mortgages or encumbrances in the foreign bareboat charter registry shall be void.

(17) The Commissioner may withdraw the consent referred to in subsection (1), if any of the applicable provisions of this Act are not complied with provided that the Commissioner shall withdraw the consent, if

- (a) the Minister, in the national interest or in the interest of Saint Vincent and the Grenadines shipping and after giving the owners and the charterers of the vessel a reasonable opportunity to make representations, has ordered the Commissioner to withdraw the consent;
- (b) any of the conditions required to be fulfilled in terms of subsection (2) are not so fulfilled; or
- (c) the charter terminates or is terminated by any of the parties to it.

(18) Upon the withdrawal of the consent of the Commissioner under subsection (17)

- (a) the Commissioner shall inform the appropriate authorities of the bareboat charter registry, the owners and the charterers of the withdrawal; and
- (b) the bareboat charter registration shall be terminated.

(19) Upon the termination of the bareboat charter registration

- (a) the Registrar or Commissioner shall make an entry to that effect in the register, and the vessel shall then again be subject to all the provisions of the laws of Saint Vincent and the Grenadines;



- (b) within thirty days from the termination of such registration the owners shall make and deliver a declaration to the Commissioner that the certificate of bareboat charter registration has been surrendered to the foreign bareboat charter registry, and the Commissioner, unless the registry of the vessel elsewhere under this Act is also being closed shall again deliver to the owners the certificate of registry which had been surrendered to him in terms of subsection (2); and
- (c) within thirty days from the termination of such registration the owners shall deliver to the Commissioner a transcript or an extract of register showing that the bareboat charter registration has been cancelled.

6. (1) Subject to section 52, a ship shall not be registered in Saint Vincent and the Grenadines under this Act unless the ship is owned wholly by persons qualified to own a Saint Vincent and the Grenadines ship, namely-

Qualifications for owning a Saint Vincent and the Grenadines ship

- (a) nationals of Saint Vincent and the Grenadines;
- (b) citizens of CARICOM States residing in a member State of the Caribbean Community, where the ship is customarily engaged in international voyages;
- (c) individuals or corporations owning ships hired out on bareboat charter to nationals of Saint Vincent and the Grenadines;
- (d) individuals or corporations in bona fide joint venture shipping enterprise relationships with nationals of Saint Vincent and the Grenadines as may be prescribed;
- (e) a body corporate, partnership or other association of individuals registered in accordance with the laws of Saint Vincent and the Grenadines and having their main office in Saint Vincent and the Grenadines;
- (f) such other persons as the Minister may by Order determine.

(2) In a case-

- (a) where a body corporate, partnership or other association of individuals, registered in accordance with the law in any foreign country, owns a ship; or
- (b) where the main office of any body corporate, partnership or other association of individuals owning a ship is situated outside Saint Vincent and the Grenadines,

an application for registration of the ship may be made if the body corporate partnership or association has a registered agent in Saint Vincent and the Grenadines.

Obligations to register Saint Vincent and the Grenadines ships

7. (1) Whenever a ship is owned wholly by persons qualified to own a registered Saint Vincent and the Grenadines ship, that ship shall, unless it is registered in some other State, be registered in Saint Vincent and the Grenadines in the manner provided in this Part.

(2) Every Saint Vincent and the Grenadines ship, and every Saint Vincent and the Grenadines Government ship shall be registered in one of the register books kept pursuant to section 13 and registration shall be effected in accordance with this Act.

(3) Where the master of any ship which is owned wholly by persons qualified to own a registered Saint Vincent and the Grenadines ship fails, on demand, to produce the Certificate of Registry, of the ship or such other evidence as satisfies the Minister that the ship complies with the requirements of subsection (1), that ship may be detained until that evidence is produced.

(4) A ship which is wholly owned a person qualified to own a Saint Vincent and the Grenadines ship, and which immediately before the commencement of this Act, is registered in Saint Vincent and the Grenadines in accordance with the former Act, is entitled to be registered under this Act, subject to such conditions as may be prescribed.

(5) A ship required to be registered under this Act shall not be recognised as a Saint Vincent and the Grenadines ship and is not entitled to the rights and privileges accorded to Saint Vincent and the Grenadines ships under this Act unless it is so registered.

8. (1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Director after consultation with the Minister may direct the Registrar of Ships not to register a ship where he is satisfied that having regard to-

Refusal of registration

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

it would be detrimental to the interests of Saint Vincent and the Grenadines or of international shipping for the ship to be registered.

(2) Where it appears to the Director that a ship in respect of which an application for registration has been made is not entitled to be registered, having regard to the matters mentioned in paragraphs (a),(b) or (c) of subsection (1), he shall inform the applicant, or any representative person for the time being appointed in relation to the ship, and the Registrar of Ships shall not register the ship.

9. (1) The Registrar of Ships may, subject to subsection (5), terminate a ship's registration in the following circumstances-

Termination of registration

- (a) where the Director is satisfied that-
  - (i) having regard to the matters mentioned in paragraph (a), (b) or (c) of section 8(1), it would be detrimental to the interests of Saint Vincent and the Grenadines or of international shipping for a registered ship to continue to be registered; or
  - (ii) any penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than three months and no appeal against the penalty is pending; or
  - (iii) any summons for any such contravention has been duly served on the owner of a registered

ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

and the Director so informs the Registrar of Ships;

- (b) where the annual tonnage fees of a registered ship has remained unpaid for a period not exceeding three years;
- (c) where a registered ship is no longer entitled to remain registered;
- (d) on application by the registered owner stating that he wishes to terminate the registration of the ship;
- (e) upon a registered ship becoming a total loss or being otherwise destroyed by, inter alia, shipwreck, demolition, fire or sinking.

(2) Where a registered ship is in any condition referred to in subsection (1) (e), every registered owner of the ship or any share therein shall, immediately upon obtaining knowledge of the condition, inform the Registrar of Ships who shall make an entry thereof in the register.

(3) Where-

- (a) the registration of a ship is terminated under subsection (1), the Registrar of Ships shall notify all registered mortgagees of the closure of the ship's registration; and
- (b) the registration is terminated under paragraphs (d) or (e) of subsection (1), the Registrar of Ships shall forthwith issue a closure transcript to the owner of the ship.

(4) On receipt of the closure transcript referred to in subsection (3) (b), the owner shall immediately surrender the ship's certificate of registry to the Registrar of Ships for cancellation.

(5) Where-

- (a) the circumstances referred to in subsection (1)(a) applies, and it appears to the Registrar that subsection (1) (b), (c) or (e) apply, he may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, within twenty one days, evidence sufficient to satisfy the Director or the Registrar of Ships, as the case may be, that the ship is eligible to remain on the register; and if at the expiry of that period the Director or the Registrar of Ships, as the case may be, is not so satisfied, the Registrar may-
    - (i) extend the notice and ask for further information or evidence; or
    - (ii) serve a final notice informing the owner or the representative person of the termination of the ship's registry, and such termination shall take effect seven days after the service of that notice;
  - (b) the Registrar of Ships serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register;
  - (c) a ship's registration is terminated under this subsection, the Registrar of Ships shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registry.
- (6) Any person who-
- (a) in connection with the making of any representations in pursuance of subsection 5(a), knowingly or recklessly furnishes information which is false in a material particular is guilty of an offence and liable on summary conviction, to a fine not exceeding fifteen thousand dollars or on conviction on indictment to a fine not exceeding thirty thousand dollars; or
  - (b) fails, without reasonable cause to surrender a certificate of registry when required to do so under subsection (5) (c), is guilty of an offence and liable

on summary conviction to a fine not exceeding ten thousand dollars.

Restriction on de-registration of ships

10. Subject to, section 68(6), the Registrar of Ships shall not permit the de-registration of a ship, except after giving the prior notification in writing thereof to all registered holders of mortgages of that ship registered under this Act.

Certificate of de-registration

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

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

(3) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so under this Part, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

#### **Procedure For Registration**

Registrar of Ships,  
Commissioner of  
Maritime Affairs

12. (1) There shall be a Registrar of Ships to perform the functions and discharge the duties of registrar under this Act.

(2) Cabinet may, by Order, appoint any person to be the Commissioner of Maritime Affairs and the person so appointed-

- (a) shall perform the functions and discharge the duties of the Registrar under this Act outside Saint Vincent and the Grenadines;
- (b) shall, notwithstanding sections 5 and 28 and subject to the general superintendence of the Maritime Administration, carry out the administrative duties of the Administration in foreign ports and undertake the general conduct and supervision of all matters relating to the registration of ships under this Act outside Saint Vincent and the Grenadines and be accountable to the Government;
- (c) shall hold office for such term and subject to such conditions, restrictions and limitations as Cabinet may specify;

- (d) shall notwithstanding and in addition to any other provision of this Act, be able to impose, inter alia, administrative fines of an amount and on such persons as he may prescribe during the course of the exercise of his duties and responsibilities under this Act;
- (e) shall maintain a permanent shipping register and such other record books as the Minister may direct, which shall contain all entries required to be made by or under this Act and the fees and charges collected on behalf of Saint Vincent and the Grenadines by him or by his agents;
- (f) shall have authority, either directly or through any person who has been appointed as an agent-
  - (i) to administer all oaths and take acknowledgements required by this Act;
  - (ii) to issue ship radio station licences for radio transmitting apparatus located on board a ship registered under this Act;
  - (iii) to issue any licence, certificate or other documents for officers or ships' personnel on ships registered under this Act for the purpose of complying with the provisions of the Act or of any international convention which is made applicable to Saint Vincent and the Grenadines;
- (g) shall be responsible for the maintenance of proper records of every thing done by him or by his agents and such portion of fees collected and due to the Government shall be duly transmitted;
- (h) shall keep the Registrar and the Maritime Administration duly informed of every action taken and every collection of fees or every charge made by him or by his agents and shall be accountable to the Government for the same;
- (i) may appoint registration agents to assist him and they may perform such duties as registration of ships

in any port outside Saint Vincent and the Grenadines as the Commissioner may deem fit to entrust:

Provided that the Commissioner shall be responsible for the conduct of every one of his agents as if he has done it himself unless, in the case of any misconduct by an agent, the Commissioner proves that he made every effort and took every precaution to prevent the misconduct by that agent:

Provided further that every registration agent appointed by the Commissioner shall act in accordance with his instructions unless instructed otherwise by the Maritime Administration, and any such agent may be removed from office by the Commissioner acting on his own or being so instructed by the Administration.

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

Register

13. (1) There shall be a register of Saint Vincent and the Grenadines ships for all registrations of ships in Saint Vincent and the Grenadines.

(2) The register shall be maintained by the Registrar of Ships.

(3) The Director may give directions of a general nature with regard to the discharge of any of the functions of the Registrar of Ships.

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

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

(6) The register shall be available for public inspection and an inspection shall be subject to such fees as prescribed under section 44 (2).



(7) Except as provided in regulations made under section 52, entries in the register in relation to property in a ship shall be made in accordance with the following provisions-

- (a) the property in a ship shall be divided into 64 shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;
- (e) a body corporate shall be registered as owner by its corporate name.

14. (1) Every ship shall before registration be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations made under this Act.

Survey for  
measurement and  
identification of ships

(2) The surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Director and such certificate shall be delivered to the Registrar of Ships before registration.

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

## Marking of ship

15. (1) Every ship other than small ships shall before or at the time of registration be marked permanently and conspicuously to the satisfaction of the Director as follows-

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

- (iii) the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Director may approve.

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

(3) Where the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

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

(5) Where an owner or master of a registered ship neglects to keep his ship marked as required by this section, or if any person conceals, removes, alters, defaces, or obliterates or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event referred to in subsection (4), that owner, master, or person is guilty of an offence, and for each such offence is liable to a fine not exceeding ten thousand dollars and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

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

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

(7) Where a ship proceeds to sea without being marked in accordance with this section, the owner is guilty of an offence and

liable on summary conviction to a fine not exceeding thirty thousand dollars.

(8) The Director may exempt any ship or class of ships from all or any of the requirements of this section.

Application for registration

16. An application for registration of a ship shall be made-

- (a) in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent; and
- (b) in the case of a body corporate by its agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal in accordance with the Companies Act.

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Declaration of eligibility

17. (1) A person shall not be entitled to be registered as owner of a ship, or of a share in the ownership, unless the applicant or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has signed a declaration of eligibility in the prescribed form referring to the ship as described in the certificate of the surveyor and containing the following further particulars-

- (a) a statement of his qualification to own a Saint Vincent and the Grenadines ship, or, in the case of a body corporate, partnership or other association of individuals, of such circumstances of the constitution and business that go to prove the qualification to own a Saint Vincent and the Grenadines ship;
- (b) a statement of the time and place where the ship was built or, if these are not known, a statement to the effect that the declaration does not know the time and place of her building;
- (c) a statement of the name and citizenship of the master;

- (d) a statement of the extent to which the applicant is entitled to be registered as owner, his citizenship, nationality and domicile; and
- (e) a statement of the number of shares in the ship the legal title to which is vested in him or, as the case may be, the body corporate, whether alone or jointly with any other person or persons.
- (f) a declaration that, to the best of his knowledge, no unqualified person is known to have any legal or beneficial interest in the ownership or in any share in the ship;
- (g) in the case of a foreign ship, a statement of her foreign name.

(2) A ship shall not be to registered under this Act unless, before registration, there further shall be produced the following evidence-

- (a) a builder's certificate, that is to say a certificate, signed by the builder of the ship (which expression includes such person as the Registrar or the Commissioner recognises as carrying on the business of the builder of a ship) and containing a true account of the proper denomination and of the tonnage of the ship as estimated by him, and of the time when, and the place where, she was built, and of the name of the person (if any) on whose account the ship was built and, if there has been any sale, the bill of sale or other document under which the ship was transferred to the applicant for registration:  
Provided that, if the ship is not a newly built ship and the person making the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, there shall be required only the bill of sale or other document (if any) under which the ship was transferred to the applicant for registration;
- (b) where the ship has previously been registered in a foreign country, a certificate issued by the government of the country of last registration (or such other evidence as the Registrar may accept)

that the ship's registration in that country has been closed or will be closed immediately upon the issue of a certificate of registration under this Act; or

- (c) a statement that there are no liens or encumbrances, mortgages, claims or taxes due;
- (d) such evidence to the satisfaction of the Registrar, or as may be prescribed by the Minister, to show that the ship is in a seaworthy condition.

Evidence of title on first registry

18. On the first registration of a ship such evidence of title shall be produced as specified in the registration regulations.

Entry of particulars in register

19. When the requirements preliminary to registration have been complied with, the Registrar or Commissioner shall, unless he has reason to withhold further action, enter in the register the following particulars regarding the ship, namely-

- (a) the name of the ship and the name of the port to which the ship belongs;
- (b) the details comprised in the surveyor's certificate of tonnage;
- (c) the particulars respecting her origin stated in the declaration of ownership;
- (d) the name, address and occupation of the registered owner and managers, and if there are more owners than one the name of all of them and the proportion in which they are interested; and
- (e) the official number, the IMO number of the ship; and
- (f) such further particulars respecting the ship as may be specified in the registration regulations.

Documents to be retained by Registrar of Ships

20. On the registration of a ship the Registrar of Ships shall retain in his possession such documents as are specified in the registration regulations.

Port of Registry

21. (1) Subject to subsection (2) Kingstown the principal town of Saint Vincent and the Grenadines shall be the port of registry of a ship registered or deemed to be registered under this Act and the port to which that ship belongs.

(2) The Minister may, by order, declare any other port of Saint Vincent and the Grenadines as a port of registry.

#### **Certificate of Registry**

22. On completion of the registration of a ship, the Registrar of Ships shall grant a certificate of registry comprising such particulars respecting the ship as are specified in the registration regulations.

Certificate of Registry

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

Custody of certificate

(2) Where any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to the Registrar of Ships, any officer of customs, or other person entitled by law to require such delivery, any magistrate by warrant under his hand and seal, or any court capable of taking cognisance of the matter, may summon the person so refusing to appear before such court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such court that there was reasonable cause for such refusal, that person is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(3) Where on examination under subsection (2) it is shown to such court that the certificate is lost, the person summoned shall be discharged, and the court shall certify that the certificate of registry is lost.

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

24. Where a master or owner of a ship uses or attempts to use for the navigation of the ship a certificate of registry not legally granted in respect of the ship, the master or owner of that ship is guilty of an offence, and in respect of each such offence, is liable on summary conviction to a fine not exceeding seventy thousand dollars and the ship is subject to forfeiture under this Act.

Penalty for use of improper certificate

Power to grant new certificate

25. The Registrar of Ships may, with the approval of the Director, and upon the surrender to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

Duplicate certificates

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

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

(3) Where-

- (a) the port where the ship is at the time of the event or, as the case may be, where it first arrives after the event, is not in Saint Vincent and the Grenadines; and
- (b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the proper officer as to the loss, theft, destruction, defacement or illegibility of the certificate,

the proper officer shall notify the Registrar.

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

- (a) send by facsimile or any other form of electronic transmission to the proper officer a copy of the duplicate certificate which the proper officer shall endorse with a statement of the circumstances, under which it is granted; or
- (b) where there are no facsimile or other electronic transmission facilities, the proper officer shall issue a temporary certificate so endorsed.

(5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Registrar of Ships, as soon as an



original duplicate certificate referred to in subsection (1) is received by the owner.

(6) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so by subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

27. (1) Whenever a change occurs in the registered ownership of a ship, the Registrar of Ships may endorse the change on the certificate of registry or issue a new certificate of registry.

Endorsement of  
change of ownership

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

(3) Where the master fails to deliver to the Registrar of Ships the certificate of registry as required by this section he is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

28. (1) Where a ship becomes entitled to be registered while at port in a country outside Saint Vincent and the Grenadines, then subject to subsection (2), the proper officer may, on the application of the master of the ship, grant to him a provisional certificate stating-

P r o v i s i o n a l  
certificate for ship  
becoming entitled to  
be registered while  
abroad

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

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

(2) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under registration regulations for registry of the ship has been made or is intended.

(3) A provisional certificate shall have the effect of a certificate of registry until-

- (a) the expiration of six months with a further extension of six months from its date; or
- (b) the ship's arrival at a port of registry,

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

(4) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Director.

**Interim Registration in the Course of Transfer of Ownership**

Registration of transfer of ownership

29. (1) This section applies in the following circumstances, namely that-

- (a) there is in existence a written contract for the transfer of a ship or a share in a ship; and
- (b) pursuant to the terms of that contract the owner has agreed-
  - (i) to transfer the ship or any share in the ship to a person qualified to own Saint Vincent and the Grenadines ships and who intends to register the ship in Saint Vincent and the Grenadines, and
  - (ii) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and
- (c) upon the execution of the bill of sale the ship will be entitled to be registered in Saint Vincent and the Grenadines.

(2) Where this section applies the Registrar of Ships may, if satisfied that it is proper for him to do so -

- (a) enter in the register the particulars set out in registration regulations subject to the modifications set out in subsection (3); and

- (b) grant to the transferee a certificate of registry which is valid for a period of twenty-one days from its date of issue.
- (3) The modifications to the registration regulations referred to in subsection (2)(a), are that-
- (a) the name and description required to be entered shall be the name and description of the transferee of the ship or of the share therein; and
  - (b) there shall also be entered a note that the registration is conditional upon a bill of sale transferring the ship or the share therein to the person or persons named in the register being produced to the Registrar of Ships within twenty one days.
- (4) The Registrar of Ships shall only be satisfied that it is proper for him to make the entry in the register and grant a certificate of registry pursuant to subsection (3) if-
- (a) sections 14, 15, 16, and 18 and the registration regulations as modified by subsection (3) have been complied with; and
  - (b) the transferee, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration, referring to the ship as described in the surveyor's certificate issued pursuant to section 14, and containing the following particulars-
    - (i) if he is a person qualified to own a Saint Vincent and the Grenadines ship, a statement of his qualifications to own such ship, or in the case of a body corporate, of such circumstances of the constitution and the business thereof as prove it to be qualified to own a Saint Vincent and the Grenadines ship;
    - (ii) if the ship is a foreign ship, a statement of the ship's foreign name;

(iii) a statement that there is in existence a written contract for the transfer of the ship or a share in the ship and that the ship is not registered in Saint Vincent and the Grenadines; and

(iv) a statement that the owner has agreed:

(aa) to transfer the ship or any share in the ship to the transferee;

(bb) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and

(cc) to procure the termination of the registration of the ship in the country in which it is then registered; and

(c) there is produced to the Registrar of Ships a certified copy of the contract referred to in the declaration made pursuant to paragraph (b).

(5) Where a ship is registered pursuant to subsection (2) the transferee shall within twenty-one days after the date of issue of the certificate of registry granted pursuant to subsection (2)(b) deliver to the Registrar of Ships a declaration made in accordance with section 17 and a bill of sale executed pursuant to the contract the certified copy of which has been produced to the Registrar of Ships pursuant to subsection (4)(c) and thereupon the Registrar of Ships shall make the entries in the register required by section 19 and grant a certificate of registry pursuant to section 22.

(6) Where the transferee does not comply with the requirements of subsection (5) the registration of the ship shall automatically terminate at the expiration of the certificate of registry granted pursuant to subsection (2)(b) and the certificate of registry and any certificate issued in respect of the ship under this Act shall be delivered to the Registrar of Ships.

Consequences of registration pursuant to section 29

30. (1) Where a ship is registered pursuant to section 29 it shall be deemed to be a Saint Vincent and the Grenadines ship for the purposes of this Act.

(2) Where a ship is registered pursuant to section 29 it shall not hoist any colours other than Saint Vincent and the Grenadines national colours specified in section 57.

31. Where a certificate of registry has been granted in respect of a ship pursuant to section 29(2)-

- (a) the provisions of this Part shall apply to the ship and its registration; and
- (b) any act or thing required to be done or not done under this Act by the owner of a ship shall be deemed to be required to be done or not done by the transferee; and
  - (i) the transferee shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship, and
  - (ii) a reference to "owner" in this Act shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to "transferee" and the words "registered owner" and "registered ownership" shall be construed accordingly.

Provisions relating to the application of this Act where a ship is registered under section 29

32. In sections 29 and 31, "transferee" means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 29(1).

Definition of transferee in this Part

#### **Name of Ship**

33. (1) A ship shall not be described by any name other than that which she is for the time being registered.

Rules as to name of ship

(2) A change shall not be made in the name of a ship without the previous written permission of the Registrar of Ships.

(3) Application for permission under subsection (2) shall be in writing and if the Registrar of Ships is of the opinion that the application is reasonable he may grant permission, and thereupon require notice thereof to be published in such form and manner as he thinks fit.

(4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register, in the ship's certificate of registry, and on the bows and stern of the ship.

(5) Where it is shown to the satisfaction of the Registrar of Ships that the name of any ship has been changed without his permission he shall direct that the name be altered to that which the

ship bore before the change, and the name shall be altered on the bows and stern of the ship accordingly.

Offences

34. Where any person acts, or suffers any person under his control to act, in contravention of section 33, or omits to do, or suffers any person under his control to omit to do, anything required by that section, he is guilty, and for each such offence is liable on summary conviction to a fine not exceeding ten thousand dollars and, except in the case of an application being made under that section with respect to a foreign ship which not having at any previous time been registered as a Saint Vincent and the Grenadines ship has become a Saint Vincent and the Grenadines ship, the ship may be detained until there is compliance with that section.

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

Registration of alterations

35. (1) When a Saint Vincent and the Grenadines ship which is not a small ship is so altered as not to correspond with the particulars relating to its tonnage or description in the register, notification of the alteration shall be given within thirty days after the completion of the alteration to the Registrar, and the notice shall be accompanied by a certificate from a proper surveyor stating the particulars of the alteration.

(2) Upon receipt of a notice of alteration of a Saint Vincent and the Grenadines ship under subsection (1), the Registrar shall either cause the alteration to be registered or direct that the ship be registered anew.

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

Procedure for registrations of alterations

36. (1) On the registration of an alteration in a Saint Vincent and the Grenadines ship, the ship's certificate of registry shall be produced to the Registrar within sixty days after the registration.

(2) Where a certificate of registry has been produced to the Registrar under subsection (1), the Registrar may-

- (a) endorse and sign on that certificate a statement of the alteration; or
- (b) retain that certificate and issue a new certificate of registry that contains a description of the ship as altered.

(3) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the Registrar of Ships in the register.

(4) Where default is made in registering anew a ship, or in registering an alteration of a ship so altered as provided in section 35, the owner of the ship is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars and, in addition, to a fine not exceeding three hundred dollars for every day during which the offence continues after conviction.

37. Where the ownership of any ship is changed, the Registrar of Ships may, on the application of the owners of the ship register the ship anew, although registration anew is not required under this Act.

Registration anew or  
change of ownership

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

Procedure for  
registration anew

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

#### **Tonnage Measurement**

39. (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Minister, referred to in this Act as "Tonnage Regulations".

Tonnage regulations

(2) Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations, the same shall be repeated in every subsequent registration thereof-

- (a) unless any alteration is made in the form or capacity of the ship; or
- (b) it is discovered that the tonnage of the ship has been erroneously computed,

and in either of those cases shall be re-measured, and her tonnage determined and registered according to the tonnage regulations.

(3) Tonnage regulations-

- (a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
- (b) may make any regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
- (c) may prohibit or restrict the carriage of goods or stores in spaces not included in the net tonnage and may provide for making the master and the owner each guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars where such a prohibition or restriction is contravened.

(4) Tonnage regulations may make provision-

- (a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
- (b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and
- (c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.

(5) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations by persons appointed by such organisations and may be authorised for the purpose by the Director.

(6) Tonnage regulations may provide for the issue, by the Director or by persons appointed by such organisations as may be authorised for the purpose by the Director, of certificates of the tonnage



of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in Saint Vincent and the Grenadines, and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the regulations.

(7) Regulations requiring the surrender of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding fifteen thousand dollars.

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

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

40. (1) Where it appears to him that the Tonnage Convention has been adopted by a foreign country and is in force there, the Director may apply the provisions of that convention to the ships of such country as provided in this section.

Tonnage of ships of foreign countries adopting tonnage regulations

(2) The Director may order that ships of the foreign country shall, without being re-measured in Saint Vincent and the Grenadines, be treated as being of the tonnage denoted by their certificates of registry or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a Saint Vincent and the Grenadines ship is treated as being the tonnage of that ship.

(3) Any such order may-

- (a) operate for a limited time; and
- (b) be subject to such conditions and qualifications, if any, as the Director may consider expedient.

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

**Miscellaneous**

- Restriction on registration
41. (1) Where a ship is entitled to be registered in Saint Vincent and the Grenadines by virtue of section 7 and the ship is so registered, the ship shall not be registered under the law of a country outside Saint Vincent and the Grenadines.
- (2) Where a ship is registered under the law of a country outside Saint Vincent and the Grenadines in contravention of subsection (1), the registered owner is, subject to subsection (3) guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars.
- (3) It shall be a defence for any person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1) or subsection (2) as the case may be.
- Trusts, equitable interests and liabilities of beneficial interests
42. (1) Subject to subsection (2), no trust, express, implied, or constructive, shall be registered by the Registrar of Ships.
- (2) Where on the bankruptcy of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy, that person may be registered as the owner or mortgagee of a Saint Vincent and the Grenadines ship or a share therein, provided the ship remains entitled to be registered as a Saint Vincent and the Grenadines ship pursuant to section 7.
- (3) The expression “beneficial interest”, where used in this Part, includes interests arising under contract and other equitable interests, and without prejudice to the provisions of this Act for preventing trusts being entered in the register or received by the Registrar of Ships, and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees, and without prejudice to the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Saint Vincent and the Grenadines ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.
- (4) Where any person has beneficial interest, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person, as well as the registered owner, shall be subject to all pecuniary penalties imposed

by this or any other Act on the owners of ships or shares therein, so that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining either of them.

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

Registrar of Ships  
may dispense with  
declaration or  
evidence

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

44. (1) The following documents shall be admissible in evidence in the manner provided by this Act-

Evidence of  
certificate of registry  
and other documents

- (a) a certificate of registry under this Act purporting to be signed by the Registrar of Ships or other proper officer;
- (b) an endorsement on a certificate of registry purporting to be signed by the Registrar of Ships or other proper officer; and
- (c) every declaration made in pursuance of this Part.

(2) A person, on payment of a prescribed fee, may, on application to the Registrar of Ships at a reasonable time during the hours of his official attendance, inspect the register.

(3) A person shall be entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar of Ships, of any information contained in an entry in the register, and any document purporting to be such a certified copy shall be evidence of the matters stated in the document.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in the register in respect of the registration of a ship, together with a statement

certified by the Registrar of Ships showing who is for the time being the owner of the ship.

(5) Subsection (5) of section 388 shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.

Forms of documents

45. (1) The several instruments and documents referred to in this Part shall, subject to subsection (3), be in the form prescribed or as near thereto as circumstances permit;

(2) The Registrar of Ships shall not be required to receive and enter in the register any bill of sale, mortgage, or other instrument of the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part, or which contains any particulars other than those contained in such form;

(3) In this section-

- (a) the references to "form" include references to alterations made thereto from time to time as deemed necessary; and
- (b) such public notice of the alteration referred to in paragraph (a) shall be given as may be necessary in order to prevent inconvenience.

Instructions as to registration

46. The Director may, for carrying into effect this Part, give such instructions to his officers as to the manner of making entries in the register, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to himself of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Part, as he thinks fit.

Forgery of documents

47. (1) Where any person forges, or fraudulently alters-

- (a) any entry or endorsement in the register; or
- (b) any other document as respects which provisions is made by, under or by virtue of this Part (or any entry or endorsement in or on such other document and as respects which provision is so made)

he is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable-

- (a) on summary conviction, to a fine not exceed fifteen thousand dollars or to imprisonment for a term not exceeding eighteen months, or both; or
- (b) on conviction on indictment, to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding three years, or both.

48. (1) Where any person in the case of any declaration made in the presence of or produced to the Registrar of Ships under this Part, or in any document or other evidence produced to the Registrar -

False Declarations

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

he is guilty, and in respect of each offence is liable on summary conviction to a fine of thirty thousand dollars.

(2) Where any person wilfully makes a false declaration touching the qualification of himself or of any other person or of any body corporate to own a Saint Vincent and the Grenadines ship or any share therein or with respect to the entitlement of a ship to be registered, he is guilty of an offence and liable on summary conviction to a fine of forty thousand dollars, and that ship or share therein is subject to forfeiture under this Act to the extent of the interest therein of the declarant, unless it is proved that the declaration was made without authority, of any person or body corporate on behalf of whom the declaration is made.

49. (1) The Minister shall make regulations for and in connection with the registration of ships as Saint Vincent and the Grenadines ships, referred to in this Act as the "registration regulations".

Registration  
Regulations

(2) Without prejudice to the generality of subsection (1), the registration regulations may, in particular, make provision with respect to any of the following matters-

- (a) the issue of certificates (including provisional certificates) of registry, their production and surrender;
  - (b) restricting and regulating the names of ships registered or to be registered;
  - (c) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
  - (d) the period for which registration may remain effective without renewal;
  - (e) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
  - (f) the refusal, suspension and termination of registration under specified circumstances;
  - (g) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
  - (h) the charging of fees in connection with registration or registered ships;
  - (i) the transfer of the registration of ships to and from the register, from and to registers, or corresponding records in registries other than in Saint Vincent and the Grenadines;
  - (j) inspection of the registry;
  - (k) registration of government ships;
  - (l) any matter in relation to the registration of small ships and pleasure vessels; and
  - (m) any other matter which is authorised or required by this Act to be prescribed in registration regulations.
- (3) The registration regulations may-

- (a) make different provision for different classes or descriptions of ships and for different circumstances;
- (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Director from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and
- (c) make such transitional, incidental or supplementary provision as appears to the Minister to be necessary or expedient;
- (d) may make provision for the registration of any class or description of ships;
- (e) may make provision for any matter which is authorised or required by those provisions to be prescribed by regulations; and
- (f) provide for-
  - (i) the approval of forms by the Director; and
  - (ii) the discharge of specified functions by specified authorities or persons.

(4) The registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by this Act and the regulations.

(5) The contravention of any regulations made under this section shall be punishable by a fine not exceeding seventy thousand dollars.

#### **Registration of Small Vessels**

50. (1) Subject to subsections (2) and (3) and the other provisions of this Act, a small vessel is required to be registered under this Act.

Registration of small vessels

(2) The following small ships are exempt from being registered under this section -

- (a) pleasure craft of less than five metres in length not equipped with propulsion machinery;
- (b) pleasure craft of less than three metres in length equipped with propulsion machinery of not more than five horse power;
- (c) ships registered under section 7 of this Act.

(3) The Minister may in writing exempt, either generally or specifically, small ships from compliance with subsection (1), subject to such conditions as he may stipulate.

Qualifications for  
owning small ships

51. (1) A small ship shall not be registered in Saint Vincent and the Grenadines unless it is owned wholly by

- (a) individuals ordinarily resident in Saint Vincent and the Grenadines;
- (b) corporations registered in accordance with the laws of Saint Vincent and the Grenadines and having their main office in Saint Vincent and the Grenadines; or
- (c) any corporation with a registered agent in Saint Vincent and the Grenadines.

(2) No more than eight persons may be recorded as joint owners of a registered small ship.

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

(4) Where the owner of a registered small ship ceases to be qualified for registration under subsection (1), or where he fails to comply with subsection (3), the certificate of registration of the ship shall be deemed to have been cancelled.

(5) The Minister may in writing exempt any small ship from the provisions of subsection (1).

Regulations for the  
registration of small  
ships

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

- (a) forms and procedures for registration;



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

#### PART IV

##### NATIONAL CHARACTER AND FLAG

53. (1) An officer of customs shall not grant clearance for any ship until the master of such has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall there upon inscribe that name on the clearance.

National character of ship to be declared before clearance

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

54. (1) Where the master or owner of a ship which is not a Saint Vincent and the Grenadines ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Saint Vincent and the Grenadines ship then, except as provided by subsections (2) and (3), the ship is liable to forfeiture and each of the master, owner and charterer, if any, is guilty of an offence and liable as provided in section 55.

Offences relating to Saint Vincent and the Grenadines character of ship

(2) No liability arises under subsection (1) where the assumption of Saint Vincent and the Grenadines national character has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(3) Where the registration of any ship has terminated by virtue of any provision of this Act or the registration regulations, any marks prescribed by such regulations displayed on the ship within the period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1).

(4) Where the master or owner of a Saint Vincent and the Grenadines ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and each of the master, owner and charterer, if any, is guilty of an offence and liable as provided in section 55.

(5) Where a person uses the Saint Vincent and the Grenadines flag and assumes the Saint Vincent and the Grenadines

character on board a ship owned in whole or in part by any person not qualified to own a Saint Vincent and the Grenadines ship for the purpose of making it appear to be a Saint Vincent and the Grenadines ship, the ship shall be liable to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(6) In any proceeding for enforcing any such forfeiture in accordance with subsection (2) the burden of proving the right to use the Saint Vincent and the Grenadines flag and to assume the Saint Vincent and the Grenadines national character shall be upon the person using and assuming the same.

## Penalties

55. (1) A person guilty of an offence under section 54 is liable on summary conviction to a fine not exceeding seventy thousand dollars, or imprisonment for a term not exceeding two years, or both.

(2) This section and section 58 apply to things done outside, as well as to things done within, Saint Vincent and the Grenadines.

## Right to fly flag of Saint Vincent and the Grenadines

56. (1) A ship registered in accordance with this Act shall be entitled to fly the national flag of Saint Vincent and the Grenadines.

(2) Nothing in this section shall be construed to prohibit Saint Vincent and the Grenadines ships which are exempt from registration under this Act from using on the waters of Saint Vincent and the Grenadines the national colours of Saint Vincent and the Grenadines.

## Nationality and colours

57. (1) The national flag of Saint Vincent and the Grenadines constitutes the national colours of a Saint Vincent and the Grenadines ship.

(2) Subject to such exemptions as may be prescribed, a Saint Vincent and the Grenadines ship shall hoist the national colours on entering or leaving any port, and on signal being made to the ship by any ship in the service of the Government.

(3) Where a Saint Vincent and the Grenadines ship fails to comply with subsection (2), the master of the ship is guilty of an offence and is liable to a fine of three thousand dollars.

(4) Where there are hoisted on board any Saint Vincent and the Grenadines ship, any colours or pendant usually worn by ships of the security services of Saint Vincent and the Grenadines or the national

colours of any other State, the master of the ship, or the owner thereof if he is on board the ship, and every other person hoisting the pendant or colours, is guilty of an offence and is liable to a fine of five thousand dollars and to seizure of the colours or pendant by the State.

58. (1) A person who uses or permits any person to use the flag of Saint Vincent and the Grenadines on board a foreign ship for the purpose of making that ship appear to be a Saint Vincent and the Grenadines ship is guilty of an offence and liable to a fine of fifteen thousand dollars and to imprisonment for one year.

National flag on  
foreign ship

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

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

Proceedings on  
forfeiture of a ship

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

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

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

- (a) adjudge the ship and her equipment to be forfeited to the Government; and
- (b) make such order in the case as seems just.

(3) No officer or person bringing proceedings under this section is liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the Court is satisfied that there were reasonable grounds for the seizure or detention.

(4) Where the Court is not so satisfied the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

**PART V****PROPRIETARY INTERESTS IN SHIPS****REGISTERED SHIPS****General**

Rights of owners and mortgagees

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

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

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

**Transfers and Transmissions**

Transfers

61. (1) Any transfer of a registered ship, or a share in any such ship, shall be effected by a bill of sale.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate, or some other description sufficient to identify the ship to the satisfaction of the Registrar of Ships, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

Declaration of transfer

62. Where a registered ship or a share therein is transferred in accordance with section 61(1), the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration referring to the ship, and containing-

- (a) a statement of the qualification of the transferee to own a Saint Vincent and the Grenadines ship, or if the transferee is a body corporate, of such circumstances of the constitution and business

thereof as prove it to be qualified to own a Saint Vincent and the Grenadines ship; and

- (b) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Saint Vincent and the Grenadines ships, and the ship is otherwise entitled to be registered.

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

Registration of transfer

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

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

64. (1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 61 and a majority interest remains in the ownership of a person qualified to be an owner of a Saint Vincent and the Grenadines ship-

Transmission of property in ship on death, bankruptcy, marriage, etc.

- (a) that person shall authenticate the transmission by making and signing a declaration identifying the ship and containing the several statements hereinbefore required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also provide a statement of the manner in which the property has been transmitted;
- (b) where the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is acceptable by the Court as proof of the title of persons claiming under a bankruptcy;
- (c) where the transmission is consequent on death, the declaration of transmission shall be accompanied

by the instrument of representation, or an official extract therefrom; and

- (d) where the transmission was consequent upon an order of a Court, a copy of the order or judgement of that Court.

(2) The Registrar of Ships, on receipt of the declaration of transmission so accompanied, and upon being satisfied that the ship remains entitled to be registered in Saint Vincent and the Grenadines, shall enter in the register the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons in the register, but those persons, however numerous, shall, for the purpose of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale on transmission to unqualified person

65. (1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 62, but as a result of the transmission the ship no longer remains in the ownership of persons qualified to be owners of a Saint Vincent and the Grenadines ship, then the Court may, on an application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the Court directs.

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

(3) Every such application for sale must be made within four weeks after the occurrence of the event on which the transmission has taken place, or within such further time, not exceeding in the whole one year from the date of the occurrence, as the Court allows.

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

Transfer of ship or sale by order of Court

66. (1) Where the Court, whether under this Act or otherwise, orders the sale of any ship or share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and that person shall thereupon be

entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof

(2) The Registrar of Ships shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.

67. (1) The Court may, if it thinks fit without prejudice to the exercise of any other power of the Court, on the application of any interested person, make an order prohibiting for a time specified, any dealing with a ship or any share therein, and the Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

Power of Court

(2) The Registrar of Ships without being made a party to the proceedings, shall on being served with the order or an official copy obey the same.

#### **Mortgages and Maritime Lien**

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

Mortgage of ship or share

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

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

(4) A valid mortgage must comply with the following formalities-

- (a) the mortgage is endorsed upon the vessel's documents;
- (b) the mortgage is registered as provided in subsection (3);
- (c) an affidavit is filed with the record of the mortgage to the effect that the mortgage is made in good faith and without any design to hinder or delay, or to defraud any existing or future creditor of the

mortgagor or any person holding a lien of the mortgaged vessel.

(5) There shall be endorsed upon the certificate of registration of a vessel subject to a valid mortgage

- (a) the names of the mortgagor and the mortgagee;
- (b) the time and date that the endorsement is made;
- (c) the amount and date of maturity of the mortgage.

(6) Mortgages shall be registered in the order in which they are produced to the Registrar of Ships for the purposes of registration and he shall enter and sign on each mortgage a statement to the effect that it has been registered by him, stating the date and time of the registration.

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

(8) Where it is stated in the mortgage instrument that it is prohibited to transfer the ownership of a ship or terminate the registration of the ship in the manner provided in section 9(1)(d), without the prior written consent of the mortgagee, the Registrar of Ships shall make a note in the register to such effect, and the Registrar shall not record a transfer of ownership of the ship or terminate the ship's registration, as the case may be, unless the appropriate consent in writing of the holder of the mortgage is produced to him, and any recording in the register of a transfer of ownership or a termination of the ship's registration in the circumstances referred to in this subsection shall be null and void.

(9) A mortgage may be registered in the register referred to in section 13(1) in respect of a provisionally registered ship, and where a mortgage is so registered, it shall be subject to all relevant provisions relating to mortgages under this Act and the registration regulations.

(10) A mortgage registered pursuant to subsection (9) shall continue to be a registered mortgage until it is discharged, even if the



provisional registration of the ship in respect of which the mortgage was registered, ceases to be effective.

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

(12) A mortgage in respect of a ship under construction shall be entered in the register referred to in section 13(1), however, upon the registration of such ship under construction being transferred to another appropriate part of the register as provided in section 13 (4), the entries relating to the mortgage, unless the mortgage is discharged, shall in like manner be transferred to the same appropriate part of the register.

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

69. (1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to subsection (2), be determined by the order in which the mortgages were registered and not by reference to any other matter.

Priority of mortgage

(2) Registration regulations may provide for the giving to the Registrar of Ships by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

70. (1) Where a registered mortgage is discharged, the Registrar of Ships shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged, and on that entry being made the estate if any which passed to the mortgagee shall vest in the person in whom having regard to intervening acts and circumstances, if any, it would have vested if the mortgage had not been made.

Entry of discharge of mortgage

(2) Where for good reason the registered mortgage cannot be produced to the Registrar of Ships, he may, on being satisfied that

the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

Protection of  
undischarged  
mortgage

71. (1) Where the registration of a ship terminates by virtue of any provision of this Act, that termination shall not affect any entry in the register of any undischarged registered mortgage of that ship or any share therein.

(2) Subsection (1) shall not apply to an entry in the register in a case where the Registrar of Ships is satisfied that any person appearing on the register to be interested as a mortgagee under the mortgage in question has consented to the entry ceasing to have effect.

Mortgagee not owner  
and mortgagee's  
power of sale

72. (1) Except as 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 the 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.

(2) Subject to subsection (2), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money.

(3) Where two or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Mortgage not  
affected by  
bankruptcy

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

Transfer of  
mortgages and  
transmission of  
mortgage interest by  
death, bankruptcy,  
etc.

74. (1) A registered mortgage of a ship or share may be transferred to any person and on production of the instrument effecting the transfer the Registrar of Ships shall record it by entering in the register the name of the transferee as mortgagee of the ship or share, and shall enter and sign on the instrument of transfer a statement to

the effect that it has been registered by him, stating the date and time of the registration.

(2) Where the mortgage interest in a ship or share is transmitted to any person by any lawful means, other than by a transfer under subsection (1), that person shall produce to the Registrar of Ships a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.

(3) The Registrar of Ships on the receipt of the documents, and the production of the evidence referred to in subsection (2), shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share.

74A .(1)A mortgage validly registered in accordance with the provisions of this Act shall constitute a maritime lien upon the vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

Lien of registered mortgage

(2) The mortgagor, before executing a registered mortgage, shall disclose to the mortgagee in writing the existence of every maritime lien, prior mortgage or other obligation or liability upon the vessel to be mortgaged, which is known to the mortgagor

(3) After the execution of the mortgage and before the mortgagee has had reasonable time in which to record it and have proper endorsements made upon the documents of the vessel the mortgagor shall not, without the consent of the mortgagee, incur any contractual obligation creating a maritime lien upon the vessel other than liens denominated in Article 4 of the International Convention on Maritime Liens and Mortgages, 1993.

(4) A preferred mortgage may bear such rate of interest as the parties to the mortgage mutually agree.

74B.(1) The Registrar or the Commissioner shall, upon the request of any person, record notice of his claim of a mortgage or lien upon a vessel registered under this Act, together with the nature, date of creation, and amount of the mortgage or lien and the name and address of the person; and any person who has caused notice of his claim to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file a certificate of such discharge with the Registrar or the Commissioner, as the case may be, who

Record of notice of claim of lien, discharge of lien and mortgage

shall, thereupon record the certificate of the discharge of the mortgage or lien.

(2) The mortgagor shall, upon the discharge of any mortgage indebtedness in part or in full, forthwith file a certificate of such discharge duly executed by the mortgagee, his successor or assigns, with the Registrar or the Commissioner, who shall thereupon record the certificate:

Provided that in the case of a mortgage, the Registrar or the Commissioner shall cause an endorsement of the fact of such discharge to be made on the certificate of registration of the vessel and a certificate of such endorsement, giving the time, place and description of the endorsement, shall also be recorded with the records of registration.

(3) Where any endorsement on a certificate of registration is made by a person other than the Registrar, such certificate shall be promptly furnished to the Registrar for recording purposes.

Jurisdiction and  
procedure on  
mortgages

74C. (1) Notwithstanding section 74B any lien in respect of a mortgage may be enforced in Saint Vincent and the Grenadines by a suit in rem in the High Court upon default of any of the terms or conditions, and, in addition to any notice by publication, actual notice of the commencement of suit shall be given by the applicant in such manner as the High Court may direct, to the master or other ranking officer or caretaker of the vessel and to any person who has recorded a notice of claim of an undischarged lien upon the vessel, except in a case where, in spite of every bona fide attempt made by the applicant to the satisfaction of the High Court, such person could not be traced within Saint Vincent and the Grenadines.

(2) Subject to section 67 the lien of a mortgage may also be enforced by a suit in rem or otherwise in any foreign country in which the vessel may be found, pursuant to the procedure of that country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of the said country.

(3) Notwithstanding anything in this Act, the mortgagee may, in addition to all other remedies granted under this section, bring a suit in personam against the mortgagor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

(4) Nothing contained in this Act shall be deemed to authorise the enforcement by suit in rem in the High Court of the

rights of the mortgagee in respect of assets or personal property other than vessels covered by a mortgage.

74D. The sale of any vessel may be made by the order of any competent court in accordance with the mortgage deed under Article 12 of the Geneva Convention 1993.

Consequences of sale  
by Court

74E. (1) Without prejudice to the generality of the foregoing provisions, every person who furnishes repairs or towage, or provides supplies or other necessaries, or permits the use of dry dock, to any vessel (whether domestic or foreign) upon request for the same from the owner, or any person authorised by the owner, shall have a maritime lien on the vessel from the time of transaction for the amounts due in respect thereof.

Maritime lien and  
waiver

(2) Marine liens created pursuant to this section shall be governed by the relevant provisions of those International Conventions cited in section 74F.

(3) Nothing contained in this section shall be deemed to confer a lien in favour of any person referred to in subsection (1) if he knew, or with the exercise of reasonable diligence could have ascertained, that the person who requisitioned the services or supplies or other necessaries was acting without authority for whatsoever reason.

(4) Any person who is entitled to a lien under subsection (1) may, at any time by agreement or otherwise, waive his right to the lien or, in the case of preferred mortgage, to the preferred status of such lien.

74F. As from the 11th day of June 1997 the provisions of Article 1 -16 of the International Convention on Maritime Liens and Mortgages 1993 as set out in the Schedule shall form an integral part of this Act and have the force of law as such, but without prejudice to any transaction enacted prior to that date to which the provisions of Article 1 -11 of the Brussels Convention 1926 applied.

I n t e r n a t i o n a l  
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S c h e d u l e

## **PART VI**

### **MASTERS AND SEAFARERS**

#### **Interpretation and Application of Part**

75. (1) In this Part-

Interpretation

“crew agreement” has the meaning given to it by section 77;

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

“ship’s boat” includes a life-raft.

(2) References in this Part to going to sea include references to going to sea from any country outside Saint Vincent and the Grenadines.

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

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

(5) Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

Application of this Part

76. (1) With the exceptions specified in subsection (2), this Part applies only to ships which are sea-going ships and masters and seafarers employed in sea-going ships.

(2) The exceptions referred to in subsection (1) are sections 95, 98 to 104, 106, 107, 109 and, 112, to 120.

#### **Engagement and Discharge of Crews**

Crew agreements

77. (1) Except as provided under subsection (5), an agreement in writing shall be made between each person employed as a seafarer in a Saint Vincent and the Grenadines ship and the persons employing him and shall be signed both by him and by or on behalf of them.

(2) The agreements made under this section with the several persons employed in a ship shall be contained in one document, in this Part referred to as a “crew agreement”, except that in such cases as the Director may approve-

- (a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and

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

(3) The provisions and form of a crew agreement shall be of a kind approved by the Director; and different provisions and forms may be so approved for different circumstances.

(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 goes to sea.

(5) The Minister may make regulations providing for exemptions from the requirements of this section with respect to-

(a) 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) such description of seafarers as may be specified

(6) The Director may grant other exemptions from those requirements (whether with respect to particular seafarers or with respect to seafarers employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Director is satisfied that the seafarers to be employed otherwise than under a crew agreement will be adequately protected.

(7) Where, but for an exemption granted by the Director, a crew agreement would be required to be carried in a ship or a crew agreement carried in the ship would be required to contain an agreement with a person employed in a ship, the ship shall carry such document evidencing the exemption as the Director may direct.

(8) Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.

(9) Where 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 liable on summary conviction to a fine not exceeding fifty five thousand dollars and the ship, if in Saint Vincent and the Grenadines, may be detained.

Regulations relating to crew agreements and recruitment and placement of seafarers

78. (1) The Minister may make regulations with respect to recruitment and placement of seafarers, and with respect to crew agreements.

(2) Regulations made under this section with respect to crew agreements may -

- (a) require such notice as may be specified in the regulations to be given to the Registrar of Seafarers or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;
- (b) require for the delivery to the Registrar of Seafarers or proper officer or the Registrar of Ships of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;
- (c) require the posting in ships of copies of or extracts from crew agreements;
- (d) require 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; and
- (e) require any documents carried in a ship in pursuance of section 77 to be produced on demand to an inspector or other person authorised by the Director.

(3) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding forty thousand dollars or such less amount as may be specified in the regulations.

Discharge of seafarers

79. (1) The Minister may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from Saint Vincent and the Grenadines ships.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision-



- (a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the Registrar of Seafarers or proper officer at a place specified in or determined under the regulations; and
- (b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to the Registrar of Seafarers or proper officer or the Registrar of Ships.

(3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seafarer shall not be discharged outside Saint Vincent and the Grenadines from a Saint Vincent and the Grenadines ship without the consent of the proper officer.

(4) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding forty thousand dollars or such less amount as may be specified in the regulations.

80. Regulations made under section 79 may apply any provision thereof, with such modifications as appear to the Minister to be appropriate, to cases where a seafarer employed in a Saint Vincent and the Grenadines ship is left behind outside Saint Vincent and the Grenadines otherwise than on being discharged from the ship.

Seafarer left behind abroad otherwise than on discharge

81. (1) Where a Saint Vincent and the Grenadines ship ceases to be registered, any seafarer employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship.

Discharge of seafarer when the ship ceases to be registered in Saint Vincent and the Grenadines

(2) Sections 82 to 85 shall apply in relation to his wages as if the ship had remained a Saint Vincent and the Grenadines ship.

#### **Wages, etc.**

82. (1) Where a seafarer employed under a crew agreement relating to a Saint Vincent and the Grenadines ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seafarer under the agreement shall either-

Payment of seafarer's wages

- (a) be paid to him in full at the time when he so leaves the ship (in this section and in section 83 referred to as the “time of discharge”), or
- (b) be paid to him in accordance with subsections (4) and (5).

(2) Where the amount shown in the account delivered to a seafarer under section 83(1) as being the amount payable to him under subsection (1) (a) is replaced by an increased amount shown in a further account delivered to him under section 83(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 83(1) exceeds five hundred dollars and it is not practicable to pay the whole of it at the time of discharge, not less than five hundred dollars nor 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) Where any amount which, under subsection (1)(a) or (2), is payable to a seafarer is not paid at the time at which it is so payable the seafarer 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 amount 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) Where the crew agreement referred to in subsection (1) provides for the seafarer’s basic wages to be payable up to date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seafarer under the agreement shall, subject to subsection (5), be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

(5) Where it is not practicable, in the case of any amount due to the seafarer by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4), that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.

(6) Where any amount which, under subsection (4) or (5), is payable to a seafarer is not paid at the time at which it is so payable, it shall carry interest at the rate of twenty percent per annum.

(7) The provisions of subsection (3) or (6) shall not apply if the failure to pay was due to-

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the seafarer; or
- (d) 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 those provisions as relates to interest on the amount due shall not apply if the Court in proceedings for its recovery so directs.

(8) Where a seafarer 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 were substituted a reference to the termination of his employment under the crew agreement.

(9) Where a seafarer, in pursuance of section 81, is discharged from a ship outside Saint Vincent and the Grenadines but returns to Saint Vincent and the Grenadines under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) to the time of discharge there were substituted references to the time of his return to Saint Vincent and the Grenadines, and subsection (8) were omitted.

(10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seafarer-

- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was dispatched by the recorded delivery service to the seafarer's last known address, or

- (b) on the date when any account kept by the seafarer with a bank or other institution was credited with that amount.

Account of seafarer's wages

83. (1) Subject to subsections (4) and (5) and to regulations made under section 84 or 124, the master of every Saint Vincent and the Grenadines ship shall deliver to every seafarer 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 seafarer is discharged without notice or at less than twenty-four hours' notice, at the time of discharge.

(3) Where the amounts stated in the account require adjustment the persons who employed the seafarer 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 seafarer.

(4) Where section 82(4) or (5) applies to the payment of any amount of wages due to a seafarer under a crew agreement-

- (a) the persons who employed the seafarer shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and
- (b) any such account shall be so delivered at the time when the wages are paid to him; and
- (c) subsections (1) to (3) shall not apply;

and section 82(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) Where a seafarer 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.

(6) Where a person fails without reasonable excuse to comply with the preceding provisions of this section he is guilty of an offence and liable, on summary conviction, to a fine not exceeding thirty thousand dollars.

84. The Minister may make regulations-

Regulations relating to wages and accounts

- (a) authorising deductions to be made from the wages due to a seafarer under a crew agreement (in addition to any authorised by any provision of this Part 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 and 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 seafarer 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 seafarer leaves his ship in Saint Vincent and the Grenadines otherwise than on being discharged therefrom; and
- (e) prescribing the form and manner in which any account required to be delivered by section 83 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

85. (1) Any dispute relating to the amount payable to a seafarer employed under a crew agreement may be submitted by the parties to a Registrar of Seafarers or proper officer for decision; except that the Registrar of Seafarers or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

Power of Registrar of seafarer or proper office to decide disputes on wages

(2) The decision of a Registrar of Seafarers or proper officer on a dispute submitted to him under this section shall be final.

Restriction on assignment of and charge upon wages

86. (1) As respects the wages due or accruing to a seafarer employed in a Saint Vincent and the Grenadines ship-

- (a) the wages shall not be subject to attachment;
- (b) an assignment thereof before they have accrued shall not bind the seafarer and the payment of the wages to the seafarer shall be valid notwithstanding any previous assignment or charge; and
- (c) a power of attorney or authority for the receipt of the wages shall not be irrevocable.

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

Power of court to award interest on wages due

87. In any proceedings by the master of a ship or a 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) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the person claiming the amount; or
- (d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants 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.

Allotment notes

88. (1) Subject to the following provisions of this section, a seafarer may, by means of an allotment note issued in accordance with regulations made by the Minister, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a Saint Vincent and the Grenadines ship or ships.

(2) A seafarer's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Minister.

(3) Regulations made by the Minister for the purposes of this section may prescribe the form of allotment notes and-

- (a) may limit the circumstances in which allotments may be made;
- (b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;
- (c) may limit the persons to whom allotments may be made by a seafarer to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;
- (d) may prescribe the times and the intervals at which payments under allotment notes are to be made.

(4) Regulations under this section may make different provisions in relation to different descriptions of seafarers and different circumstances.

89. (1) A person to whom any part of a seafarer's wages has been allotted by an allotment note issued in accordance with regulations made under section 88 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seafarer has for the recovery of his wages.

Right of person named in allotment to sue in own name

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seafarer's wages has been allotted it shall be presumed, unless the contrary is shown, that the seafarer is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

90. (1) Where a Saint Vincent and the Grenadines ship is wrecked or lost, a seafarer whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

Right, or loss of right to wages in certain circumstances

(2) Where a Saint Vincent and the Grenadines ship is sold while outside Saint Vincent and the Grenadines or ceases to be a Saint

Vincent and the Grenadines ship and a seafarer's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.

(3) A seafarer shall not be entitled to wages by virtue of subsection (1) or (2) for a day on which he was unemployed, if it is shown-

- (a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a Saint Vincent and the Grenadines ship; or
- (b) that the seafarer was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

(4) This section shall apply to a master as it does to a seafarer.

Protection of certain rights and remedies

91. (1) A seafarer'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 seafarers belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

Remedies of master for remuneration, disbursement etc

92. The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seafarer has for his wages.

#### **Safety, Health and Welfare**

Obligation of shipowners as to seaworthiness

93. (1) In every contract of employment between the owner of a Saint Vincent and the Grenadines ship and the master of or any seafarer employed in the ship there shall be implied an obligation on the owner of the ship that-



- (a) the owner of the ship, and
- (b) the master of the ship, and every agent charged with-
  - (i) the loading of the ship;
  - (ii) the preparing of the ship for sea; or the sending of the ship to sea,

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

(2) The obligation imposed by subsection (1) applies notwithstanding any agreement to the contrary.

94. No liability on the owner of a ship arises under section 93(1) in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Shipowner's relief from liability for unseaworthiness

95. (1) The Minister may make regulations with respect to

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

Crew accommodation and living and working conditions of seafarers

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

- (a) prescribe the minimum space per person which must be provided by way of sleeping accommodation for seafarers and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
- (c) require the submission to a surveyor of ships 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 exempt ships of any description from any requirements of the regulations and the Director may grant other exemptions from any such requirement with respect to any ship.

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

(5) Where the provisions of any regulations under this section are contravened in the case of a ship the owner or master is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars and the ship, if in Saint Vincent and the Grenadines, may be detained.

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

Complaints about provisions or water

96. (1) Where three or more seafarers employed in a Saint Vincent and the Grenadines ship consider that the provisions or water provided for the seafarers employed in that ship or are not in accordance with safety regulations made under this Act containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity), they may complain to the master, who shall investigate the complaint.

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

(3) The Registrar of Seafarers or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.

(4) Where the master fails without reasonable excuse to comply with the provisions of subsection (2) he is guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars and if he has been notified in writing by the person making an examination under subsection (3) that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then-

- (a) if they are not replaced within a reasonable time the master or owner is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars unless he proves that the failure to replace them was not due to his neglect or default; or
- (b) if the master, without reasonable excuse, permits them to be used he is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars.

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

Expenses of medical and other treatment during voyage

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

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

#### **Manning, Qualifications and Training**

98. Sections 99 to 103 apply to every Saint Vincent and the Grenadines ship and also to any ship registered under the law of a country outside Saint Vincent and the Grenadines which carries passengers-

Applications of section 99 to 103

- (a) between places in Saint Vincent and the Grenadines; or
- (b) on a voyage which begins and ends at the same place in Saint Vincent and the Grenadines and on which the ship calls at no place outside Saint Vincent and the Grenadines.

## Manning

99. (1) Subject to subsection (3), the Minister may make regulations referred to in this Act as the "Safe Manning Regulations"-

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

(2) In making regulations under this section, the Minister shall have due regard to the STCW Convention.

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

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

(5) Without prejudice to the generality of subsection (1)(b), the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Director to make provision, for-

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

and different provisions may be so made or enabled to be made for different circumstances.

(6) Where a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars.

100. (1) The Director may exempt any ship or description of ship from any requirements of regulations made under section 99.

Power to exempt from manning requirements

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

101. (1) Subject to section 100, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seafarers as it is required to carry under section 99, the owner or master is guilty of an offence and liable-

Prohibition on going to sea undermanned

- (a) on summary conviction, to a fine not exceeding seventy thousand dollars;
- (b) on conviction on indictment, to a fine not exceeding one hundred and thirty thousand dollars;

and the ship, if in Saint Vincent and the Grenadines, may be detained.

(2) This section shall, in its application to ships which are not sea-going ships, have effect as if for the words "goes to sea or attempts to go to sea" there were substituted the words "goes on a voyage or excursion or attempts to do so" and the words "if in Saint Vincent and the Grenadines" were omitted.

Production of certificates and other documents of qualifications

102. (1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 99 shall on demand produce it to the Registrar of Seafarers, any surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.

(2) Where, without reasonable excuse, a person fails to comply with subsection (1) he is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars.

Crew's knowledge of English

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

- (a) if the Registrar of Seafarers or proper officer has informed the master of that opinion, the ship shall not go to sea; and
- (b) if the ship is in Saint Vincent and the Grenadines, it may be detained; or
- (c) if the ship is in another country the Director may request assistance to detain the ship.

(2) Where a ship goes to sea or attempts to go to sea in contravention of this section the owner or master is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars.

Unqualified seafarers going to sea as qualified persons

104. (1) Where a person goes to sea as a qualified officer or seafarer of any description without being such a qualified officer or seafarer he is guilty of an offence and liable-

- (a) on summary conviction, to a fine not exceeding thirty thousand dollars;
- (b) on conviction on indictment, to a fine not exceeding fifty five thousand dollars.

(2) In this section "qualified" means qualified for the purposes of section 99.

105. Where a Saint Vincent and the Grenadines ship does not carry a doctor among the seafarers employed in it the master shall make arrangements for ensuring that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

Medical treatment on board ship

106. (1) The Director may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 99(1)(b); and the Minister may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 99(5).

Special certificates of competence

(2) Where a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars.

107. (1) A person under school-leaving age shall not be employed in any Saint Vincent and the Grenadines ship except as permitted by regulations under this section.

Young persons

(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 Saint Vincent and the Grenadines ship 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 ship and any other different circumstances.

(4) Where any person is employed in a ship in contravention of this section or if any condition subject to which a person may be

employed under regulations made for the purposes of this section is not complied with, the owner or master is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars.

(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 compulsory school age under the Education Act.

No. 29 of 1992

Financial assistance

108. (1) The Minister may give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such person or body in connection with the training of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.

(2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Minister may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.

(3) This section is without prejudice to any other power of the Minister to give financial assistance in connection with any such training as is mentioned in subsection (1).

#### **Offences by Seafarer**

Conduct endangering  
ship, persons, etc

109. (1) This section applies-

- (a) to the master of, or any seafarer employed in, a Saint Vincent and the Grenadines ship; and
- (b) to the master of, or any seafarer employed in, a ship which-
  - (i) is a foreign ship; and
  - (ii) is in a port in Saint Vincent and the Grenadines or within the waters of Saint Vincent and the Grenadines while proceeding to or from any such port.

(2) Where a person to whom this section applies, while on board his ship or in its immediate vicinity deliberately or in breach or neglect of duty or while under the influence of alcohol or a drug-



- (a) does any act which causes or is likely to cause-
  - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
  - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
  - (iii) the death of or serious injury to any person, or
- (b) omits to do anything required-
  - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
  - (ii) to preserve any person on board his ship from death or serious injury, or
  - (iii) to prevent his ship from causing the loss or destruction of, or serious damage to, any other ship or any structure, or the death of or serious injury to any person not on board his ship,

he is, subject to subsections (5) and (6), guilty of an offence.

- (3) Where a person to whom this section applies-
  - (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a), or
  - (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he is, subject to subsections (5) and (6), guilty of an offence.

- (4) A person guilty of an offence under this section is liable-
  - (a) on summary conviction, to a fine not exceeding fifteen thousand dollars;

- (b) on conviction on indictment to a fine not exceeding thirty thousand dollars or, to imprisonment for a term not exceeding two years, or both.

(5) In proceedings for an offence under this section it shall be a defence to prove-

- (a) in the case of an offence under subsection (2) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
- (b) in the case of an offence under subsection (2), that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
- (c) in the case of an offence under subsection (3), that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (d) in the case of an offence under either of subsections (2) or (3)-
  - (i) that he could have avoided committing the offence only by disobeying a lawful command, or
  - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.

(6) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (3) shall have effect as if subsection (2)(a)(i) and (b)(i) were omitted; and no proceedings for any offence under this section shall be instituted against any such person without the consent of the Director.

(7) In this section-

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

“duty”-

- (a) in relation to a master or seafarer, means any duty falling to be discharged by him in his capacity as such; and
- (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

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

110. (1) Where a seafarer employed in a Saint Vincent and the Grenadines ship combines with other seafarers employed in that ship-

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

C o n c e r t e d  
disobedience and  
neglect of duty

he is guilty of an offence.

(2) A seafarer who is guilty of an offence under subsection (1) is liable-

- (a) on summary conviction, to a fine not exceeding thirty thousand dollars;
- (b) on conviction on indictment to a fine not exceeding forty thousand dollars, or to imprisonment for a term not exceeding two years, or both.

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

**Disciplinary Offences**

Breaches by seafarers  
of codes of conduct

111. (1) The Minister may make regulations under the following provisions of this section for the purpose of maintaining discipline on board Saint Vincent and the Grenadines ships; and in this section “disciplinary body” means a body established or approved by the Minister under subsection (5) (b).

(2) Regulations may provide for the hearing on shore in Saint Vincent and the Grenadines, by a disciplinary body, of a complaint by the master or owner of a Saint Vincent and the Grenadines ship, other than a fishing vessel, against a seafarer alleging that during his employment on board the ship the seafarer contravened, the regulations made under subsection (1).

(3) Regulations may enable a disciplinary body-

- (a) to dismiss the complaint if it finds the allegation not proved;
- (b) if it finds the allegation proved-
  - (i) to warn the seafarer;
  - (ii) to reprimand the seafarer; or
  - (iii) to recommend to the Director that the seafarer shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 131 and shall be required to surrender any such book which has been issued to him.

(4) Regulations may-

- (a) enable the seafarer to appeal against such a recommendation to another disciplinary body (an “appellate body”); and
- (b) enable an appellate body-
  - (i) to confirm the recommendation;
  - (ii) to cancel the recommendation; or
  - (iii) in the case of a recommendation that the seafarer shall cease to be entitled to a discharge

book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.

(5) Regulations may make-

- (a) provision for securing that a recommendation that the seafarer shall permanently cease to be entitled to a discharge book is not submitted to the Director unless it has been confirmed, either on appeal or otherwise, by an appellate body;
- (b) provision for the establishment or approval for the purposes of this section of such number of bodies as the Minister thinks fit and with respect to the composition, jurisdiction and procedure of any such body;  
Provided that a body shall not comprise of more than five persons;
- (c) provision for the payment, of such remuneration and allowances as the Minister may determine to any member of such a body:
- (d) separate provisions for different provisions for different circumstances and may contain such incidental and supplemental provisions as the Minister considers appropriate.

(6) Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seafarer to whom they relate.

(7) Nothing in the regulations or done in pursuance of the regulations shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

**Disqualification of Seafarer and Inquiries**

Inquiry into fitness or  
conduct of officer

112. (1) Where it appears to the Director that an officer-

- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to comply with the provisions of section 139;

the Director may cause an inquiry to be held by one or more persons appointed by the Commission and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 99 and require the officer to deliver it to him.

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

(3) An inquiry under this section shall be conducted in accordance with rules made under section 116(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

(4) The persons holding an inquiry under this section into the fitness or conduct of an officer-

- (a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1), cancel or suspend any certificate issued to him under section 99 or censure him;
- (b) may make such order with regard to the costs of the inquiry as they think just; and
- (c) shall make a report on the case to the Director;

and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Director in pursuance of subsection (1)) shall deliver it forthwith to the persons holding the inquiry or to the Director.

(5) Any costs which a person is ordered to pay under subsection (4)(b) may be recovered from him by the Director.

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

Disqualification of holder of certificate

(2) The notice shall state the reasons why it appears to the Director that the person is unfit to be the holder of such a certificate and shall state that within a period specified in the notice, or such longer period as the Director may allow, he may make written or oral representations to the Director.

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

(4) Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Director not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 114.

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

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

(7) This section applies to every certificate issued under section 106 and to any certificate issued under section 99 other than one certifying that a person is qualified as an officer.

114. (1) Where a person has, before the date mentioned in section 113(4), required his case to be dealt with by an inquiry under this

Inquiry into fitness or conduct of seafarer

section the Minister shall cause an inquiry to be held by one or more persons appointed by him.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 116(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

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

- (a) may confirm the decision of the Director and cancel or suspend the certificate accordingly;
- (b) may, where the decision was to cancel the certificate, suspend it instead;
- (c) may, where the decision was to suspend the certificate, suspend it for a different period;
- (d) may, instead of confirming the decision of the Director, censure the holder of the certificate or take no further action;
- (e) may make such order with regard to the costs of the inquiry as they think just; and
- (f) shall make a report on the case to the Minister;

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

(4) Any costs which a person is ordered to pay under subsection (3)(e) may be recovered from him in such manner as the Minister shall direct.

Re-hearing and appeal  
from inquiry

115. (1) Where an inquiry has been held under section 112 or 114 the Minister may order the whole or part of the case to be reheard, and shall do so-

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



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

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

116. (1) The Minister may make rules for the conduct of inquiries under sections 112 and 114 and for any re-hearing under section 115.

Rules as to inquiries and appeals

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

117. Where a person fails to deliver a certificate as required under section 112, 113, or 114 he is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars.

Failure to deliver cancelled or suspended certificate

118. Where a certificate has been cancelled or suspended under section 112, 113, 114, or 115, the Director, if of the opinion that the merit of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

Power to restore certificate

119. (1) The persons holding an inquiry under section 112 or 114 may-

Power to summon witness to inquiry

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

(2) Where on the failure of a person to attend such an inquiry in answer to a summons under this section and-

- (a) the persons holding the inquiry are satisfied by evidence on oath that-
  - (i) the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,
  - (ii) he has been duly served with the summons, and
  - (iii) a reasonable sum has been paid or tendered to him for costs and expenses; and
- (b) it appears to them that there is no just excuse for the failure,

they may issue a warrant to arrest that person and bring him before the inquiry at a time and place specified in the warrant.

Refusal to give evidence to inquiry

120. (1) Where any person attending or brought before an inquiry referred to in section 119 refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may-

- (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or
- (b) impose on him a fine not exceeding three thousand dollars.

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

#### **Civil Liability Of Seafarer For Offences**

Civil liability for absence without leave

121. (1) The following provisions of this section shall apply with respect to the liability of a seafarer employed in a Saint Vincent and the

Grenadines ship to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.

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

(3) Where subsection (2) does not apply, then-

(a) if no special damages are claimed his liability shall be one hundred dollars.

(b) if special damages are claimed his liability shall not be more than five hundred dollars.

122. Where a seafarer employed in a Saint Vincent and the Grenadines ship is found in civil proceedings before a Court in Saint Vincent and the Grenadines to have committed an act of smuggling, whether within or outside Saint Vincent and the Grenadines, he shall be liable to make good any loss or expense that the act has caused to any other person.

Civil liability for smuggling

123. (1) The following provisions of this section shall apply where, at a time when a Saint Vincent and the Grenadines ship is in the internal waters or territorial seas of any country outside Saint Vincent and the Grenadines, a seafarer employed in the ship is absent without leave and present in that country in contravention of that country's laws.

Civil liability for fines under immigration laws

(2) Where, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seafarer the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 121, be recovered from him as special damages for breach of contract.

(3) Where, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds three hundred dollars then three hundred dollars may be recovered by him from the seafarer.

#### **Relief And Repatriation And Relief Costs**

124. (1) Where-

(a) a person employed as a seafarer in a Saint Vincent and the Grenadines ship is left behind in any country

Relief and return of seafarers left behind or shipwrecked

outside Saint Vincent and the Grenadines or is taken to such a country on being shipwrecked; or

- (b) a person who became so employed under an agreement entered into outside Saint Vincent and the Grenadines is left behind in Saint Vincent and the Grenadines or is brought to Saint Vincent and the Grenadines on being shipwrecked;

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

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

(3) The Minister may make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1) , and any property of his left on board ship, are to be dealt with.

(4) The Minister may also make regulations requiring the Registrar of Seafarers or proper officer to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section.

(5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision-

- (a) for determining the place to which a person is to be returned;
- (b) for requiring the master of any Saint Vincent and the Grenadines ship to convey a person to a place determined in accordance with the regulations and for enabling the Registrar of Seafarers or proper officer to give the master directions for that purpose;
- (c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and

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

(6) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding forty thousand dollars or such less amount as may be specified in the regulations.

(7) This section applies to a person left behind on being discharged in pursuance of section 81, whether or not at the time he is left behind the ship is still a Saint Vincent and the Grenadines ship.

(8) This section applies to the master of a ship as it applies to a seafarer and sections 125 and 126 shall have effect accordingly.

125. Where a person left behind in or taken to any country as mentioned in section 124(l) remains there after the end of a period of three months the persons who last employed him as a seafarer shall be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

Limit of employer's liability under section 124

126. (1) Where any expenses are incurred in respect of any matter for which the employers of a seafarer are required to make provision under section 124, then-

Recovery of expenses from employer incurred for relief return

(a) if the expenses are incurred by the Administration, or are incurred by the government of any country outside Saint Vincent and the Grenadines and repaid to them on behalf of the Government, the Administration may recover them from the employers;

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

127. Where, in the case of any seafarer, expenses are incurred by the Administration or are incurred by the government of any country outside Saint Vincent and the Grenadines and repaid to them on behalf of the Government-

Recovery of expenses from seafarer

- (a) in respect of any matter for which, but for section 124, the seafarer's last employers would have been required to make provision under section 125; or
- (b) in respect of any matter for which provision is required to be made under section 124(5)(b),

the Administration may recover them from the seafarer or, if he has died, from his personal representatives.

#### **Documentation**

Official and other log books

128. (1) Except as provided by regulations made under this section, an official log book in a form approved by the Director shall be kept in every Saint Vincent and the Grenadines ship.

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

(3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.

(4) Regulations made under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.

(5) Regulations made under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding thirty thousand dollars or not exceeding a lesser amount.

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

(7) Subject to subsection (8), the entries in the deck log book and engine room log book referred to in subsection (6) shall be made in English except where all persons making entries in those log books have a common language other than English in which case the entries may be made in that common language.

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

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

(10) Where a person intentionally destroys or mutilates or renders illegible any entry in any log book he is guilty of an offence and liable on summary conviction to a fine not exceeding forty thousand dollars.

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

Lists of crews

(2) The Minister may make regulations-

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

(3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.

(4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.

(5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding thirty thousand dollars or not exceeding a lesser amount.

Saint Vincent and the  
Grenadines seafarer's  
cards

130. (1) The Minister may make regulations providing-

- (a) for the issue to Saint Vincent and the Grenadines seafarers of cards (in this section referred to as "Saint Vincent and the Grenadines seafarers's cards") in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring Saint Vincent and the Grenadines seafarers to apply for such cards;
- (b) for requiring the holders of Saint Vincent and the Grenadines seafarers's cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;
- (c) for the surrender of Saint Vincent and the Grenadines seafarers's cards in such circumstances as may be prescribed by the regulations;
- (d) for any incidental or supplementary matters for which the Minister thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) may be so framed as to apply to all Saint Vincent and the Grenadines seafarers or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) A contravention of any provision of the Regulations made under this section is an offence punishable on summary conviction with a fine not exceeding thirty thousand dollars or not exceeding a lesser amount.



(3) Where a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a Saint Vincent and the Grenadines seafarer's card he is guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars.

131. (1) The Minister may make regulations providing-

Discharge of books

- (a) for the issue to persons who are or have been employed in Saint Vincent and the Grenadines ships of discharge books in such form and containing such particulars with respect to the holders thereof and such other particulars, if any, as may be prescribed by the regulations and for requiring such persons to apply for such discharge books;
- (b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;
- (c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;
- (d) for any incidental or supplementary matters for which the Minister thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may-

- (a) provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 111 (3) or (4); and

- (b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.

(3) A contravention of any provision of the Regulations made under this section is an offence punishable on summary conviction with a fine not exceeding thirty thousand dollars or not exceeding a lesser amount.

(4) A person who, in Saint Vincent and the Grenadines or elsewhere-

- (a) obtains employment as a seafarer on board a Saint Vincent and the Grenadines ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (2)(a); or
- (b) employs as such a seafarer a person who he knows or has reason to suspect is disentitled as aforesaid,

is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars or, on conviction on indictment to a fine not exceeding thirty thousand dollars or, imprisonment for a term not exceeding one year, or both.

Handing over of documents by master

132. (1) Where a person ceases to be the master of a Saint Vincent and the Grenadines ship during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.

(2) Where, without reasonable excuse, the master of such a ship fails to comply with subsection (1), he is guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars.

## **PART VII**

### **PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION**

#### **Collision Regulations, Distress and Safety**

Collision regulations

133. The Minister may make regulations, hereinafter referred to as "Collision Regulations"-

- (a) for the prevention of collisions at sea;
- (b) respecting the lights to be carried and exhibited;

- (d) respecting the steering and sailing rules to be observed by ships,

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

134. (1) All owners and masters of Saint Vincent and the Grenadines ships shall obey the Collisions Regulations and shall not carry or exhibit any other lights or use any fog signals other than such as are prescribed by those regulations.

Saint Vincent and the Grenadines ships to observe collision regulations

(2) Where an infringement of the Collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of an offence and on summary conviction thereof shall be liable to a fine not exceeding fifteen thousand dollars or six months imprisonment.

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

135. The Collision Regulations shall be observed by all foreign ships and seaplanes within the waters of Saint Vincent and the Grenadines, and in any case before a Court in Saint Vincent and the Grenadines concerning a breach of the collision regulations arising within the waters of Saint Vincent and the Grenadines, foreign ships and seaplanes shall be treated as if they were Saint Vincent and the Grenadines ships and seaplanes registered in Saint Vincent and the Grenadines.

Foreign ships in Saint Vincent and the Grenadines waters

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

Collision liability

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

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

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

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

(6) In respect of damages caused by death or personal injuries, the vessels in fault shall be jointly and severally liable to third parties, without prejudice, however, to the right of the vessel which has paid a larger part than that which, in accordance with the provisions of subsections (1) and (2), she ought ultimately to bear, to obtain a contribution from the other vessel or vessels at fault.

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

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

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

Inspection to enforce compliance with collision regulations

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

Duty to render assistance following collision

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

- (a) render to the other ship, the master, crew and passengers, if any, thereof, such assistance as may be practicable and as may be necessary to save them from any danger by the collision, and stand by the other ship, until he has ascertained that such ship has no need for further assistance;
- (b) give the master of the other ship the name and port of registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) Subsection (1) shall apply to the masters of Saint Vincent and the Grenadines ships and to the masters of foreign ships when in the waters of Saint Vincent and the Grenadines.

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

139. Where the master of a ship fails without reasonable cause to comply with section 138, he is guilty of an offence and-

Offences

- (a) in the case of a failure to comply with section 138(1) (a), is liable upon conviction thereof to a fine not exceeding thirty thousand dollars, or imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and
- (b) in the case of a failure to comply with section 138(1) (b), is liable upon conviction thereof to a fine not exceeding fifteen thousand dollars or six months imprisonment,

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

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

Master to notify hazards to navigation

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

- (a) dangerous ice;
- (b) a dangerous derelict;
- (c) a tropical storm;
- (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;
- (e) winds of force 10 or above on the Beaufort scale for which no storm warning has been received; or
- (f) any other direct danger to navigation.

(3) Where the master fails to comply with this section, he is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars or six months imprisonment;

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

(5) For the purposes of this section-

“tropical storm” means a hurricane, typhoon, cyclone or other storm of a similar nature, and a master of a ship shall be deemed to have encountered a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Master to proceed moderately in danger sea

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

(2) The master of a ship who fails to comply with this section, is guilty of an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or six months imprisonment.

Duty to assist ships when in distress

142. (1) The master of a Saint Vincent and the Grenadines ship on receiving at sea a signal from any source that a ship or aircraft or a 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, and if-

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

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

(2) The master of a ship shall be released from the duty imposed by subsection (1) as soon as he is informed of the requisition of one or more ships, other than his own, under section 143 that the requisition, is being complied with by the ship or ships requisitioned.

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

Right to requisition ships when in distress

(2) The master of a ship shall be released from the duty imposed by section 142 subsection (1) and, if his ship has been requisitioned, from the duty imposed by subsection (1), if he is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer required.

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

Duty to assist persons in danger at sea

145. (1) The duties imposed on the master of ship by sections 142, 143 and 144 shall apply to the masters of Saint Vincent and the Grenadines ships and to the masters of foreign ships when in the waters of Saint Vincent and the Grenadines.

Application of duties imposed by sections 142, 143 & 144 penalties for failure to comply and salvage rights

(2) Where a master fails to comply with sections 142, 143 and 144 he is guilty of an offence for each such failure, and upon summary conviction is liable, for each such offence, to a fine not exceeding thirty thousand dollars, or imprisonment for a term not exceeding six months, or both.

(3) Compliance by a master with sections 142, 143 and 144 shall not affect his right, or the right of any other person to salvage.

Regulations for  
signals of distress

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

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

- (a) any signal except in circumstances and for the purposes prescribed; and
- (b) any signal that is liable to be mistaken for any prescribed signal;
- (c) he is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars or six months imprisonment, and in addition, is liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency; and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(3) Where the master who contravenes subsection (2) is a certificated officer under this Act, he shall be subjected to an inquiry into his conduct as provided in section 112.

Reports of accidents  
to ships

147. (1) When a ship-

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; or
- (b) has sustained any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery;
- (c) the owner or master thereof shall, within twenty-four hours after the happening of the accident or causing of the damage or as soon as possible thereafter, transmit to a proper officer if the ship is in a foreign port, or otherwise to the Director, a report of the accident or damage.



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

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

(3) Where the owner or managing owner, or if there is no owner or managing owner resident in Saint Vincent and the Grenadines, the representative person of the owner or the agent of any ship to which this section applies, has reason to believe that-

- (a) 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 to the Director by the master; and
- (b) the accident or damage has not been so reported, he shall as soon as possible, send to the Director notice in writing stating the name of the ship, its official number, and its port of registry or the port to which it belongs, stating to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(4) The master, owner, managing owner, representative person or agent who fails, without reasonable cause to comply with this section is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(5) This section applies to all Saint Vincent and the Grenadines ships and to all foreign ships carrying passengers between places in the waters of Saint Vincent and the Grenadines .

148. (1) Where the managing owner or agent of any Saint Vincent and the Grenadines ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost, he shall cause a reasonable search to be made for the ship

Apprehended loss of ship

and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and stating-

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

(2) Any managing owner or agent of a ship who fails without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe that the ship has been lost, is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

Notices to mariners and navigational warnings

149. (1) The Director shall take appropriate steps to advise the seafaring community and the public of any developing or existing situations which may adversely affect maritime safety.

(2) Such information may take the form of Notices to Mariners and navigational warnings may be issued and communicated by any means as the circumstances may warrant.

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

#### **Aids To Navigation and Charts and Publications**

Interpretation and application

150. For the purposes of this section and sections 151 to 157-

“aids to navigation” and “aids” means all lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation and includes all buildings, moorings and other works associated therewith.

Establishment and management of aids

151. (1) There shall be established in Saint Vincent and the Grenadines such navigational aids as are necessary to facilitate safe navigation of ships within the waters of Saint Vincent and the Grenadines.

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

Nautical publication, charts and other information

152. (1) No navigational aid shall be established-

- (a) without the prior written consent of the Director, or any other person authorised by him for the purpose; and
- (b) unless it conforms to such specifications as may be stipulated.

(2) No navigational aid shall be discontinued or have its lighting characteristics or any other distinguishing feature altered, without the prior written consent of the Director or any other person authorised by him for the purpose.

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

153. The Director shall exercise general supervision over all navigational aids and in particular shall-

Functions of the Director

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

154. A person who-

Offence

- (a) contravenes section 151 or 152;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;
- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;

	<p>(e) trespasses on or without lawful excuse, is found in or on -</p> <p>(i) an aid; or</p> <p>(ii) on any land upon which an aid is situated; and</p> <p>(f) fails to notify the Director as soon as practicable after the aid is damaged, destroyed or fouled,</p> <p>is guilty of an offence and, in addition to the expenses of making good any damage so occasioned, is liable to a fine not exceeding fifteen thousand dollars.</p>
Detention of ships	155. Where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of repairing or replacing the aid or rendering the aid effective again is paid.
Fire or lights detrimental to navigation	<p>156. (1) No person shall show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of Saint Vincent and the Grenadines.</p> <p>(2) Any person who fails to comply with subsection (1) is guilty of an offence and liable to a fine on summary conviction not exceeding thirty thousand dollars.</p> <p>(3) The Director may cause to be extinguished any false or unauthorised lights, and for this purpose the Director or any person authorised by him may enter the place where the light is situated and forthwith extinguish the same without causing unnecessary damage.</p>
Regulations in respect of navigational aids	<p>157. The Minister may by regulations:</p> <p>(a) prescribe the system of lighting and other characteristics, marks and features of navigational aids and in doing so shall have due regard to the International Association of Lighthouse Authorities IALA Harmonised Buoyage "System B", or any other international system of buoyage which may replace it;</p> <p>(b) prescribe the penalties for any contravention of such regulations.</p>
Ships navigation equipment and nautical publications	158. (1) The Minister may make regulations specifying such navigation equipment, nautical publications or charts, directions or

information as appear to him to be necessary or expedient for the safe operation of ships.

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

(3) Where a ship goes to sea or attempts to go to sea without carrying the navigation equipment, charts, copies of directions or information which it is required to carry according to the regulations made under this section, the master and owner is each guilty of an offence and liable upon summary conviction to a fine not exceeding fifteen thousand dollars.

### **PART VIII**

#### **SAFETY OF LIFE AT SEA**

##### **General**

159. In this Part

Interpretation

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

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

“Cargo Ship Safety Certificate”, “Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to section 171;

“certificate” means a certificate issued in accordance with the Safety Convention as defined therein;

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

“international voyage” means a voyage between a port in one country and a port in another country where at least one of the ports is a Safety Convention country;

“Passenger Certificate”, “Saint Vincent and the Grenadines Cargo Ship Safety Certificate” and “Caribbean Cargo Ship Safety Certificate”, mean the certificates of those names issued pursuant to section 172;

“radio installation” means any radio installation provided on board a ship in life saving appliances, in compliance with the relevant regulations;

“radio-navigational equipment” means the equipment required by the relevant regulations;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 and its Protocols of 1978 and 1988, together with such amendments thereof or replacements therefor as may be in effect in respect of Saint Vincent and the Grenadines;

“Safety Convention Certificate” means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes a Safety Certificate, Safety Construction Certificate, Safety Equipment Certificate, Safety Radio Certificate, and any such certificate that is limited, modified or restricted by an Exemption Certificate;

“Safety Convention country” means a country the Government of which has accepted the Safety Convention and which has not denounced that Convention or a territory of such country to which the Convention extends and remains extended;

“short international voyage” means an international voyage-

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety;
- (b) which does not exceed 600 nautical miles in length between the last port of call and the final destination, no account being taken of any deviation by a ship from its intended voyage due 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.

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

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

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

160. (1) Subject to subsection (2), the Safety Convention, including all its related instructions, shall, unless excepted by this Act, apply to all Saint Vincent and the Grenadines ships and all other ships engaged on international voyages while they are in the waters of Saint Vincent and the Grenadines.

Application of safety convention and exceptions thereto

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

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

(3) Except as expressly provided in this Act or in Regulations made under this Act nothing in the Safety Convention shall apply to Saint Vincent and the Grenadines ships solely navigating the Great Lakes of North America and the River St. Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and on the north side of Anticosti Island, the 63rd meridian.

(4) Notwithstanding that any provision of this Part or any regulations made hereunder is expressed to apply to ships that are not

Saint Vincent and the Grenadines ships while they are within any port in Saint Vincent and the Grenadines, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

(5) This Part applies to Saint Vincent and the Grenadines ships wherever they may be and to other ships whilst they are in the waters of Saint Vincent and the Grenadines, but not to fishing vessels or pleasure vessels.

Exemptions

161. (1) The Director may exempt any ship or class of ship from any safety requirements imposed by or under this Act either absolutely or subject to such conditions as he thinks fit.

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

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

(4) Notwithstanding anything contained in subsection (3) such ship shall comply with safety requirements which, in the opinion of the Director are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship.

(5) Where any such exemption as is referred to in subsection (3) (a) above is granted, the Director shall communicate to the Organization particulars of the exemptions and the reasons therefor.

(6) The Director may, if he considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to safety construction, life-saving appliances and radio communications unreasonable or unnecessary, exempt from those requirements individual Saint Vincent and the Grenadines ships, or classes of ships which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.



162. (1) The Minister shall make such regulations as may appear to him to be necessary and expedient to give effect to the Safety Convention and its related instruments; and to provide generally for safety at sea, referred to as "Safety Regulations".

Regulations relating to safety at sea

(2) Safety Regulations shall prescribe the requirements for the hull, equipment and machinery of Safety Convention ships and their survey and inspection.

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

163. (1) The Minister may make regulations, in this Act referred to as "Caribbean Cargo Ship Safety Regulations" and "Local Cargo Ship Safety Regulations", prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Saint Vincent and the Grenadines ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

Regulations for cargo ship safety requirements and surveys

(2) Regulations made under this section shall include requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.

(3) This section applies to-

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

164. The Minister may make regulations in this Act referred to as "Small Ship Safety Regulations" prescribing requirements for the hull, equipment and machinery of small ships and requiring such ships to be surveyed to such an extent, in such a manner and at such intervals

Regulations for small ships safety requirements and surveys

as may be prescribed as well as specifying the examinations required for boatmasters and engineers and the appointment of surveyors.

#### **Surveys and Certification**

Surveyor's duties

165. (1) Surveyors appointed pursuant to section 356 shall, as and when required by or under this Act, carry out surveys of-

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

(2) The survey and inspection of ships, so far as regards the enforcement of this Part, shall be carried out by surveyors appointed under section 356 or, subject to such conditions as the Director may impose, by any corporation or society for the survey and classification of ships authorised by the Director.

Surveyor's powers of inspection

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

(2) Where the surveyor finds that the said convention 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 action, in his opinion, is required to rectify such deficiency.

(3) Every notice so given shall be communicated in a manner directed by the Director to the Customs Officer of any port at which the ship may seek a clearance and such clearance shall not be granted and the ship may be detained.

(4) Where the surveyor considers such ship unsafe, or, where 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) Where, under this section, a surveyor visits any ship he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge of the ship, any questions concerning the ship as he thinks fit and every such person shall fully and truthfully answer every such question.

(6) A surveyor may reasonably require of the owner or his agent the master or chief engineer or any other person on board or in charge, or appearing to be in charge of the ship that the machinery of the ship be activated or dismantled so that he may satisfy himself as to its condition and every person of whom such a request is made, capable of so doing, shall comply with the requirement.

(7) A person who contravenes subsection (5) or (6) is guilty of an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

167. A surveyor shall, if satisfied on inspection that he can with propriety do so, forward a report to the Director which shall contain a statement showing-

Surveyor to report to  
Director

- (a) that the hull and machinery are sufficient for the service intended and in good conditions;
- (b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) that the safety equipment and radio installations required under this Part are 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 crew is sufficient and efficient;
- (e) the class of voyage on which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) 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.

Record of inspections  
and certificates

168. 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 Director may direct, and shall furnish copies thereof and any other information pertaining to the duties of his office which the Director may require.

Responsibilities of  
owner and master and  
compliance with ISM  
Code

169. (1) The owner and master of every ship to which this section applies shall ensure that-

- (a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provisions of this Part applicable to the ship;
- (b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a surveyor, except by direct replacement;
- (c) whenever an accident occurs to a ship or a defect is covered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment-
  - (i) it is reported at the earliest opportunity to a surveyor, or a proper officer; and
  - (ii) if a Saint Vincent and the Grenadines ship is in such a case in a port outside Saint Vincent and the Grenadines it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subsection (1)(c)(i), the surveyor or proper officer, as the case may be, shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

(3) Subsections (1) and (2) shall apply to-

- (i) Saint Vincent and the Grenadines ships; and

- (ii) except as regards subsection (1)(a), other ships which have been surveyed pursuant to this Part.

(4) All Saint Vincent and the Grenadines ships, all other ships while in the waters of Saint Vincent and the Grenadines and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.

(5) For the purposes of subsection (4), "ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organization as may be amended from time to time, and "Company" has the same meaning as in the ISM Code.

170. (1) In any case where a surveyor determines that the condition of a ship to which this section applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Director.

Procedure to be adopted when the ship, including its structure, machinery and equipment is deficient

(2) Where such corrective action is not taken within a reasonable period as a surveyor may specify, the surveyor, shall, at the end of that time, immediately notify the Director who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and give notice of any such suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies only to Saint Vincent and the Grenadines ships and other ships which have been surveyed pursuant to this Part.

171. (1) When a survey or surveys to meet the requirements set out in this Part and regulations made under section 162 are satisfactorily completed the Director, or any other person authorised by him, shall issue-

Issue of certificates to Saint Vincent and the Grenadines ships engaged on international or short international voyages

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless the ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate shall be issued;

- (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
- (c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; or
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Certificate may be issued as an alternative to the certificates referred to in subsection (1)(b),(c) and (d).

(3) Whenever in this Part reference is made to a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, or a Cargo Ship Safety Radio Certificate, it shall apply to a Cargo Ship Safety Certificate where it is used as an alternative to these certificates.

Issue of certificates to Saint Vincent and the Grenadines ships not engaged on international voyages and ships of less than 500 tons

172. When a survey or surveys, to meet the requirements set out in this Part or in regulations made under section 163 are satisfactorily completed the Director shall issue-

- (a) in the case of a Saint Vincent and the Grenadines passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;
- (b) in the case of a Saint Vincent and the Grenadines cargo ship of 500 tons or over not engaged on international voyages, a Saint Vincent and the Grenadines Cargo Ship Safety Certificate; or
- (c) subject to regulations made under section 164, in the case of a Saint Vincent and the Grenadines cargo ship of less than 500 tons, a Caribbean Cargo Ship Safety Certificate.

Form of certificate

173. (1) A Passenger Ship Safety Certificate, Cargo Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificates shall be in the form prescribed by the Safety Convention.

(2) A Passenger Certificate, Saint Vincent and the Grenadines Cargo Ship Safety Certificate and Caribbean Cargo Ship Safety Certificate shall be in such form as may be prescribed by the Minister and a Passenger certificate shall indicate compliance with the provisions of this Act and state-

- (a) the limits (if any) beyond which the ship is not fit to ply;
- (b) the number of passengers which the ship is fit to carry;
- (c) any condition with which the ship has to comply.

174. (1) The duration of certificates issued under section 171 shall be as follows-

Duration and validity of certificates

- (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding twelve months;
- (b) a Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate or a Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding five years.

(2) The duration of certificates issued under section 172 shall be as follows-

- (a) a Passenger Certificate shall be issued for a period of validity not exceeding twelve months;
- (b) a Saint Vincent and the Grenadines Cargo Ship Safety Certificate and a Caribbean Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding five years.

(3) A certificate shall cease to be valid-

- (a) if its period of validity has been exceeded and the certificate has not been extended when permitted by section 176;
- (b) if annual, intermediate or periodical surveys have not been carried out in accordance with this Part and the certificate has not been endorsed;

- (c) upon the transfer of a ship to the flag of another State.

Issue and duration of exemption certificates

175. (1) When an exemption is granted to a ship in accordance with the relevant provisions applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under section 171.

(2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificates to which it refers.

(4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

Extension and other provisions

176. (1) Where a Saint Vincent and the Grenadines ship, at the time when a certificate issued under section 171(1) or (2) expires, is not in a port in Saint Vincent and the Grenadines or the port in which it is to be surveyed, the Director may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in Saint Vincent and the Grenadines or the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than three months, and a ship to which the extension is granted shall not, on its arrival in a port in Saint Vincent and the Grenadines or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Saint Vincent and the Grenadines without having obtained a new certificate.

(2) The Director may extend a certificate issued under 171(1) or (2) which has not been extended under subsection (1) for a period of grace of up to one month from the date of expiry stated on it.

(3) In the case of a Saint Vincent and the Grenadines ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Director may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board



for that voyage and sets out the details of the modifications that may be made with respects to life-saving appliances stated on the certificate.

(4) The memorandum referred to in subsection (3) shall be attached to the certificate during the particular voyage and shall be returned to the Director at the completion of the voyage.

(5) In the case of a ship that has transferred from the registry of the Government of another country to Saint Vincent and the Grenadines registry, the Director, subject to such survey requirements that may be considered to be necessary may, issue one or more of the certificates prescribed by sections 171 and 172 for a period to be determined by the Director, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the Government of that other country if satisfied that-

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the Government of that country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in subparagraph (a) have been completed, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other State or the Director except by direct replacement.

177. The Director may request through a proper officer or otherwise, the Government of a country to which the Safety Convention applies to survey a ship and, if satisfied that the requirements of the Convention are complied with to issue or authorise the issue to the ship the certificates referred to in section 176, and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Director.

Issue and  
endorsement of  
certificates by  
another government

Ships not registered in Saint Vincent and the Grenadines and to which the safety convention applies

178. (1) The Director may, at the request of a Government of a country to which the Safety Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 171 and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that Government and not by the Director.

(2) Where a memorandum, issued by or under the authority of the Government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the Safety Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.

(3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that there is in force a certificate or certificates required by this Part, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that there is compliance with the provisions of section 181.

Other ships which are not Saint Vincent and the Grenadines ships

179. (1) When a survey of ship which is not Saint Vincent and the Grenadines ship, is completed in accordance with the requirements of this Part the Director shall issue-

- (a) in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
- (b) in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Certificate;

(2) A certificate issued under subsection (1) shall subject to the requirements of this Part be deemed to be issued under section 172.

Cancellation of a certificate

180. (1) The Director may cancel a certificate issued to a Saint Vincent and the Grenadines ship where he has reason to believe that-

- (a) that the certificate was fraudulently issued;
- (b) that the certificate was altered without permission;
- (c) the certificate was issued on false or erroneous information; or
- (d) since any survey required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Director may give directions for the surrender of a certificate issued to a Saint Vincent and the Grenadines ship where that certificate has expired or has been cancelled.

(3) Any person who-

- (a) intentionally alters a certificate referred to in this Part;
- (b) intentionally makes a false certificate referred to in this Part;
- (c) in connection with any survey required by this Part, knowingly or recklessly furnishes false information;
- (d) with intent to deceive, uses, lends, or allows to be used by another, a certificate referred to in this Part; or
- (e) fails to surrender a certificate required to be surrendered under subsection (2);

is guilty of an offence and is liable to a fine not exceeding fifteen thousand dollars.

181. The owner and master of every ship issued with a certificate in accordance with this Part shall ensure that it is readily available on board for examination at all times.

Availability of certificates

182. (1) No Saint Vincent and the Grenadines ship shall proceed to sea unless it has been surveyed and there is in force the following certificate or certificates-

Prohibition on proceeding to sea without the appropriate documentation

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if the ship is only engaged on short

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international voyages, a short international voyage  
Passenger Ship Safety Certificate;

- (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate; and
- (c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate; or
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Certificate.

(2) No ship registered in a country to which the safety Convention applies shall proceed to sea from a port in Saint Vincent and the Grenadines unless there is in force such Convention certificates that would be required if the ship was a Saint Vincent and the Grenadines ship. The extension provisions in section 176 shall apply to such certificates as if the ship was a Saint Vincent and the Grenadines ship and the Government of the country in which the ship is registered is substituted for the Director.

(3) No cargo ship of 500 tons and over not engaged on international voyages shall proceed to sea from a port in Saint Vincent and the Grenadines unless it has been surveyed and there is in force a Saint Vincent and the Grenadines Cargo Ship Safety Certificate, unless there is in force a Cargo Ship Safety Certificate as referred to in this Part.

(4) Subject to regulations made under section 164, no cargo ship of less than 500 tons shall proceed to sea from a port in Saint Vincent and the Grenadines unless it has been surveyed and there is in force a Caribbean Cargo Ship Safety Certificate.

(5) No ship registered in a country to which the Safety Convention does not apply shall proceed to sea from a port in Saint Vincent and the Grenadines unless the ship is in the possession of documentation which shows that either the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it was a Saint Vincent and the Grenadines ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(6) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.

(7) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section, and a clearance shall not be granted and the ship may be detained until those certificates are produced.

183.(1) Subject to regulations made under section 164, a passenger ship engaged on voyages which are not international voyages shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate applicable to that voyage or excursion.

Prohibition on proceeding on a voyage or excursion without the appropriate certificate

(2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

184. The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's passenger Ship Safety Certificate or Passenger Certificate.

Limit on the number of passengers on passenger ship

185.(1) Where a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the regulations made under sections 162 to 164, the owner and master of the ship is each guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

Offences

(2) Any contravention of section 169(1), section 182(1) to (6) or section 183 is an offence by both the owner and master, and each is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

(3) Where a ship proceeds to sea without section 181 being complied with, the owner and master is each guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

(4) Any contravention of section 184, is an offence by both the owner and master and each is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars, or on conviction on indictment to a fine not exceeding fifty five thousand dollars, or imprisonment for a term not exceeding two years, or both.

(5) Any contravention of section 182(7) is an offence by the master and is punishable on summary conviction by a fine not exceeding ten thousand dollars.

(6) In any proceedings for an offence under this Part it shall be a defence for the person charged to prove that he took all reasonable steps to ensure compliance with this Part.

Power to detain

186. In any case where the owner of a ship fails to comply with the requirements of this Part, the ship shall be liable to be detained.

Arbitration

187. (1) Should an owner, or any other person making application for a survey required by these Regulations, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within twenty-one days of the completion of the survey, on the person responsible for issuing the particular certificate under section 171 or 172, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by the arbitrator or in the event that there is no agreement to an arbitrator appointed by the Minister.

(2) A person shall not be qualified for appointment as an arbitrator under this regulation unless he is-

- (a) a person holding a certificate of competency as Master without limitation or as a Chief Engineer without limitation, or a person holding a certificate equivalent to any such certificate; or
- (b) a naval architect; or
- (c) an attorney at law with at least ten years experience in shipping law; or
- (d) a person with special experience of the shipping industry.

(3) In connection with his functions under this section, an arbitrator shall have the powers of inspection conferred by the relevant provisions of Part XVII.

#### Miscellaneous

Penalty for non-compliance with conditions of exemption certificates

188. Where an exemption certificate, issued in respect of any Saint Vincent and the Grenadines ship, specifies conditions on which the

certificate is issued and any of those conditions is not complied with, the owner and the master of the ship is guilty of an offence and each is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

189. (1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship it shall be accepted and the ship shall be exempted from surveys or inspection under this Part, unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the Certificate or that the ship and its equipment are not in compliance with regulations made under this Act respecting the maintenance of conditions of the ships and their equipment after survey.

Inspection of ships  
holding safety  
c o n v e n t i o n  
certificates

(2) Where a Certificate is not acceptable due to the circumstances referred to in subsection (1), or if a Certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances, namely-

- (a) the local Consular officer of the ship's flag State or, in his absence, the nearest diplomatic representative of the ship's flag State; and
- (b) nominated surveyors or recognised organisations responsible for the issue of the certificate referred to in subsection (1).

(3) Where any ship referred to in subsection (2) is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

190. (1) Every Saint Vincent and the Grenadines passenger ship, regardless of size, and every Saint Vincent and the Grenadines cargo ship having a length of 24 metres and upwards, shall carry on board such information about the ship's stability as may be prescribed.

Ships to carry  
stability information

(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 a similar determination of the stability of a sister ship.

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and master is guilty of an offence and each is liable on summary conviction to a fine not exceeding ten thousand dollars.

Regulations for local safety certificates including fishing vessels

191. (1) The Minister may make regulations prescribing safety requirements and providing for the issue of local certificates in respect of-

- (a) fishing vessels;
- (b) pleasure vessels; and
- (c) or such other classes or classes of vessels as may be designated.

(2) In making regulations respecting fishing vessels the Minister shall have due regard to the International Convention for the Safety of Fishing Vessels, 1977, as amended by the Protocol of 1993.

## **PART IX**

### **SAFETY OF SUBMERSIBLES**

#### **Interpretation and Application**

Interpretation

192. In this Part, except where the context otherwise requires -

“apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment or and any other form of equipment;

“diving bell” means any compression chamber which is capable of being manned and is used or designed for use under the surface of the water in supporting human life, being a chamber in which any occupant is or may be to a pressure of more than 300 millibars above atmospheric pressure during normal operation;

“submersible craft” means any description of manned mobile submersible apparatus, not being a diving bell, which is designed to maintain some or all of its occupants at or near atmospheric pressure including free, self-propelled, tethered, towed or bottom contact propelled apparatus and atmospheric diving suits;



“supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible craft.

193. The Minister may make regulations-

- (a) regarding the operation of submersible craft;
- (b) providing for registration of submersible craft;
- (c) providing for the requirements for the registration of submersible craft;
- (d) providing for inquiries, investigation, offences and legal proceedings in relation to submersible craft including the detention of submersible craft;
- (e) specifying construction requirements for submersible craft and supporting apparatus to which this Part applies;
- (f) specifying requirements for the carriage of equipment and stores by submersible craft and supporting apparatus to which this Part applies;
- (g) requiring submersible craft and supporting apparatus to which this Part applies to be surveyed and providing for the making of declarations of survey;
- (h) specifying the criteria which are to be satisfied prior to the issue of a certificate for issue of safety certificates;
- (i) imposing penalties on summary conviction in respect of a contravention of any provisions of any such regulations not exceeding, in respect of any one contravention, fifty five thousand dollars;
- (j) prescribing obligations which any person concerned in the operation of submersible craft and supporting apparatus to which this Part applies must fulfill;
- (k) prescribing the qualifications necessary to be held by any person concerned in the operation of a submersible craft and supporting apparatus to which this Part applies; and

Regulations for  
c o n s t r u c t i o n ,  
equipment etc. of  
submersible craft

- (l) for detaining any submersible craft or supporting apparatus in respect of which a contravention of any such regulations has or is suspected to have occurred and, in relation to such submersible craft or supporting apparatus, for applying sections 384 to 385 subject to such modifications as may be prescribed in the regulations.

### **PART X**

#### **LOAD LINES**

##### **General**

Interpretation

194. (1) In this Part, except in so far as the context otherwise requires-

“alteration” includes deterioration;

“clearance” includes transire;

“the Load Lines Convention “ means the International Convention on Load Lines, 1966, and its Protocol of 1988, as amended;

“Convention country” and “Contracting Government” have the meanings given to them by section 223;

“non-Saint Vincent and the Grenadines ship” means a ship which is not registered in Saint Vincent and the Grenadines;

“post-1966 Convention ship” means a ship whose keel is laid, or which is at a similar stage of construction, on or after the material date;

“pre-1966 Convention ship” means a ship which is not a post-1966 Convention ship;

“valid Convention certificate” has the same meaning given to it by section 206(5).

(2) For the purposes of the definitions of pre-1966 and post-1966 Convention ship the material date-

- (a) in relation to a ship which is registered in or flies the flag of a Convention country other than Saint Vincent and the Grenadines, is the date as from which it is

declared under section 223 that the government of that country has accepted or acceded to the Convention of 1966 or that it is a territory to which that Convention extends; and

(b) in relation to any other ship, is 21st July 1968.

(3) In this Part, subject to subsection (4), “international voyage” means a voyage between-

(a) a port in Saint Vincent and the Grenadines and a port outside Saint Vincent and the Grenadines; or

(b) a port in a Convention country (other than Saint Vincent and the Grenadines) and a port in any other county or territory (whether or not a Convention country) which is outside Saint Vincent and the Grenadines.

(4) In determining an international voyage under subsection (3), no account shall be taken of any deviation made by a ship from its intended voyage, where the deviation is due solely to stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and for the purposes of that subsection any territory for whose international relations a Government is separately responsible shall be taken to be a separate territory.

(5) Any reference in this Part to the “gross tonnage” of a ship shall be construed as a reference to the tonnage of the ship as ascertained in accordance with the tonnage regulations, and where in accordance with those regulations alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of this Part, be taken to be the larger of those tonnages.

(6) For the purposes of this Part the length of a ship shall be ascertained in accordance with regulations made by the Minister under this Part.

(7) Any reference in this Part to any provision of the Load Lines Convention shall, in relation to any time after that provision has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that provision as so amended.

195. This Part applies to all ships except-

Ships to which Part applies

- 
- (a) ships of war;
- (b) ships solely engaged in fishing; and
- (c) pleasure vessels.
- Load line regulations      196. (1) The Minister shall make regulations in accordance with the following provisions of this Part (referred to as “the load line regulations”); and in making those regulations the Minister shall have regard in particular to the Load Lines Convention.
- (2) The load line regulations shall make provision-
- (a) for the surveying, and inspection of ships to which this Part applies;
- (b) for determining freeboards to be assigned from time to time to such ships;
- (c) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the regulations; and
- (d) for determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the regulations, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations.
- (3) The load line regulations shall include the following provisions-
- (a) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Part applies as appear to the Minister to be relevant to the assignment of freeboards to such ships;
- (b) provisions whereby, at the time when freeboards are assigned to a ship in accordance with the load line regulations, such particulars relating to those requirements as may be determined in accordance

with the regulations are to be recorded in such manner as may be so determined; and

- (c) provisions for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of this Part to be taken to comply, or not to comply, with the conditions of assignment;

and those provisions shall be set out separately in the load line regulations under the title of “regulations as to conditions of assignment”.

(4) The load line regulations shall also include provisions requiring such information relating to the stability of any ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the regulations to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) In relation to any matter authorised or required by this Part to be prescribed by the load line regulations, those regulations may make different provisions by reference to (or to any combination of) any of the following, that is to say, different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

(6) Except in so far as the context otherwise requires, in this Part “deck-line” means such a mark as is referred to in subsection (2)(c), and “load lines” means such lines as are referred to in subsection (2)(d).

#### **Saint Vincent and the Grenadines Ships**

197. (1) Subject to any exemption conferred by or under this Part, no Saint Vincent and the Grenadines ship to which this Part applies shall proceed or attempt to proceed to sea unless-

Compliance with load line regulations

- (a) the ship has been surveyed in accordance with the load line regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with those regulations;
- (c) the ship complies with the conditions of assignment; and

(d) the information required by those regulations to be provided as mentioned in section 196(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) Where any ship proceeds or attempts to proceed to sea in contravention of subsection (1), the owner or master of the ship is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

(3) Any ship which in contravention of subsection (1) attempts to proceed to sea without being surveyed and marked as mentioned in subsection (1)(a) and (b) may be detained until it has been so surveyed and marked.

(4) Any such ship as is mentioned in subsection (1) which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of Part XII.

Submersion of load lines

198. (1) Where a Saint Vincent and the Grenadines ship to which this Part applies is marked with load lines, the ship shall not be so loaded that-

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Where any ship is loaded in contravention of subsection (1), the owner and master of the ship is (subject to subsection (5)) guilty of an offence and liable on summary conviction, to a fine not exceeding thirty thousand dollars and to such additional fine, not exceeding an amount calculated in accordance with subsection (3), as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention;

(3) Any additional fine imposed under subsection (2) shall not exceed two hundred and seventy five thousand dollars for each complete centimetre by which-

(a) in a case falling within subsection (1)(a), the appropriate load line on each side of the ship was submerged; or

(b) in a case falling within subsection(1)(b), the appropriate load line on each side of the ship would have been submerged as therein mentioned.

(4) Where the master of a ship takes the ship to sea when it is loaded in contravention of subsection (1), or, if any other person, having reason to believe that the ship is so loaded, sends or is party to the sending of the ship to sea when it is loaded in contravention of that subsection, then without prejudice to any fine to which he may be liable in respect of an offence under subsection (2) he is guilty of an offence and liable on summary conviction, to a fine not exceeding fifteen thousand dollars.

(5) Where a person is charged with an offence under subsection (2), it shall be 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) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) may be detained until it ceases to be so loaded.

(7) For the purposes of the application of this section to a ship in any circumstances prescribed by the load line regulations in accordance with section 196(2)(d), "the appropriate load line" means the load line which, in accordance with those regulations, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

199. (1) Where a Saint Vincent and the Grenadines ship to which this Part applies is marked in accordance with any requirements as to marking imposed by or under this Part, then if-

(a) the owner or master of the ship fails without reasonable excuse to keep the ship so marked; or

(b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under

Miscellaneous  
offences in relation  
to marks

his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he does so under the authority of a person empowered under the load line regulations to authorise him for that purpose,

he is guilty of an offence and liable on summary conviction, to a fine not exceeding fourteen thousand.

Issue of load line certificates

200. (1) Where a Saint Vincent and the Grenadines ship to which this Part applies has been surveyed and marked in accordance with the load line regulations the appropriate certificate shall be issued to the owner of the ship on his application.

(2) For the purposes of this section the appropriate certificate-

- (a) in the case of a pre-1966 Convention ship of not less than 150 gross tonnage, and in the case of a post-1966 Convention ship of not less than 24 meters in length, is a certificate which shall be called an "International Load Line Certificate (1966)"; and
- (b) in the case of any other ship, is a certificate which shall be called a "Saint Vincent and the Grenadines load line certificate".

(3) Subject to subsection (4) below, any certificate required by subsection (1) to be issued-

- (a) shall be issued by the Director or by a person authorised for that purpose by the Director; and
- (b) shall be in such form, and shall be issued in such manner, as may be prescribed by the load line regulations.

(4) The Director may request a Contracting Government to issue an International Load Line Certificate in respect of any ship to which this Part applies which is a Saint Vincent and the Grenadines ship falling within subsection (2)(a); and the following provisions of this Part shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Government of Saint Vincent and the Grenadines, as they have effect in relation to an International Load Line Certificate issued by the Director.



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 regulations; 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 regulations, and the positions of those lines so marked correspond to the positions of the deck-line and load lines so specified in the certificate, the ship shall be deemed to be marked as required by those regulations.

202. (1) The load line regulations shall make provision for determining the period during which any certificate issued under section 200 is to remain in force, including-

D u r a t i o n ,  
endorsement and  
cancellation of load  
line certificates

- (a) provision enabling the period for which any such certificate is originally issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and
- (b) provision for cancelling any such certificate in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to-

- (a) periodical inspections of the ship in accordance with the load line regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

203. (1) Subject to any exemption conferred by or under this Part, no Saint Vincent and the Grenadines ship to which this Part applies shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

Ships not to proceed  
to sea without load  
line certificate

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer of Customs from whom a clearance for the ship is demanded and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) Where any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

(4) In this section “the appropriate certificate” means the certificate which is the appropriate certificate for the purposes of section 200.

Publication of load line certificate and entry of particulars in official log book

204. (1) Where a certificate is issued in respect of a ship under section 200 the owner of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use.

(2) Before any Saint Vincent and the Grenadines ship to which this Part applies leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship, shall cause a notice to be posted up in some conspicuous place on board the ship, which shall be in such form and containing such particulars relating to the depth to which the ship is for the time being loaded as may be specified in regulations made by the Minister under this Part.

(3) Where a notice required by subsection (2) has been posted up, the master of the ship shall cause it to be kept posted up and legible until the ship arrives at some other dock, wharf, harbour or place.

(4) Where the owner or master of a ship fails to comply with any requirement of this section, each is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

Inspection of ships

205. A surveyor may inspect any Saint Vincent and the Grenadines ship to which this Part applies for the purpose of verifying that the provisions of this Part have been complied with in respect of the ship.

#### **Non-Saint Vincent and the Grenadines Ships**

Valid convention certificates

206. (1) This section applies to any non-Saint Vincent and the Grenadines ship which-

- (a) is registered in a Convention country or not being registered in any such country or elsewhere, flies the flag of a Convention country; and

- (b) is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 meters in length.

(2) The Director may, at the request of the Government of a country as referred to in subsection (1), issue in respect of a ship referred to in subsection (1), a certificate in such form as may be prescribed by the load line regulations, if the Director is satisfied that he could properly issue a certificate in respect of the ship under section 210(1) if the ship were a Saint Vincent and the Grenadines ship.

(3) The load line regulations shall make such provision as appears to the Minister to be appropriate for ensuring that certificates which are issued as International Load Line Certificates (1966) in respect of ships to which this section applies, and are so issued by Governments other than the Government of Saint Vincent and the Grenadines, shall be recognised for the purposes of this Part in such circumstances as may be prescribed by the regulations.

(4) Certificates issued as mentioned in subsection (2) or (3) shall be included among the certificates called "International Load Line Certificates".

(5) In this Part "valid Convention certificate" means a certificate which either-

- (a) has been issued under subsection (2) and is for the time being in force; or
- (b) having been issued as mentioned in subsection (3), is produced in circumstances in which it is required by the load line regulations to be recognised for the purposes of this Part.

207. (1) Subject to subsection (2), and to any exemption conferred by or under this Part, no non-Saint Vincent and the Grenadines ship to which this Part applies shall proceed or attempt to proceed to sea from any port in Saint Vincent and the Grenadines unless-

Compliance with load line regulations

- (a) the ship has been surveyed in accordance with the load line regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with those regulations;
- (c) the ship complies with the conditions of assignment; and

(d) the information required by those regulations to be provided as mentioned in section 196(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) Subsection (1) does not apply to a ship in respect of which a valid Convention certificate is produced.

(3) Where any ship proceeds or attempts to proceed to sea in contravention of the preceding provisions of this section, the owner or master of the ship shall be guilty of an offence and liable on summary conviction, to a fine not exceeding fifteen thousand dollars.

(4) Any ship which in contravention of this section attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (1)(a) and (b) may be detained until it has been so surveyed and marked.

(5) Where any such ship as is mentioned in subsection (1), not being a ship in respect of which a valid Convention certificate is produced, does not comply with the conditions of assignment it shall be deemed to be unsafe for the purposes of Part XII.

Submersion of load lines

208. (1) Where a non-Saint Vincent and the Grenadines ship to which this Part applies is within any port in Saint Vincent and the Grenadines, and is marked with load lines, the ship shall not be so loaded that-

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Subsections (2), (3), (5) and (6) of section 198 shall have effect for the purposes of this section as if any references in those subsections to subsection (1) of that section, or to paragraphs (1)(a) or (b) of that section, were a reference to subsection (1), or (as the case may be) to the corresponding provision of subsection (1) of this section, subject, however, to subsection (3) of this section.

(3) In the case of a ship to which section 206 applies, the ship shall not be detained, and no proceedings shall be brought by

virtue of subsection (2), unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of section 211.

(4) In relation to a ship in respect of which a valid Convention certificate is produced, "load line" in subsection (1) means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified in the certificate, the "appropriate load line" means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) Where a valid Convention certificate is not produced in respect of a ship, then, for the purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the load line regulations in accordance with section 196(2)(d), "the appropriate load line" means the load line which, in accordance with those regulations indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(6) In subsections (4) and (5) "the relevant provisions" means the provisions of subsection (1) and any provisions of section 198 as applied by subsection (2).

209. (1) Where a non-Saint Vincent and the Grenadines ship to which this Part applies has been surveyed and marked in accordance with the load line regulations, then on the application of the owner of the ship a Saint Vincent and the Grenadines load line certificate shall be issued to him by the Director or by a person authorised for the purpose by the Director.

Saint Vincent and the  
Grenadines Load Line  
Certificates

(2) Subject to subsection (3) below, sections 201 and 202 shall have effect in relation to a certificate issued under subsection (1) as they have effect in relation to a certificate issued under section 200.

(3) Any certificate issued under subsection (1) in respect of a ship to which section 206 applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Director if he has reason to believe that the ship is plying on international voyages.

210. (1) Subject to any exemption conferred by or under this Part, before a non-Saint Vincent and the Grenadines ship to which this Part applies proceeds to sea from any port in Saint Vincent and the

Production of  
certificate to customs  
and excise officer

Grenadines, the master of the ship shall produce the appropriate certificate to the officer of Customs from whom a clearance for the ship is demanded; and a clearance shall not be granted, and the ship may be detained until the appropriate certificate is so produced.

(2) For the purposes of this section the appropriate certificate-

- (a) in the case of a ship to which section 206 applies, where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention certificate;
- (b) in the case of any such ship, where a clearance for the ship is demanded in respect of any other voyage, is either a valid Convention certificate or a Saint Vincent and the Grenadines load line certificate for the time being in force in respect of the ship; and
- (c) in any other case, is a Saint Vincent and the Grenadines load line certificate for the time being in force in respect of the ship.

Provisions as to inspection

211. (1) Subject to the following provisions of this section, a surveyor may inspect any non-Saint Vincent and the Grenadines ship to which this Part applies while the ship is within any port in Saint Vincent and the Grenadines.

(2) Any such surveyor may go on board any ship to which section 206 applies, while the ship is within any port in Saint Vincent and the Grenadines, for the purpose of demanding production of any International Load Line Certificate or Saint Vincent and the Grenadines load line certificate for the time being in force in respect of the ship.

(3) Where on any such demand a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) shall be limited to seeing-

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) that no material alterations have taken place in the hull or superstructures of the ship which affect the

position in which any of those lines ought to be marked; and

- (d) that the fittings and appliances for the protection of openings, the guard rails, the free 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.

(4) Where on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in subsection (3) (c) or (d) that the ship is manifestly unfit to proceed to sea without danger to human life, it shall be deemed to be unsafe for the purposes of Part XII.

(5) Where a ship is detained under the provisions of this Act as applied by subsection (4), 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.

#### **Exemptions**

212. (1) Where in the opinion of the Director the sheltered nature and conditions of international voyages-

Power to make exemption orders

- (a) between near neighbouring ports in Saint Vincent and the Grenadines and in another Convention country; or
- (b) between near neighbouring ports in any two or more countries outside Saint Vincent and the Grenadines;
- (c) make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Director is satisfied that the Government of the other country (or, as the case may be, of each of the other countries) concurs in that opinion, the Director may by order specifying those ports direct that ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the provisions of this Part.

(2) The Director may by order direct that any ship engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the provisions of this Part while not carrying

cargo, or (if the order so provides) shall be exempt from the provisions of this Part whether carrying cargo or not.

(3) Any order under this section may be made subject to such conditions as the Director thinks fit; and, where any such order is made subject to conditions, the exemption conferred by that order shall not have effect in relation to a ship unless the ship complies with those conditions.

Further powers to exempt ships

213. (1) In this section any reference to exempting a ship is a reference to exempting the ship either-

- (a) from all the provisions of this Part and of the load line regulations; or
- (b) from such of those provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a Saint Vincent and the Grenadines ship to which this Part applies which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 meters in length, the Director may exempt the ship if in his opinion the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Part and of the load line regulations, the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a Saint Vincent and the Grenadines ship to which this Part applies which is either-

- (a) a pre-1966 Convention ship of less than 150 gross tonnage or a post-1966 Convention ship of less than 24 meters in length; or
- (b) a ship (not falling within (a) ) which does not ply on international voyages

the Director may exempt the ship under subsection (1).

(4) Without prejudice to subsection (3), where a Saint Vincent and the Grenadines ship to which this Part applies which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 meters in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Director, 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 conferred under this section may be conferred subject to such conditions as the Director thinks fit; and, where any such exemption is conferred subject to conditions the exemption shall not have effect unless those conditions are complied with.

214. (1) Where the Director exempts a ship under section 213, the Director shall issue the appropriate certificate to the owner of the ship.

Issue of exemption certificates

(2) For the purposes of this section the appropriate certificate-

- (a) is an "International Load Line Exemption Certificate" where the exemption is conferred under subsection (2) or subsection (4) of section 213;
- (b) is a "Saint Vincent and the Grenadines Load Line Exemption Certificate" where the certificate is conferred under subsection (3) of section 213.

(3) Any certificate issued under this section shall be in such form, and shall be issued in such a manner as may be prescribed by the load line regulations.

215. (1) The load line regulations shall make provision for determining the period during which any exemption conferred under section 213, or any certificate issued under section 214, is to remain in force, including-

D u r a t i o n ,  
e n d o r s e m e n t a n d  
t e r m i n a t i o n o f  
c e r t i f i c a t e s

- (a) provision enabling the period for which any exemption or certificate is originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and
- (b) provision for terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to-

- (a) periodical inspections of the ship, in accordance with the load line regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

International Load  
Line Exemption  
Certificates

216. (1) The load line regulations shall make such provision as appears to the Minister to be appropriate for ensuring that exemption certificates which in accordance with the Load Lines Convention, are issued in respect of ships to which section 206 applies, and are so issued by Governments other than the Government of Saint Vincent and the Grenadines, shall in such circumstances as may be prescribed by the regulations have the like effect for the purposes of this Part as if they were valid Convention certificates.

(2) Certificates issued as mentioned in subsection (1) shall be “International Load Line Exemption Certificates”.

#### **Subdivision Load Lines and Deck Cargo**

Subdivision load lines

217. (1) Where in pursuance of safety regulations a Saint Vincent and the Grenadines passenger ship to which this Part applies is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 198, then that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(2) Where in pursuance of safety regulations a non-Saint Vincent and the Grenadines passenger ship to which this Part applies is marked with subdivision load lines, and the lowest of those load lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 208, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

Deck cargo

218. (1) The Minister shall make regulations (in this paragraph referred to as “the deck cargo regulations”) prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which this Part applies.

(2) 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.

(3) Where the load line regulations provide (either generally or in particular cases or classes of cases) for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then without prejudice to the generality of subsection (1) the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

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

(5) Where any provisions of the deck cargo regulations are contravened-

- (a) in the case of a Saint Vincent and the Grenadines ship; or
- (b) in the case of any other ship while the ship is within any port in Saint Vincent and the Grenadines;

the master of the ship is (subject to subsection (6)) guilty of an offence and liable on summary conviction, to a fine not exceeding thirty thousand dollars.

(6) Where a person is charged with an offence under subsection (5), it shall be 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.

(7) For the purpose of securing compliance with the deck cargo regulations, any person authorised for the purpose by the Director may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck.

#### **Miscellaneous**

219. (1) Where any non-Saint Vincent and the Grenadines ship is detained under this Part and where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being.

Notice to consular officer of proceedings against foreign ships

(2) A notice under this section shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Surrender of certificates

220. (1) The Director may require any certificate which can be issued under this Part, which has expired or been cancelled, to be surrendered as he directs.

(2) Where any owner or master of a ship fails without reasonable excuse to comply with such a requirement, he is guilty of an offence and liable on summary conviction, to a fine not exceeding five thousand dollars.

Penalty for false statements

221. Where any person intentionally makes, assists in making or procures to be made, a false or fraudulent certificate which can be issued under this Part he is guilty of an offence and liable on summary conviction, to a fine not exceeding thirty thousand dollars.

Admissibility of certificates in evidence

222. Any certificate issued under this Part shall be admissible in evidence.

Convention countries

223. In this Part “Convention country” means a country or territory which is either-

- (a) a country the Government of which has been declared under this paragraph to have accepted or acceded to the Load Lines Convention and has not been so declared to have denounced that Convention; or
- (b) a territory to which it has been so declared that the Load Lines Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend,

and “Contracting Government” means any such Government as is referred to in paragraph (a).

Orders, rules and regulations

224. Any order, rules or regulations made under this Part may contain such transitional or other incidental and supplementary provisions as may appear to the Minister, to be appropriate.

## PART XI

### CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

#### General

225. (1) Unless expressly provided otherwise, this Part applies to all ships to which the Safety Convention applies and to cargo ships of less than 500 gross tonnage. Application

(2) The provisions of this Part respecting carriage of dangerous goods in packaged form or in solid form in bulk do not apply to ships' stores and equipment, including ships' distress signals.

(3) The provisions of this Part and any regulations made under section 230 respecting dangerous goods, shall apply to all Saint Vincent and the Grenadines ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers at any place in Saint Vincent and the Grenadines as they apply to Saint Vincent and the Grenadines ships.

226. In this Part, "grain" includes wheat, maize, corn, oats, rye, barely, rice pulses, seeds and processed forms thereof, whose behaviour is similar to that of grain in its natural state. Interpretation

#### Carriage of Grain and other Bulk Cargoes

227. The Minister may make regulations relating to- Bulk cargo regulations

- (a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safe Practice for Bulk Cargoes issued by the Organization and amendments thereto or replacements thereof;
- (b) the safe carriage and stowage of grain in compliance with the Safety Convention.

228. (1) Where grain is loaded on board any Saint Vincent and the Grenadines ship, or is loaded within any port in Saint Vincent and the Grenadines on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting, and if such precautions are not taken the owner or the master of the ship, or any agent of the owner who was charged with the loading, or with sending the ship to sea laden with the grain, is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars, and the ship shall be deemed for the purposes of Part XII to be unsafe by reason of improper loading. Carriage of grain

(2) Where any ship, having been loaded with grain outside Saint Vincent and the Grenadines without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Saint Vincent and the Grenadines so laden, the owner or master of the ship is guilty of an offence and liable on summary conviction to a fine not exceeding fifty five thousand dollars, and the ship shall be deemed for the purposes of Part XII to be unsafe by reason of improper loading.

(3) No offence is committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(4) For the purpose of ensuring the observance of this section a surveyor may go on board any Saint Vincent and the Grenadines ship, or any foreign ship which is in any port of Saint Vincent and the Grenadines, and inspect any grain loaded in the ship and the manner in which it is stowed.

Delivery of notice  
and offence

229. On the arrival at a port in Saint Vincent and the Grenadines from a port outside Saint Vincent and the Grenadines of any ship carrying a cargo of grain, the master shall cause to be delivered to the Director, a notice stating -

- (a) the draught of water and freeboard of the ship after the loading of her cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried-
  - (i) the kind of grain and the quantity thereof, stated in cubic feet, quarters bushels, or tons weight;
  - (ii) the mode in which the grain is stowed; and
  - (iii) the precautions taken to prevent the grain from shifting,

and if the master fails to deliver any notice required by this subsection, or if in any such notice he makes any statement that he knows to be false in a material particular, or recklessly makes any statement that is false in a material particular, he is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

### Dangerous Goods

230. (1) The Minister may by regulations prescribe which goods, articles or materials to be carried in a ship are dangerous goods in accordance with the Safety Convention in relation to the carriage of dangerous goods, and such regulations shall incorporate by reference, the International Maritime Dangerous Goods (IMDG) Code of the Organization, including amendments thereto or replacements thereof.

Dangerous goods  
regulations

(2) Without restricting the generality of the foregoing, the Minister may by regulations prescribe-

- (a) the method of packing and stowing such goods;
- (b) the quantity of such goods which may be carried in any ship;
- (c) the place or places within a ship in which 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 to be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the provisions of the regulations.

231. (1) No person shall send by or carry in a Saint Vincent and the Grenadines ship, except in accordance with this Part and regulations made pursuant to section 230, any dangerous goods.

Carriage and marking  
of dangerous goods

(2) No person shall send by or carry in a Saint Vincent and the Grenadines ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the same in accordance with such regulations as the Minister may make and without first giving written notice of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship.

232. (1) Any person who contravenes any of the provisions of this Part with respect to dangerous goods, including regulations made under section 230, is guilty of an offence and liable on summary conviction to a fine of fifty five thousand dollars.

Offences relating to  
dangerous goods

(2) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods within a ship, that ship shall be deemed, for the purposes of Part XII, to be unsafe by reason of improper loading.

Rejection and disposal of dangerous goods by ship

233. (1) The master or owner of any ship may refuse to take on board any package or parcel that he suspects might contain any dangerous goods and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board any ship without the marking or the written notice described in section 231, the master or owner of the ship may cause the goods, together with any package or container thereof, to be thrown overboard; and neither the master nor the owner of the ship is subject to civil or criminal liability in any Court in respect of such action.

Forfeiture of dangerous goods

234. (1) Where any dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this Part, the Court may order the goods, and any packaging or container thereof, to be forfeited.

(2) A Court may exercise the powers conferred by subsection (1) notwithstanding that-

- (a) the owner of the goods concerned has not committed any offence in respect of the goods, or is not before the Court, or has had no notice of the proceedings; and
- (b) there is no evidence to show to whom the goods belong;

but the Court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

## PART XII

### UNSAFE SHIPS

Power to detain unsafe ships

235. (1) Where the Director has reason to believe that any ship, being in any port in Saint Vincent and the Grenadines, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in



subsection (2) unfit to proceed to sea without serious danger to human life having regard to the nature of the service for which it is intended, such ship is liable to be detained.

- (2) The matters referred to in subsection (1) are-
- (a) the condition, or the unsuitability for its purpose, of-
    - (i) the ship or its machinery or equipment, or
    - (ii) any part of the ship or its machinery or equipment;
  - (b) under manning;
  - (c) overloading or unsafe or improper loading;
  - (d) any other matter relevant to the safety of the ship;

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

236. (1) Subject to subsection (2), where a ship is detained under the provisions of this Act or any regulations made under this Act and the owner of the ship proves to the satisfaction of the Director that there was not reasonable cause for the detention of the ship, the Government may pay compensation to the owner of the ship for any loss or damage sustained by the owner by reason of such detention.

Power to pay compensation and require security for compensation

(2) In determining whether to pay such compensation and the amount thereof the Government shall have regard to the provisions of any international agreement signed on behalf of the Government.

(3) Subject to subsection (4), where a complaint is made to the Minister or the Director that a Saint Vincent and the Grenadines ship is unsafe, or otherwise does not comply with the provisions of this Act or any regulations made under this Act, the Minister acting in his discretion may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for any compensation which may become payable by the Government pursuant to subsection (1).

(4) The security referred to in subsection (3) shall not be required where the complaint is made by one fourth, being not less

than three, of the seafarers belonging to the ship and is not in the opinion of the Director frivolous or vexatious.

(5) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government determines to pay compensation to the owner of the ship pursuant to subsection (1), the complainant shall be liable to pay to the Government all such compensation as the Government may pay under subsection (1) in respect of the detention of the ship.

Owner and master  
liable in respect of  
unsafe ship

237. (1) Where a ship which-

- (a) is in a port in Saint Vincent and the Grenadines; or
- (b) is a Saint Vincent and the Grenadines ship and is in any other port,

is unsafe, then, subject to subsections (4) and (5), the master and the owner of the ship each is guilty of an offence.

(2) Where, at the time when a ship is unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed, whether wholly or in part, by any person or persons other than the owner, and have been so assumed by that person or, as the case may be, by each of those persons either-

- (a) directly, under the terms of a charter party or management agreement made with the owner; or
- (b) indirectly, under the terms of a series of charter parties or management agreements;

the reference to the owner in subsection (1) shall be construed as a reference to that other person or, as the case may be, to each of those other persons.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding fifty five thousand dollars, or imprisonment not exceeding six months, or both.

(4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence -

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human

life by reason of the matters relevant to its safety which are specified in the charge; or

- (b) it was reasonable for such arrangements not to have been made.

(5) It shall also be a defence in proceedings for an offence under this section to prove-

- (a) that, under the terms of one or more charter parties or management agreements entered into by the accused, the relevant responsibilities, namely-

- (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or
  - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by him as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

- (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a);

and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6).

(6) Those matters for which regard shall be had under subsection (5) are-

- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

(b) the extent to which the accused was or was unable, under the terms of any such charter party or management agreement as is mentioned in subsection (5)(a)-

(i) to terminate it, or

(ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.

(7) In this section-

“management agreement”, in relation to a ship, means any agreement (other than a charter party, or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner whether on behalf of the owner or on behalf of some other person; and

“relevant responsibilities” shall be construed in accordance with subsection (5).

(8) References in this section to responsibilities being assumed by a person under the terms of a charter party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter party or management agreement providing for them to be assumed by some other person.

Use of unsafe  
lighters, etc

238. (1) Where any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of-

(a) the defective condition of its hull or equipment;

(b) overloading or improper loading; or

(c) under manning;

it is so unsafe that human life is thereby endangered, he is guilty of an offence and liable on summary conviction, to a fine not exceeding fifty five thousand dollars.

(2) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

239. (1) It shall be the duty of the owners of a ship to which this section applies to take all reasonable steps to ensure that the ship is operated in a safe manner.

Owner liable for unsafe operation of ship

(2) This section applies to-

- (a) any Saint Vincent and the Grenadines ship; and
- (b) any ship which-
  - (i) is registered under the law of, or flies the flag of, any country other than Saint Vincent and the Grenadines, and
  - (ii) is within the waters of Saint Vincent and the Grenadines while proceeding to or from a port in Saint Vincent and the Grenadines,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) Where the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he is guilty of an offence and liable on summary conviction, to a fine not exceeding fifty five thousand dollars or imprisonment for a term not exceeding six months, or both.

(4) Where any such ship is chartered by demise, or is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 237, any reference to the owner of the ship in subsection (1) or (3) shall be construed as including a reference-

- (a) to the charterer under the charter by demise; or
- (b) the manager or person named in the management agreement; or
- (c) if the ship is both chartered and managed, to both the charterer and the manager or person named in the management agreement,

and accordingly the reference in subsection (1) to the taking of all reasonable steps, in relation to the owner, the charterer or the manager, shall be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

**PART XIII****WRECK AND SALVAGE**

## Interpretation

## 240. (1) In this Part-

“damage to the environment” means a substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

“maritime casualty” means a collision of vessels, allision, stranding or other incident of navigation or other occurrence on board a vessel or external to it, resulting in material damage or imminent threat of material damage to a vessel or cargo;

“payment” means any reward, remuneration or compensation due under this Part;

“Principal Receiver” means the Principal Receiver of Wreck appointed under section 241;

“property” means any property not permanently and intentionally attached to the shoreline and includes freight at risk; and wherever the context so requires also includes a vessel, cargo, equipment and effects;

“receiver” means a receiver of wreck designated under section 241;

“salvor” means any person rendering salvage services;

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“Salvage Convention” means the International Convention on Salvage, 1989;

“salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters;

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

“vessel” includes any ship or boat, or any other description of vessel used in navigation; and

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either -

(a) found or taken possession of within the waters of Saint Vincent and the Grenadines; or

(b) found or taken possession of beyond those waters and brought within those waters;

shall be treated as wreck for the purposes of this Part.

(3) In sections 243, 244 and 245 “shipwrecked persons” in relation to a vessel, means persons belonging to the vessel.

### **Wreck**

241. (1) The Minister may appoint the Director to be the Principal Receiver of Wreck and in that capacity he shall exercise general direction and supervision over all matters relating to wreck and salvage.

Appointment and powers of Receiver of Wreck

(2) The Minister may designate any person to be a receiver of wreck in any specified area and to perform the duties of a receiver under this Part.

(3) Any action authorised by this Part to be carried out by a receiver may be carried out by the Principal Receiver of Wreck.

242. (1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties and such fees in respect of such other matters as may be prescribed, and the receiver shall not be entitled to any other remuneration.

Fees of receiver

(2) A receiver shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him and may, if the property in respect of which any such expenses and fees are due is not under arrest in any Court, seize or detain the property until his expenses and fees are paid, or until security is given therefor to his satisfaction.

(3) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final.

(4) All fees received by a receiver in respect of any services performed by him as such receiver, shall be paid into the Treasury, and a separate account thereof shall be kept, and the monies arising therefrom shall be applied in defraying any expenses duly incurred in carrying this Part into effect.

Duty of receiver where vessel is wrecked, stranded or in distress

243. (1) Where any vessel is wrecked or stranded or in distress at any place or near the coasts of Saint Vincent and the Grenadines or any tidal water within Saint Vincent and the Grenadines the receiver shall on being informed of the circumstances-

- (a) forthwith proceed to such place;
- (b) take command of all persons present; and
- (c) 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 shipwrecked persons.

(2) The receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is requested to do so by the master.

(3) Subject to subsection (3), if any person intentionally disobeys the direction of the receiver he is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten thousand dollars.

Powers of receiver in case of vessel in distress

244. (1) Where any vessel is wrecked or stranded or in distress at any place or near the coasts of Saint Vincent and the Grenadines or any tidal water within Saint Vincent and the Grenadines the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment-

- (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 assistance with his men, or vessel, as may be in his power; and
- (c) require the use of any vehicle that may be near at hand.



(2) Where any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1), he is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten thousand dollars.

245. (1) Where any vessel is wrecked or stranded or in distress at any place or near the coasts of Saint Vincent and the Grenadines or any tidal water within Saint Vincent and the Grenadines all persons may, subject to subsections (3) and (4), for the purpose of-

Power to pass over adjoining land

- (a) rendering assistance to the vessel;
- (b) saving the lives of shipwrecked persons; or
- (c) saving the cargo or equipment of the vessel,

pass and repass over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.

(2) The right of passage conferred by subsection (1), is a right of passage with or without vehicles.

(3) No right of passage is conferred by subsection (1), where there is some public road equally convenient.

(4) The rights conferred by subsection (1), shall be so exercised as to do as little damage as possible.

(5) Any damage sustained by an owner or occupier of land 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 caused.

(6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.

(7) Where the owner or occupier of any land-

- (a) impedes or hinders any person in the exercise of the rights conferred by this section;
- (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or

- (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

he is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten thousand dollars.

Duties of finder etc. of wreck in the waters of Saint Vincent and the Grenadines

246. (1) Where any person finds or takes possession of any wreck in Saint Vincent and the Grenadines waters or finds or takes possession of any wreck outside the waters of Saint Vincent and the Grenadines and brings it within those waters he shall-

- (a) if he is the owner of it give notice to the receiver stating that he has found or taken possession of it and describing the marks by which it may be recognised;
- (b) if he is not the owner of it give notice to the receiver that he has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.

(2) Where any person fails, without reasonable excuse, to comply with subsection (1), he is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten thousand dollars and if he is not the owner of the wreck he shall also-

- (a) forfeit any claim to salvage; and
- (b) be liable to pay twice the value of the wreck-
- (i) if it is claimed, to the owner of it; or
- (ii) if it is unclaimed, to the person entitled to the wreck.

(3) Any sum payable under subsection (2)(b), to the owner of the wreck or to the persons entitled to the wreck may be recovered as a civil debt.

Provisions as respects cargo etc

247. (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of Saint Vincent and the Grenadines, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

- (2) Where any person whether the owner or not-

- (a) conceals or keeps possession of any such cargo or article; or
- (b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery,

he is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(3) The Principal Receiver or any person authorised by him may take any such cargo or article by force if necessary from any person who refuses to deliver it.

248. (1) Where a receiver takes possession of any wreck he shall, within forty-eight hours-

Receiver to give notice of wreck

- (a) make and keep a record describing the wreck and any marks by which it is distinguished; and
- (b) if in his opinion the value of the wreck exceeds thirty thousand dollars, also transmit a similar description to the Director.

(2) The receiver shall permit a person to inspect the records during reasonable hours without charge.

249. (1) The owner of any wreck in the possession of a receiver who establishes his claim to the wreck to the satisfaction of the Principal Receiver within one year from the time when the wreck came into the receiver's possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him.

Claims of owners to wreck

(2) Where-

- (a) a foreign ship has been wrecked on or near the coasts of Saint Vincent and the Grenadines; or
- (b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of Saint Vincent and the Grenadines are found on or near the coast or are brought into any port,

the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the

owner for the purposes of the custody and disposal of the wreck and such articles.

(3) In subsection (2), “the appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo, may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

Immediate sale of wreck in certain cases

250. (1) The receiver may at any time sell any wreck in his possession if, in his opinion-

- (a) it is under the value of thirty thousand 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 to pay for storage.

(2) The proceeds of sale shall, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Right of Government to unclaimed wreck

251. The Government of Saint Vincent and the Grenadines is entitled to all unclaimed wreck found in Saint Vincent and the Grenadines or in the waters of Saint Vincent and the Grenadines.

Disposal of unclaimed wreck

252. (1) Where, as respects any wreck found in Saint Vincent and the Grenadines or in the waters of Saint Vincent and the Grenadines and in the possession of the receiver, no owner establishes a claim to it within one year after it came into the receiver’s possession, the receiver shall sell the wreck and pay the proceeds as directed by subsection (6), after making the deductions required by subsection (2) and paying to the salvors the amount of salvage determined under subsection (3).

- (2) The amounts to be deducted by the receiver are-
- (a) the expenses of the sale;
  - (b) any other expenses incurred by him; and
  - (c) his fees.

(3) The amount of salvage to be paid by the receiver to the salvors shall be such amount as the Minister directs generally or in the particular case.

(4) The proceeds of sale, after making those deductions and salvage payments, shall be paid by the receiver into the Treasury.

253. (1) Delivery of wreck or payment of the proceeds of sale of wreck by the receiver under this Part shall discharge the receiver from all liability in respect of the delivery or payment.

Effect of delivery of wreck etc. under this Part

(2) Delivery of wreck by the receiver under this Part shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck .

254. (1) A person is guilty of an offence if he takes into a foreign port and sells-

Offence of taking wreck to foreign port

- (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of Saint Vincent and the Grenadines or any tidal water within Saint Vincent and the Grenadines waters;
- (b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or
- (c) any wreck found within the waters referred to in paragraph (a).

(2) A person who is guilty of an offence under this section is liable, on conviction on indictment to a fine not exceeding two hundred and seventy thousand dollars, or to imprisonment for a term not exceeding five years, or both.

255. (1) Subject to subsection (2), a person is guilty of an offence if, without the permission of the master, he boards or attempts to board any vessel which is wrecked, stranded or in distress.

Offence for interfering with wrecked vessel or wreck

(2) No offence is committed under subsection (1) if the person is the receiver or a person lawfully acting as the receiver or if he acts by command of the receiver or a person so acting.

(3) A person is guilty of an offence if-

- (a) he impedes or hinders or attempts to impede or hinder the saving of-

- (i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water; or
- (ii) any part of the cargo or equipment of any such vessel; or any wreck;
- (b) he conceals any wreck;
- (c) he defaces or obliterates any mark on a vessel; or
- (d) he wrongfully carries away or removes-
  - (i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;
  - (ii) any part of the cargo or equipment of any such vessel; or
  - (iii) any wreck.

(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1).

(5) A person who is guilty of an offence under this section is liable, on summary conviction-

- (a) in the case of an offence under subsection (1), to a fine not exceeding ten thousand dollars;
- (b) in the case of an offence under subsection (3), to a fine not exceeding ten thousand dollars.

Powers of entry etc.

256. (1) Where the receiver has reason to believe that-

- (a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or
- (b) any wreck is being otherwise improperly dealt with,

he may apply to the Court for a search warrant.

(2) Where a search warrant is granted under subsection (1) to the receiver, he may, by virtue of the warrant-

(a) enter any house, or other place wherever situated, or any vessel; and

(b) search for, seize and detain any wreck found there.

(3) Where any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding five hundred dollars, as the Principal Receiver may allow.

257. (1) The Comptroller of Customs shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked-

Release of goods from customs and excise control

(a) on its homeward voyage to be forwarded to the port of its original destination;

(b) on her outward voyage to be returned to the port at which they were shipped.

(3) In this section "goods" includes wares and merchandise.

258. (1) Where any vessel is sunk, stranded or abandoned in, or near any approach to, any port, harbour or tidal water under the control of a Port Authority in such a manner as, in the opinion of the Authority, will be or is likely to be an obstruction or danger to navigation or to vessels engaged in a service in that port, harbour or water or approaches thereto, the Authority may exercise any of the following powers-

Powers of Port Authority in relation to wrecks

(a) take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;

(b) light or buoy the vessel or part of the vessel and any other property until it is raised, removed or destroyed; and

(c) subject to subsections (4) and (5), to sell, in such manner as the Authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b);

(d) reimburse itself, out of the proceeds of the sale, for the expenses incurred by it in relation to the sale.

(2) The other property to which the powers conferred by subsection (1) extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of a vessel.

(3) Any surplus of the proceeds of a sale under subsection (1)(c) shall be held by the Authority on trust for the persons entitled thereto.

(4) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under subsection (1)(c) until at least seven days notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the Authority have control.

(5) At any time before any property is sold under subsection (1)(c), the owner of the property shall be entitled to have it delivered to him on payment of its fair market value.

(6) The market value of property for the purposes of subsection (5) shall be that agreed to between the Authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Minister.

(7) The sum paid to the Authority in respect of any property under subsection (5) shall, for the purposes of this section, be treated as the proceeds of sale of the property.

(8) Any proceeds of sale arising under subsection (1)(c) from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

#### **Salvage**

Non-application to platforms and drilling units

259. Sections 261 to 294 shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Non-application to foreign state owned vessels

260. (1) Sections 261 to 294 shall not apply to warships or other non-commercial vessels owned or operated by a foreign State and entitled at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State has decided to apply the Salvage Convention to such ships or vessels.



(2) For the purposes of any proceedings under this Act, a certificate signed by the Secretary General of the Organization, setting out a State's decision to apply the Salvage Convention to ships and vessels referred to in subsection (1) and the terms and conditions of such application, shall be prima facie evidence of the facts stated therein.

261. (1) Where services are rendered-

Life salvage

- (a) wholly or in part in the waters of Saint Vincent and the Grenadines in saving life from any vessel; or
- (b) outside the waters of Saint Vincent and the Grenadines, in saving life from any Saint Vincent and the Grenadines vessel,

the owner of the vessel, cargo or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel, shall have priority over all other claims for salvage.

(3) Under no circumstances shall salvage be due from a person whose life has been saved.

262. (1) Where any vessel is wrecked, stranded or in distress in the waters of Saint Vincent and the Grenadines or on the shores of Saint Vincent and the Grenadines and services are rendered-

Salvage of cargo

- (a) by any person assisting the vessel or saving the cargo or equipment of the vessel or any part thereof;
- (b) by any person other than the receiver in saving any wreck,

the owner of the vessel, cargo, equipment or wreck shall pay to the salvor, a reasonable amount of salvage, to be determined in the manner set out in this Part.

(2) A salvor of human life, who has participated in services rendered in the event of a maritime casualty giving rise to salvage shall be entitled to a fair share of the remuneration awarded to the salvor for salvaging the vessel or other property or preventing or minimising damage to the environment.

Services excluded  
from salvage  
remuneration

263. Nothing in this Part shall entitle any person to salvage remuneration-

- (a) in respect of salvage services rendered contrary to any express and reasonable prohibition of such services on the part of the vessel or aircraft or by the owner of property to which such services are rendered;
- (b) in respect of services rendered by a tug to, or in respect of, the vessel or aircraft which she is towing or the cargo thereof, except where such services are of an 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.

Conditions for  
salvage remuneration

264. (1) Except as otherwise provided in section 261, no remuneration shall be due under this Act if the salvage operations had no useful result.

(2) A salvor shall be entitled to remuneration under this Part notwithstanding that the vessel performing the salvage operation and the vessel, cargo or other property salvaged belong to the same owner.

Salvage contracts

265. (1) Sections 261 to 291 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Saint Vincent and the Grenadines vessel shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel, and the master and the owner of a Saint Vincent and the Grenadines vessel shall have the authority to conclude contracts on behalf of the owner of property on board the vessel.

(3) Nothing in this section shall affect the application of section 266 or the duties to prevent or minimise damage to the environment provided in paragraph (b) of section 267 and paragraph (b) of section 268.

266. Any contract relating to salvage or any terms thereof may be annulled or modified by the Court, where it appears to the Court that-	Annulment or modification of contracts
<ul style="list-style-type: none"> <li>(a) the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or</li> <li>(b) the payment under the contract is too large or too small for the services actually rendered.</li> </ul>	
267. The salvor shall owe a duty to the owner of the vessel or other property in danger to-	Duties of salvor
<ul style="list-style-type: none"> <li>(a) carry out the salvage operation with due care;</li> <li>(b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a);</li> <li>(c) seek assistance from other salvors whenever the circumstances reasonably so require; and</li> <li>(d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or the owner of other property in danger provided that the amount of his reward shall not be prejudiced where he proves that such a request was unreasonable.</li> </ul>	
268. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor-	Duties of owner and master
<ul style="list-style-type: none"> <li>(a) to co-operate fully with him during the course of the salvage operations;</li> <li>(b) to exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a) ; and</li> <li>(c) to accept redelivery when reasonably requested to do so by the salvor when the vessel or other property has been brought to a place of safety .</li> </ul>	
269. (1) The Director may-	Powers of Director
<ul style="list-style-type: none"> <li>(a) give directions in relation to any salvage operation; and</li> </ul>	

- (b) take measures in accordance with generally recognised principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

(2) The Director shall, in giving directions and taking measures under subsection (1) take into account the need for co-operation between salvors, other interested parties and the public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

(3) Any public officer or other person acting under directions as referred to in this section shall be under a duty to exercise due care in preventing or minimising damage to the environment.

(4) Any public authority or an officer thereof who is reasonably within the vicinity of a vessel or person in distress or danger of being lost at sea shall render assistance to save the vessel and life by co-operating in-

- (a) the procurement and provision of facilities to salvors;
- (b) the admittance to the port of vessels in distress;
- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of saving life or property; and
- (d) preventing or minimising damage to the environment.

Criteria for fixing salvage rewards

270. Salvage rewards shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are listed-

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success achieved by the salvor;
- (d) the nature and degree of the danger;

- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

271. (1) Payment of a reward fixed in accordance with section 270 shall be made by all of the owners of the vessel and other property interests in proportion to their respective salvaged values.

Responsibility for payment of reward

(2) For expediency the ship owner shall pay the reward on behalf of all interests referred to in subsection (1) subject to his retaining the right to be reimbursed by these other interests.

(3) The ship owner who makes the payment under subsection (2), may require the other interests to provide security not exceeding the values of their respective salvaged interests until he has been fully reimbursed.

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

Quantum of reward

273. (1) Where a salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2), he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as defined in subsection (3).

Special compensation

(2) Where, in the circumstances set out in subsection (1), the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of thirty percent of the expenses incurred by the salvor; and

the Court or person determining the award may, where it or he deems it fair and just, increase such special compensation further, bearing in mind the criteria set out in section 270; but in no event shall the total increase be more than 100 per cent of the expenses incurred by the salvor.

(3) For the purposes of subsection (1) and (2), “salvor’s expenses” means the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in paragraphs (h), (i) and (j) of section 270.

(4) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 270.

(5) Where the salvor, in carrying out the salvage operations, has acted negligently and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or a part of any special compensation payable under this section.

(6) Nothing in this section shall affect any right of recourse available to the owner of the vessel.

Services rendered  
under existing  
contract

274. No payment is due under this Part unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

Apportionment  
between salvors

275. (1) The apportionment between salvors of a reward fixed under section 270 shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the State in which such vessel is registered.

(3) Where the salvage referred to in subsection (1) has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servant; and in the absence of formal contract the Court or person determining the apportionment and disbursement shall apply general principles of law and equity according to the merits of the cases in order to reach a just and equitable decision.

276. A salvor may be deprived of the whole or part of the payment due to him under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Salvors misconduct

277. Nothing in this Part shall affect the salvor's maritime lien under any law of Saint Vincent and the Grenadines, provided however that the salvor may not enforce his maritime lien when reasonable security for his claim, including interest and costs, has been tendered or provided.

Maritime lien

278. (1) A person liable for a payment under this Part shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

Duty to provide security

(2) Without prejudice to subsection (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owner of the cargo provides security to the satisfaction of such owner of the vessel or of the salvor for the claims against them, including interest and costs, before the cargo is released.

(3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.

(4) In the event of any dispute between the salvor and a person liable for a payment under this Part, or between the owner of the vessel and the owner of the cargo referred to in subsection (2), relating to the security to be provided under this section, the tribunal having jurisdiction over the salvors' claim may, upon the application of any such party in that behalf, decide the amount and the terms of such security.

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

Interim payment

(2) In the event of any interim payment under subsection (1), the security provided under section 278 shall be reduced accordingly.

State owned cargoes	280. Non-commercial cargoes owned by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law, shall not be subject to seizure, arrest or detention by any legal process, or to any in rem proceedings, without the express consent of the State owner of such cargo.
Humanitarian cargoes	281. No humanitarian cargoes donated by a State shall be subject to seizure, arrest or detention, where such State has agreed to pay for salvage service rendered in respect of such humanitarian cargoes.
Determination of salvage dispute	<p>282. (1) Disputes as to the amounts of salvage, whether rendered within or outside Saint Vincent and the Grenadines arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined.</p> <p>(2) Subject to subsection (1), disputes as to salvage shall be determined by the Court, but if the claimant does not recover in the Court more than thirty 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 is a fit one to be tried by the Court.</p> <p>(3) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.</p> <p>(4) The Court or the arbitrators to whom a dispute as to salvage is referred for determination may for the purpose of determining any such dispute call to their assistance, as an assessor, any person knowledgeable in maritime affairs and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum as may be prescribed.</p>
Appeal in cases of salvage dispute	283. Where a dispute relating to salvage has been determined by the Court or by arbitration, any party aggrieved by the decision may appeal therefrom, in like manner as in the case of any other judgement.
Valuation of property salvaged	<p>284. (1) Where any dispute relating to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property, and when the valuation has been made, shall give copies thereof to both parties.</p> <p>(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.</p>



(3) Such fee as the Director may direct shall be paid in respect of any valuation made under this section by the person applying for such valuation.

285. (1) Where salvage is due to any person under this Part, the receiver shall-

Detention of  
property liable to  
salvage

- (a) where the salvage is due in respect of services rendered in assisting any vessel or in saving life therefrom or in saving the cargo or equipment thereof, detain the vessel or cargo or equipment; and
- (b) where the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Part, detain the wreck.

(2) Subject to subsection (3), the receiver shall detain the vessel and the cargo and equipment or the wreck, as the case may be, until payment is made for salvage or process is issued for the arrest or detention of the property by the Court.

(3) The receiver may release any property detained under subsection (2) where security is given to his satisfaction, or, where the claim for salvage exceeds thirty thousand dollars, and any question is raised as to the sufficiency of the security to the satisfaction of the Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding thirty thousand dollars may be enforced by the Court in the same manner as if bail had been granted in that Court.

286. (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 circumstances-

Sale of detained  
property

- (a) where the amount is not disputed and payment of the amount due is not made within twenty days after it has become 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 Court;

(c) where the amount is disputed and an appeal lies from the decision of the first Court to which the dispute is referred, and within thirty days after the decision of the first Court neither payment of the sum due is made nor proceedings are commenced for an 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 any excess shall be paid to the owners of the property, or any other persons entitled to it or in the absence of any such owners or person, into the Treasury.

(3) In this section “detained property” means property detained by the receiver under section 285.

Apportionment of  
salvage by Receiver

287. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Saint Vincent and the Grenadines has been finally determined either by the Court in the manner provided by this Part or by agreement, and does not exceed thirty thousand dollars but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to the receiver for leave to pay it to him.

(2) The receiver shall, if he thinks fit, receive the amount referred to in subsection (1) and if he does, he shall give to the person paying it, a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate granted under subsection (2) shall be a full discharge and indemnity to the person by whom the amount was paid and to his vessel, cargo, equipment and effects, against the claims of all persons in respect of the services mentioned in the certificate.

(4) The receiver shall promptly distribute any amount received by him under his 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) Any decision by the receiver under subsection (4) shall be made on the basis of the criteria set out in section 270.

(6) A distribution of any amount made by the receiver 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.

288. (1) Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Saint Vincent and the Grenadines has been finally determined and exceeds thirty thousand dollars, or whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Saint Vincent and the Grenadines has been finally determined, but in either case any delay or dispute arises as to the apportionment thereof, the Court-

Apportionment of salvage by Court

- (a) may cause such amount to be apportioned among 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 dealt with as the Court directs,

and for the purposes aforesaid issue such process as it thinks fit.

(2) Any decision of the Court under this section shall be made on the basis of the criteria set out in section 270.

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

Salvor's right to interest

290. (1) Where civil salvage services are rendered by or on behalf of the Government, or with the aid of Government property, the Government shall, subject to any regulations made under this section, be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies as any other salvor.

Application to the Government

(2) Subject to the provisions of any law for the time being in force relating to proceedings against the Government, and of any regulations made under this section, the provisions of this Part, except and to such extent as may be prescribed, shall apply in relation to salvage services rendered in assisting any ship of the Government, or in saving life therefrom, or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship, cargo or equipment belonged to a private person.

291. The Minister may make regulations providing for the application or modification of the provisions of this Part to ships

Regulations

referred to in subsection (2), and in relation to the services referred to in subsection (1).

Time limit for salvage proceedings

292. (1) Subject to subsection (2) no action shall be instituted in respect of any salvage services unless proceedings therein are commenced within two years after the date on which the salvage operations were terminated.

(2) Subsection (1) shall not apply where the Court extends the period to such extent and on such conditions as it considers fit.

(3) An action for indemnity by a person liable under this Part may be instituted within two years after the date of termination of the salvage operations, but the Court may extend the limitation period to such extent and on such conditions as it considers fit.

The common understanding regarding the reward and special compensation

293. In fixing a reward under sections 270, 271 and 272, and assessing special compensation under section 273, the Court or arbitrator is under no duty to fix a reward under sections 270, 271 and 272, up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under section 273.

Recourse for life salvage payment

294. (1) This section applies where-

- (a) services are rendered wholly or in part in the waters of Saint Vincent and the Grenadines in saving life from a vessel of any nationality or elsewhere in saving life from any Saint Vincent and the Grenadines ship; and
- (b) either-
  - (i) the vessel and other property are destroyed, or
  - (ii) the sum to which the salvor is entitled under section 262 (2) is less than a reasonable amount for the services rendered in saving life.

(2) Where this section applies, the Minister may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

**PART XIV****CONTROL OF, AND RETURNS AS TO PERSONS ON SHIPS**

295. (1) A person commits an offence if, in relation to a ship to which this section applies, he does any of the following things, that is to say-

Offences in connection with passenger ships

- (a) if, being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if it was already paid) returned or tendered to him, nevertheless persists in attempting to enter the ship;
- (b) if, being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship at any place in Saint Vincent and the Grenadines at which he can conveniently do so, and, after having the amount of his fare (if it was already paid) returned or tendered to him, does not comply with the request;
- (c) if, on board the ship, after warning by the master or other officer thereof, he molests or continues to molest any passenger;
- (d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if it was already paid) returned or tendered to him, he nevertheless persists in attempting to enter the ship;
- (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if it was already paid) returned or tendered to him, he does not comply with that request;
- (f) if, on arriving in the ship at a place to which he has paid his fare he knowingly and intentionally refuses or neglects to leave the ship; and

- (g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;

but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.

(2) A person commits an offence if, on board any ship to which this section applies he intentionally does or causes to be done anything in such a manner as to-

- (a) obstruct or damage any part of the machinery or equipment of the ship; or
- (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) whose name and address are unknown to the master or officer, and deliver that person to a police officer.

(4) A person guilty of an offence against subsection (1) or (2) is liable, on summary conviction, to a fine not exceeding five thousand dollars.

(5) Where any person commits an offence against subsection (1) or (2) and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person is liable, on summary conviction, to a fine not exceeding five thousand dollars.

(6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or a Passenger Certificate, issued under or recognised by this Act.

Power to exclude  
drunken passengers  
from passenger ships

296. The master of any passenger ship may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause

annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place.

297. (1) A person who, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a Saint Vincent and the Grenadines ship, is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

Stowaways

(2) Nothing in section 381 shall be taken to limit the jurisdiction of any court in Saint Vincent and the Grenadines to deal with an offence under this section which has been committed in a country outside Saint Vincent and the Grenadines by a person who is not a Saint Vincent and the Grenadines citizen.

298. Where a Saint Vincent and the Grenadines ship or a ship registered in any other country is in a port in Saint Vincent and the Grenadines and a person who is neither in the service of the Government of Saint Vincent and the Grenadines nor authorised by law to do so-

U n a u t h o r i s e d  
presence on board

- (a) goes on board the ship without the consent of the master or of any other persons authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a police officer, an officer authorised by the Director or an officer of customs and excise,

he is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

299. The master of any Saint Vincent and the Grenadines ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Master's power of  
arrest

300. (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 124(5)(b), section 109 and 110 shall apply as if he were a seafarer employed in the ship.

U n a u t h o r i s e d  
persons: offences  
relating to safety

(2) Subsection (1) shall, in its application to section 109 so far as that section applies to ships which are not sea-going ships have effect-

- (a) with the omission of the words “goes to sea in a ship”; and
- (b) with the insertion, after the words “to give it”, of the words “is on board a ship while it is on a voyage or excursion”.

Passenger returns to be made by master

301. (1) The master of every ship, whether or not a Saint Vincent and the Grenadines ship, which carries any passenger to a place in Saint Vincent and the Grenadines from any place out of Saint Vincent and the Grenadines, or from any place within Saint Vincent and the Grenadines to any place outside of Saint Vincent and the Grenadines, shall furnish to such person and in such manner as the Director directs-

- (a) a return giving the total number of any passengers so carried;
- (b) distinguishing, the total number of any class of passengers so carried; and
- (c) giving, such particulars with respect to passengers,

as may be for the time being required by the Director.

(2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) Where-

- (a) the master of a ship fails to make a return as required by this section, or makes a false return;
- (b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master or (as the case may be) passenger is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars in the case of a failure or refusal and ten thousand dollars in the case of a false return or false information.



302. (1) The Minister may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.

Returns of births and deaths in ships, etc.

(2) Regulations under this section may require the master of any Saint Vincent and the Grenadines ship to make a return to the Registrar of Seafarers or proper officer of -

- (a) the birth or death of any person occurring in the ship; and
- (b) the death of any person employed in the ship, wherever occurring outside Saint Vincent and the Grenadines,

and to notify any such death to the person (if any) as the deceased may have named to him as his next of kin.

(3) Regulations under this section may require the master of any ship not registered in Saint Vincent and the Grenadines which calls at a port in Saint Vincent and the Grenadines in the course of or at the end of a voyage to make a return to the Registrar of Seafarers of any birth or death of a Saint Vincent and the Grenadines citizen which has occurred in the ship during the voyage.

(4) Regulations under this section may require the Registrar of Seafarers to record such information as may be specified in the regulations about a death referred to in subsection (2) in a case where-

- (a) it appears to him that the master of the ship cannot perform his duty under that subsection because he has himself died or is incapacitated or missing; and
- (b) the death in question has been the subject of-
  - (i) an inquest held by a coroner, or
  - (ii) an inquiry held in pursuance of section 371,

and the findings of the inquest or inquiry include a finding that the death occurred; or

- (c) the deceased's body has been the subject of a post-mortem examination and in consequence the coroner is satisfied that an inquest is unnecessary.

(5) Regulations made under this section may require the Registrar of Seafarers to send a certified copy of any return or record made thereunder to the Registrar of Births and Deaths for Saint Vincent and the Grenadines.

(6) The Registrar of Births and Deaths to whom any such certified copies are sent-

- (a) shall record the information contained therein in the marine register; and
- (b) may record in the marine register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register;

and the enactments relating to the registration of births and deaths in Saint Vincent and the Grenadines shall have effect as if the marine register were a register of births (other than stillbirths) or deaths or certified copies of entries in such a register had been transmitted to the Registrar in accordance with those enactments.

(7) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding ten thousand dollars.

(8) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside Saint Vincent and the Grenadines in circumstances where no return is required to be made under the preceding provisions of this section-

- (a) any birth or death of a Saint Vincent and the Grenadines citizen which occurs in a ship not registered in Saint Vincent and the Grenadines;
- (b) any death of any such citizen who has been employed in a ship not registered in Saint Vincent and the Grenadines which occurs elsewhere than in the ship; and
- (c) any death of a person who has been employed in a Saint Vincent and the Grenadines ship which occurs elsewhere than in the ship.

(9) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

#### **PART XV**

#### **MARITIME SECURITY**

303. (1) In this Part-

Piracy

“piracy” means-

- (a) a legal act of violence or detention, or an act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed-
  - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; or
  - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) a voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
- (c) an act of inciting or of intentionally facilitating an act described in paragraph (a) or (b);

“pirate ship or aircraft” means a ship or aircraft under the dominant control of persons who-

- (a) intend to use such ship or aircraft for piracy; or
- (b) have used such ship or aircraft for piracy, so long as it remains under the control of those persons; and

“private ship” and “private aircraft” means a ship or aircraft that is not owned by the Government or held by a person on behalf of, or for the benefit of, the Government.

(2) Piracy committed by a warship, Government ship or Government aircraft whose crew has mutinied and taken control of the ship or aircraft is assimilated to piracy committed by a private ship or aircraft.

(3) This section applies to aircraft only when they are on the high seas, that is to say, in those parts of the sea, to which Part VII of the United Nations Convention on the Law of the Sea 1982 is applicable in accordance with Article 86 of that Convention.

#### **Offences Against The Safety Of Ships**

Hijacking and  
destroying ships

304. (1) Subject to subsection (5), a person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it commits the offence of hijacking a ship.

(2) Subject to subsection (5), a person commits an offence if he unlawfully and intentionally-

- (a) destroys a ship;
- (b) damages a ship or its cargo so as to endanger, or to be likely to endanger the safe navigation of the ship;
- (c) commits on board a ship an act of violence which is likely to endanger the safe navigation of the ship; or
- (d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation.

(3) Nothing in paragraph (d) of subsection (2) is to be construed as limiting the circumstances in which the commission of any act-

- (a) may constitute an offence under paragraph (a), (b) or (c) of subsection (2); or
- (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting, or being art and part in, the commission of such an offence.

(4) Subject to subsection (5), subsections (1) and (2) apply-

- (a) whether the ship referred to in those subsections is in Saint Vincent and the Grenadines or elsewhere;
- (b) whether any such act as is mentioned in those subsections is committed in Saint Vincent and the Grenadines or elsewhere; and

- (c) whatever the nationality of the person committing the act.

(5) Subsections (1) and (2) do not apply in relation to any warship or any other ship used as a naval auxiliary or in customs or police service, or any act committed in relation to such a warship or such other ship unless-

- (a) the person seizing or exercising control of the ship under subsection (1), or committing the act under subsection (2), as the case may be, is a Saint Vincent and the Grenadines citizen;
- (b) the act is committed in Saint Vincent and the Grenadines; or
- (c) the ship is used in the customs service of Saint Vincent and the Grenadines or in the service of the police force in Saint Vincent and the Grenadines.

(6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

(7) In this section-

“act of violence” means-

- (a) any act done in Saint Vincent and the Grenadines which constitutes the offence of murder, attempted murder, manslaughter, or assault; or
- (b) any act done outside Saint Vincent and the Grenadines which, if done in Saint Vincent and the Grenadines would constitute such an offence as is mentioned in paragraph (a); and

“unlawfully”-

- (a) in relation to the commission of an act in Saint Vincent and the Grenadines means so as (apart from this Part) to constitute an offence under the law of Saint Vincent and the Grenadines; and
- (b) in relation to the commission of an act outside Saint Vincent and the Grenadines, means that the commission of the act would (apart from this Part) have been an offence under the law of Saint Vincent

and the Grenadines if it had been committed in Saint Vincent and the Grenadines.

Offences involving endangering safe navigation, threats and ancillary navigation

305. (1) Subject to subsection (8), it is an offence for any person unlawfully or intentionally-

- (a) to destroy or damage any property to which this subsection applies; or
- (b) seriously to interfere with the operation of any such property,

where the destruction, damage or interference is likely to endanger the safe navigation of any ship.

(2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board a ship or elsewhere.

(3) Subject to subsection (8), it is an offence for any person intentionally to communicate that which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of any ship.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.

(5) A person commits an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence by virtue of section 304(2)(a), (b) or (c); and
- (b) the making of that threat is likely to endanger the safe navigation of the ship.

(6) Subject to subsection (8), a person commits an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some

other person will do an act which is an offence by virtue of subsection (1); and

- (b) the making of that threat is likely to endanger the safe navigation of any ship.

(7) Except as provided by subsection (8), subsections (1), (3), (5) and (6) apply whether any such act as is mentioned in those subsections is committed in Saint Vincent and the Grenadines or elsewhere and whatever the nationality of the person committing the act.

(8) For the purposes of subsections (1), (3) and (b), any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service is to be disregarded unless-

- (a) the person committing the act is a Saint Vincent and the Grenadines citizen;
- (b) the act is committed in Saint Vincent and the Grenadines.

306. (1) This section shall have effect for the purposes of any proceedings before the Court.

Master's power of delivery

(2) Where the master of a ship, wherever that ship may be, and whatever the State in which it may be registered, has reasonable grounds to believe that any person on board the ship has-

- (a) committed any offence under section 304 or 305;
- (b) attempted to commit such an offence; or
- (c) aided, abetted, counselled, procured or incited, or been a party to, the commission of such an offence,

in relation to any ship other than a warship or other ship used as a naval auxiliary or in customs or police service, he may deliver that person to an appropriate officer in Saint Vincent and the Grenadines or any other Convention country.

(3) Where the master of a ship intends to deliver any person in Saint Vincent and the Grenadines or any other Convention country in accordance with subsection (2) he shall notify an appropriate officer in that country-

- (a) of his intention to deliver that person to an appropriate officer in that country; and
  - (b) of his reasons for intending to do so.
- (4) Notification under subsection (3) must be given –
- (a) before the ship in question has entered the territorial sea of the country concerned; or
  - (b) if in the circumstances it is not reasonably practicable to comply with paragraph (a), as soon as reasonably practicable after the ship has entered that territorial sea.
- (5) Where the master of a ship delivers any person to an appropriate officer in any country under subsection (2) he shall-
- (a) make to an appropriate officer in that country such oral or written statements relating to the alleged offence as that officer may reasonably require; and
  - (b) deliver to an appropriate officer in that country such other evidence relating to the alleged offence as in the master's possession.
- (6) The master of a ship who without reasonable excuse fails to comply with subsection (3) or (5) is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.
- (7) It is a defence for a master of a ship charged with an offence under subsection (6) of failing to comply with subsection (3) to show that he believed on reasonable grounds that the giving of the notification required by subsection (3) would endanger the safety of the ship and, except where the country concerned is Saint Vincent and the Grenadines, that either-
- (a) he notified some other competent authority in the country concerned within the time required by subsection (4); or
  - (b) he believed on reasonable grounds that the giving of notification to any competent authority in that country would endanger the safety of the ship.
- (8) In this section-



“appropriate officer” means-

- (a) in relation to Saint Vincent and the Grenadines, a police officer or immigration officer; and
- (b) in relation to any other Convention country, an officer having functions corresponding to the functions, in Saint Vincent and the Grenadines, either of a police officer or of an immigration officer; and

“Convention country” means a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which was signed at Rome on 10<sup>th</sup> March, 1988, is for the time being in force; and the Minister may by Order certify that any country specified in the Order is for the time being a Convention country and any such Order for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country or where a country being a Party to the Convention has not issued a certificate from the Secretary General shall be conclusive evidence that the country in question is for the time being a Convention country.

#### PART XVI

#### LIABILITY OF SHIP OWNERS AND OTHERS:

##### CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

307. (1) In this Part, unless the context otherwise requires- Interpretation

“cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control, and includes, except for the purposes of subsection (2) and section 314, luggage which the passenger has in or on his vehicle;

“carriage” has the meaning assigned to it in subsection (2);

“carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;

“contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a

passenger and his luggage, as the case may be, but does not include a contract of carriage which is not for reward;

“Convention” means Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 as amended;

“international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;

“loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

“luggage” means any article or vehicle carried by the carrier under a contract of carriage, but does not include-

- (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
- (b) live animals;

“passenger” means any person carried in a ship-

- (a) under a contract of carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by any contract for the carriage of goods;

“performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

“ship” means a sea-going vessel, but does not include an air-cushion vehicle;

(2) For the purposes of Parts XVI and XVII, “carriage” covers the following periods-

- (a) with regard to the passenger and his cabin luggage, the period during which the passenger and his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water between land and ship, if the cost of such transportation is included in the fare or if the vessel used for the purpose of auxiliary transportation has been put at the disposal of the passenger by the carrier;
- (b) with regard to the passenger, the period referred to in paragraph (a) but not including the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation;
- (c) with regard to cabin luggage, the period referred to in paragraph (a) as well as the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;
- (d) with regard to luggage other than cabin luggage, the period from the time it is taken over by the carrier or his servant or agent ashore or on board until the time it is redelivered by the carrier or his servant or agent.

308. (1) Subject to subsection (2), where a dispute concerning the carriage of passengers, and their luggage by sea is brought before the Court, this Part shall apply to any international carriage if-

Application

- (a) the ship is flying the flag of or is registered in a State party to the Convention;
- (b) the contract of carriage has been made in a State party to the Convention;
- (c) the place of departure or destination according to the contract of carriage, is in a State party to the Convention.

(2) Notwithstanding subsection (1), Parts XVI and XVII shall not be applicable where the carriage is subject to the provisions of any other international convention concerning civil liability with

respect to the carriage of passengers or luggage by another mode of transportation, in so far as those provisions have mandatory application to carriage by sea.

(3) For the purposes of subsection (2), provisions of such an international convention as is mentioned in that paragraph which do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

Liability of carrier

309. (1) The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

(2) Subject to subsections (3) and (4), the claimant shall carry the burden of proving-

- (a) that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of such loss or damage;
- (b) fault or neglect on the part of the carrier or of his servants or agents acting within the scope of their employment.

(3) Where the death of or personal injury to the passenger, or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship, there shall be a presumption of fault or neglect on the part of the carrier or his servants or agents acting within the scope of their employment, unless there is proof to the contrary.

(4) In respect of loss of or damage to luggage other than cabin luggage, there shall be a presumption of fault or neglect on the part of the carrier or his servants or agents acting within the scope of their employment, irrespective of the nature of the incident which caused the loss or damage, unless there is proof to the contrary.

Performing carrier

310. Where the performance of the carriage or part thereof has been entrusted to a performing carrier, the following rules shall apply-

- (a) subject to paragraphs (b), (c), (d) and (e), the carrier shall be liable under this Part for the entire carriage, and in relation to the carriage performed by the performing carrier, shall be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment;
- (b) subject to paragraphs (a), (c), (d) and (e), the performing carrier shall be subject and entitled to the provisions of this Part for the part of the carriage performed by him;
- (c) any special agreement, under which the carrier assumes obligations not imposed by this Part or any waiver of rights conferred by Parts XVI and XVII, shall not affect the performing carrier unless the performing carrier so agrees expressly and in writing;
- (d) where, and to the extent that, both the carrier and the performing carrier are liable, their liability shall be joint and several;
- (e) nothing in this section shall prejudice any right of recourse as between the carrier and the performing carrier.

311. The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in section 314.

Valuables

312. Where the carrier proves that the death of or personal injury to a passenger, or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the carrier may be exonerated wholly or partly from liability in accordance with the law of Saint Vincent and the Grenadines.

Contributory fault

313. (1) With respect to limits of liability of the carrier for death or personal injury, the following rules shall apply-

Limits of liability for death or personal injury

- (a) subject to paragraphs (b), (c) and (d), liability for the death of or personal injury to a passenger shall not exceed 46,666 special drawing rights per carriage;
- (b) where damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the limits prescribed in paragraph(a);
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraphs (a) and (b);
- (d) the carrier and the passenger may agree, expressly and in writing, to limits of liability higher than those prescribed in paragraphs (a) and (b).

(2) Notwithstanding subsection (1)(a), the Minister may by Order provide for a limit of liability higher than that provided for in subsection (1)(a) for a carrier whose principal place of business is in Saint Vincent and the Grenadines.

Limits of liability for loss of or damage to luggage

314. With respect to limits of liability of the carrier for the loss of or damage to luggage, the following rules shall apply-

- (a) subject to paragraphs (b) and (c), the liability of the carrier shall not exceed the limits herein prescribed that is to say-
  - (i) for the loss of or damage to cabin luggage, 833 special drawing rights per passenger, per carriage;
  - (ii) for the loss of or damage to vehicles including all luggage carried in or on the vehicle, 3,333 special drawing rights per vehicle, per carriage;
  - (iii) for the loss of or damage to luggage other than those mentioned in subparagraphs (i) and (ii), 1,200 special drawing rights per passenger, per carriage.
- (b) the carrier and the passenger may agree -
  - (i) that the liability of the carrier shall be subject to a deductible not exceeding 117 special drawing rights in the case of damage to a vehicle, and

not exceeding 13 special drawing rights per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage;

- (ii) expressly and in writing, to limits of liability higher than those prescribed in paragraph (a).
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraph (a).

315. (1) For the purpose of converting from special drawing rights into dollars, the amounts mentioned in sections 313 and 314 in respect of which a judgement is given, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-

Special Drawing  
Rights and conversion

- (a) the day on which the judgement is given; or
  - (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Minister stating-
- (a) that a particular sum in dollars has been fixed as mentioned in subsection (1) for a particular day; or
  - (b) that no sum has been so fixed for that day and a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of sections 313 and 314 and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

316. Where an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by Parts XVI and XVII, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Part.

Defences and limits  
for carriers, servants

Aggregation of  
claims

317. (1) Where the limits of liability prescribed in sections 313 and 314 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

(2) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Part, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

(3) In any case where a servant or agent of the carrier or of the performing carrier is entitled under section 316 to avail himself of the limits of liability prescribed in sections 313 and 314, the aggregate of the amounts recoverable from the carrier, or the performing carrier, as the case may be, and from that servant or agent, shall not exceed those limits.

(4) For the avoidance of doubt, it is hereby declared that the limitations on liability mentioned in this section in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in Saint Vincent and the Grenadines or elsewhere.

Loss of right to limit  
liability

318. (1) The carrier shall not be entitled to the benefit of the limits of liability prescribed in sections 313 and 314, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(2) The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Basis for claim

319. No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Part.



320. (1) The passenger shall give written notice to the carrier or his agent- Notice of loss or damage to luggage

- (a) in the case of apparent damage to luggage-
  - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
  - (ii) for all other luggage, before or at the time of its re-delivery;
- (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.

(2) Where the passenger fails to comply with this section, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

(3) The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

321. (1) Subject to subsections (2), (3) and (4), any action for damages arising out of the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be time-barred after a period of two years.

Time-bar for actions

- (2) The limitation period shall be calculated as follows-
  - (a) in the case of personal injury, from the date of disembarkation of the passenger;
  - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation;
  - (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

(3) The Court may at its discretion determine the suspension and interruption of limitation periods, but in no case shall an action under this Part be brought after the expiration of a period of three years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, which ever is later.

(4) Notwithstanding subsections (1), (2) and (3), the period of limitation may be extended by a declaration in writing of the carrier or by agreement in writing of the parties after the cause of action has arisen.

C o m p e t e n t  
jurisdiction

322. (1) Proceedings under this Part may be brought before the Court by a claimant if-

- (a) the permanent residence or principal place of business of the claimant or the defendant is situated in Saint Vincent and the Grenadines;
- (b) the place of departure or destination according to the contract of carriage is in Saint Vincent and the Grenadines;
- (c) the contract of carriage was entered into in Saint Vincent and the Grenadines and the defendant has a place of business in, and is subject to, the jurisdiction of Saint Vincent and the Grenadines.

(2) After the occurrence of the incident causing the damage, subject to agreement by the parties, the claim for damages may be submitted to arbitration, and section 321 shall, in such case, apply to an arbitration as it applies to an action.

(3) The Court before which proceedings are brought in pursuance of subsection (1) to enforce a liability which is limited by virtue of section 317 may, at any stage of the proceedings make such orders as appear to the Court to be just and equitable in view of the provisions of section 317 and of any other proceedings which have been or are likely initiated in Saint Vincent and the Grenadines or elsewhere to enforce the liability in whole or in part.

(4) Without prejudice to the generality of the provisions of subsection (3), such a Court shall, where the liability is or may be partly enforceable in other proceedings in Saint Vincent and the Grenadines or elsewhere, have jurisdiction to award an amount less than the Court would have awarded if the limitation applied solely to

the proceedings before the Court or to make any part of its award conditional on the results of any other proceedings.

323. A contractual provisions concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Part, except as provided in sub-paragraph (b)(i) of section 319, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the application of subsection (1) of section 327, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Part.

Invalidity of  
c o n t r a c t u a l  
provisions

324. This Part shall not modify the rights or duties of the carrier, and their servants or agents provided for in international conventions applicable to Saint Vincent and the Grenadines, this Act or any other law of Saint Vincent and the Grenadines relating to the limitation of liability of owners of sea-going ships.

Application of other  
limitation regimes

325. No liability shall arise under this Part for damage caused by a nuclear incident if liability arises under an international convention relating to nuclear damage applicable to Saint Vincent and the Grenadines, or any other law of Saint Vincent and the Grenadines relating to nuclear damage.

Nuclear damage

326. This Part shall apply to commercial carriage undertaken by ships owned by the Government or a Public Authority under contracts of carriage within the meaning of section 307.

Commercial carriage  
by state-owned ships

327. (1) The Minister may by order declare any State to be a party to the Convention.

States party to  
Convention

(2) Where the Minister declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made, by virtue of this section, be conclusive evidence for the purposes of this Part, that the State is a party to the Convention in respect of that country.

328. (1) The Minister may by Order require a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the Order, notice of such of the provisions of this Part as are so specified

Carrier's obligation  
to give notice to  
passengers

(2) A person who fails to comply with a requirement imposed on him by the Order is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

Application of  
s.354(4)

329. It is hereby declared that nothing in this Part affects the operation of section 354(4) which limits a shipowner's liability in certain cases of loss of life, injury or damage.

Application of s.355

330. Nothing in section 355 which, among other things, limits a shipowner's liability for the loss of or damage to goods in certain cases, shall relieve a person of any liability imposed on him by this Part.

## PART XVII

### LIABILITY OF SHIP OWNERS AND OTHERS:

#### LIMITATION AND DIVISION OF LIABILITY FOR MARITIME CLAIMS

Interpretation

331. For the purposes of this Part unless the context otherwise requires-

“ship” includes any structure (whether completed or in the course of completion) launched and intended for use in navigation as a ship or part of a ship;

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

“salvage services” has the meaning given in section 240;

“salvor” has the meaning given in section 240;

“salvage operation” has the meaning given in section 240 and includes the operations referred to in paragraphs (d), (e) and (f) of section 333(1).

Persons entitled to  
limit liability

332. (1) Shipowners and salvors may limit their liabilities in accordance with this Part.

(2) An insurer of liability for claims subject to limitation under this Part shall be entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default the shipowner or salvor is responsible may limit his liability under this Part.

333. (1) Subject to sections 334 and 335, the following claims shall be subject to limitation of liability regardless of the basis of liability-

Claims subject to limitation

- (a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Part, and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, but the claims referred to in paragraphs (d), (e) and (f) of subsection (1) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

(3) Subsection 1 (d) shall not apply unless provision has been made by an Order of the Minister for the setting up and management of a fund to be used for the making to a Port Authority of

payments needed to compensate it for the reduction, in consequence of the said subsection (1) (d), of amounts recoverable by dues or levies collected by a Port Authority in respect of vessels in like manner as other sums raised by it.

(4) Any Order under subsection (3) may contain such incidental and supplemental provisions as appear to the Minister to be necessary or expedient.

Invoking limitation not an admission of liability

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

Claims excepted from limitation

335. Limitation of liability under this Part shall not apply to the following claims-

- (a) claims for salvage under section 273 and corresponding claims under a contract;
- (b) claims for contribution in general average;
- (c) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is under such contract only permitted to limit his liability to an amount greater than that provided for in section 338;
- (d) claims for oil pollution damage in respect of any liability incurred under the provisions of Part VII of the Shipping (Marine Pollution) Act;
- (e) claims subject to any law applicable in Saint Vincent and the Grenadines governing or prohibiting limitation of liability for nuclear damage;
- (f) claims against the shipowner of a nuclear ship for nuclear damage.

Conduct barring information

336. A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission,

committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

337. Where a person entitled to limitation of liability under this Part has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

Counter claims

338. (1) The limits of liability for claims other than those provided for in section 335, arising on any distinct occasion, shall be calculated in respect of claims for loss of life or personal injury as follows-

L i m i t a t i o n  
calculations

- (a) 166,667 special drawing rights for a ship with a tonnage not exceeding 300 tons;
- (b) 333,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons; and
- (c) for a ship with a tonnage in excess of 500 tons, the following amounts in addition to that mentioned in subparagraph (ii)-
  - (i) for each ton from 501 to 3,000 tons, 500 special drawing rights;
  - (ii) for each ton from 3,001 to 30,000 tons, 333 special drawing rights;
  - (iii) for each ton from 30,001 to 70,000 tons, 250 special drawing rights; and
  - (iv) for each ton in excess of 70,000 tons, 167 special drawing rights; and

(2) The limits of liability for claims other than those provided for in section 335, arising on any distinct occasion, shall be calculated in respect of any other claims as follows-

- (a) 83,333 special drawing rights for a ship with a tonnage not exceeding 300 tons;
- (b) 167,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons;
- (c) for a ship with a tonnage in excess of 500 tons the following amounts in addition to that mentioned in subparagraph (ii)-

	<ul style="list-style-type: none"> <li>(i) for each ton from 501 to 30,000 tons, 167 special drawing rights;</li> <li>(ii) for each ton from 30,001 to 70,000 tons, 125 special drawing rights; and</li> <li>(iii) for each ton in excess of 70,000 tons, 83 special drawing rights.</li> </ul>
Limits of liability for salvors	339. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which, he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.
L i m i t a t i o n calculations for fixed claims	340. Where the amount calculated in accordance with subsection (1) of section 338 is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with subsection (2) of section 338 shall be available for payment of the unpaid balance of claims under subsection (1) of section 338 and such unpaid balance shall rank rateably with claims mentioned under subsection (2) of section 338.
Measurement of ship's tonnage	341. For the purposes of this Part, a ship's tonnage shall be her gross tonnage calculated in accordance with the Tonnage Regulations made under this Act.
Limitation of liability of dock owners and the port	<p>342. (1) This section applies in relation to a Port Authority and the owners of any dock.</p> <p>(2) The liability of a Port Authority or person to which this section applies for any loss or damage caused to any ship, or to any goods, merchandise or other things whatsoever on board any ship shall be limited in accordance with subsection (5) by reference to the tonnage of the largest Saint Vincent and the Grenadines ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which an Authority or person discharges any functions.</p> <p>(3) The limitation of liability under this section relates to the whole of any loss and damage which may arise on any one distinct occasion, although such loss and damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any enactment, and notwithstanding anything contained therein.</p>



(4) This section does not exclude the liability of a Port Authority or person to which it applies for any loss or damage resulting from any such personal act or omission of the Authority or person as is mentioned in section 336.

(5) The limit of liability shall be ascertained by applying to the ship by reference to which the liability is to be determined, the method of calculation specified in section 338 (2) read in conjunction with section 341.

(6) Sections 346 and 347 shall apply for the purposes of this section.

(7) For the purposes of subsection (2) a ship shall not be treated as having been within the area over which a Port Authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within the area.

(8) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.

(9) In this section-

“dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, slips, quays, wharves, piers, stages, landing places and jetties; and “owners of any dock” includes any authority or person having the control and management of any dock.

343. (1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 special drawing rights multiplied by the number of passengers which the ship is authorised to carry according to the ship’s certificate.

Limits for passenger claims

(2) For the purpose of this section “claims for loss of life or personal injury to passengers of a ship” shall mean any such claims brought by or on behalf of any person carried in that ship-

(a) under a contract of passenger carriage; or

- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

(3) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by this Act, the ship's certificate mentioned in subsection (1) shall be that certificate.

Conversion of units  
of account

344. (1) For the purpose of converting the amounts mentioned in sections 338, 339, 340 and 343 from special drawing rights into dollars one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-

- (a) the date the limitation fund shall have been constituted, payment is made, or security is given under section 346; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Minister stating-

- (a) that a particular sum in dollars has been fixed as mentioned in subsection (1) for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in dollars has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those sections and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Aggregation of claims

345. (1) The limits of liability determined in accordance with sections 338, 339 and 340 shall apply to the aggregate of all claims which arises on any distinct occasion-

- (a) against the shipowner and any person for whose act, neglect or default he or they are responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors

operating from such ship and any person for whose act, neglect or default he or they are responsible; or

- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

(2) The limits of liability determined in accordance with section 343 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the shipowner in respect of the ship referred to in section 343 and any person for whose act, neglect or default he may be responsible.

346. (1) A person alleged to be liable and seeking to limit his liability under Parts XVI and XVII may constitute a fund by depositing with the Court an amount at least equivalent to the limit provided for in section 338 or section 343 as appropriate, or by producing a guarantee acceptable by the Court, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund, and the fund so constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

Constitution of  
limitation fund

(2) A fund constituted by one of the persons mentioned in paragraphs (a), (b) or (c) of section 345(1) or his insurer; or by a person or his insurer in respect of section 345(2), shall be deemed to have been constituted by all persons mentioned in paragraphs (a), (b) or (c) of section 345(1), or all persons in respect of section 345(2), as the case may be.

(3) The Minister may determine the rate of interest to be applied for the purposes of subsection (1).

(4) Where a fund is constituted with the Court in accordance with this section for the payment of claims arising out of any occurrence, the Court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

347. (1) Subject to section 338, 340 and 343, the fund shall be distributed among the claimants in proportion to their established claims, against the fund.

Distribution of fund

(2) The Court may proceed in such manner as to the exclusion of any claimants who do not come in within a certain time and as to payment of costs, as the Court thinks just.

(3) No lien or other right in respect of any ship or property shall affect the proportions in which any amount is distributed among several claimants.

(4) All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Part and all costs incurred in relation thereto may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

(5) Where, before the fund is distributed, the person liable, or his insurer, has settled the claim, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Part.

(6) In making any distribution in accordance with this section the Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims, subrogated or otherwise, that may be established later.

Bar to other actions

348. (1) Where a limitation fund has been constituted in accordance with section 346, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(2) Where a ship or other property is attached or arrested in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Part, and in respect of which a fund has been constituted or a security or guarantee has been deposited, the Court shall order the release of the ship or property if the limitation fund has been constituted in Saint Vincent and the Grenadines or at-

- (a) the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;
- (b) the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) the port of discharge in respect of damage to cargo,

but where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim for which the ship or property was arrested or attached.

(3) Subsections (1) and (2) shall apply only if the claimant brings a claim before the Court and the limitation fund is actually available and freely transferable in respect of that claim.

349. Where a limitation fund is constituted in Saint Vincent and the Grenadines, the rules relating to its constitution and distribution, and all rules of procedure in connection therewith, shall be governed by the law of Saint Vincent and the Grenadines.

Governing law

350. (1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, 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 ship was at fault.

Apportionment of liability for damage or loss

(2) Where, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) This section applies to persons other than the owners of ships who are responsible for the faults of the ships, as well as to the owners of ships and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship in question, this section applies to the charterers or other persons for the time being so responsible instead of the owners.

(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

(5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(6) In this section "freight" includes passage money and hire.

(7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Loss of life or personal injuries; joint and several liability

351. (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.

(2) Subsection (3) of section 350 applies also to this section.

(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.

(4) Subsection (7) of section 350 applies also for the interpretation of this section.

Right of contribution for loss of life or personal injuries

352. (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively at fault.

(2) Subsection (3) of section 350 applies also to this section.

(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

Time limits for proceedings against owners or ship

353. (1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners-

- (a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or
- (b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.
- (2) The extent of the fault is immaterial for the purposes of this section.
- (3) Subject to subsections (5) and (6), no proceedings to which this section applies shall be brought after the period of two years from the date when
- (a) the damage or loss was caused; or
- (b) the loss of life or injury was suffered.
- (4) Subject to subsections (5) and (6), no proceedings under any of sections 350 to 352 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.
- (5) The Court may, in accordance with the rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.
- (6) The Court, if satisfied that there has not been during any period allowed for bringing proceedings, any reasonable opportunity of arresting the defendant ship within-
- (a) the jurisdiction of the Court; or
- (b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,

shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

354. (1) Subject to subsection (3), this Part shall apply whenever any person referred to in section 332 seeks to limit his liability before the Court or seeks to procure the release of a ship or other property, or the discharge of any security given within the jurisdiction of Saint Vincent and the Grenadines.

Scope of application  
of Part

(2) This Part shall apply in relation to Government ships as they apply in relation to other ships.

(3) In this section "Government ships" means-

- (a) ships of which the beneficial interest is vested in the Government;
- (b) ships which are registered as Government ships;
- (c) ships which are for the time being demised or sub-demised to or in the exclusive possession of the Government.

(4) This Part shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to, any property of a person who is on board the ship in question or employed in connection with that ship, or with the salvage operations in question, if he is so on board or employed under a contract of service governed by the law of Saint Vincent and the Grenadines.

Exclusion of liability

355. (1) Subject to subsection (3), the owner of a Saint Vincent and the Grenadines ship shall not be liable for any loss or damage -

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of-

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.



(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in section 336.

(4) This section shall apply in relation to Government ships as it applies in relation to other ships.

(5) In this section "owner", in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

### **PART XVIII**

#### **ENFORCEMENT OFFICERS AND POWERS**

##### **Enforcement Officers and Powers**

356. (1) The Minister shall appoint the Director for Maritime Administration and may appoint such other officers as surveyors of ships in connection with surveys of ships and other matters incidental thereto as he thinks fit;

Appointment of  
Director, surveyors  
and inspectors

(2) The Minister may, appoint persons to be surveyors of ships for the purposes of this Act and may remove any person so appointed.

(3) A surveyor of ships may be appointed as a ship surveyor or small ship surveyor as an engineer surveyor in any or all of these categories.

(4) Surveyors of ships may be appointed either generally or for any particular case or purpose.

(5) The Director may, if he thinks fit, appoint a surveyor or any other person as an inspector-

(a) to report to him-

(i) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;

(ii) whether any requirements, restrictions or prohibitions imposed by or under this Act have been complied with or, as the case may be, contravened;

(iii) whether the hull and machinery of a ship are sufficient and in good condition;

(b) for the purposes of sections 361, 362, 367 and 371.

(6) In this Act “surveyor of ships” means a surveyor appointed under subsection (1) and (2), and the reference to requirements, restrictions or prohibitions under this Act includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act.

Powers to require production of ship’s documents

357. (1) Whenever there is reason to believe that this Act or any law for the time being in force relating to merchant seamen or navigation is not complied with-

- (a) the Director;
- (b) a surveyor of ships;
- (c) any Saint Vincent and the Grenadines consular officer;
- (d) the Registrar of Ships; and
- (e) the Registrar of Seafarers;

shall-

- (i) require the owner, master, or any of the crew to produce any official log books or other documents relating to the crew or any member of the crew in their possession or control;
- (ii) require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log books or other such documents;
- (iii) muster the crew; and
- (iv) require the master to appear and give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

(2) The powers conferred by this section are conferred in relation to Saint Vincent and the Grenadines ships.

(3) Where any person, on being duly required by an officer under this section to produce a log book or any document, fails without reasonable excuse to produce the log book or document, he is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Where any person, on being duly required by any officer under this section-

- (a) to produce a log book or document, refuses to allow the log book or document to be inspected or copied;
- (b) to muster the crew, impedes the muster; or
- (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer;

he is guilty of an offence and liable on summary conviction to a fine not exceeding fifteen thousand dollars.

358. (1) For the purpose of seeing that the provisions of this Act and of regulations made under this Act or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, a surveyor of ships, may at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act, or regulations made under this Act.

Power to inspect  
ships and their  
equipment

(2) The powers conferred by subsection (1) are, if the ship is a Saint Vincent and the Grenadines ship, also exercisable outside Saint Vincent and the Grenadines and may be so exercised by a proper officer as well as the persons mentioned in that subsection.

(3) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) Where any such person as is mentioned in subsection (1) has reasonable grounds for believing that there are on any premises, provisions or waters intended for supply to a Saint Vincent and the Grenadines ship which, if provided on the ship, would not be in accordance with regulations containing requirements as to provisions

and water to be provided on ships he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with the regulations.

(5) Where any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (3), he is guilty of an offence and liable, on summary conviction, to a fine not exceeding fifteen thousand dollars.

Powers of inspectors  
in relation to  
premises and ships

359. (1) The powers conferred by this section are conferred in relation to-

- (a) any premises in Saint Vincent and the Grenadines; or
- (b) any Saint Vincent and the Grenadines ship wherever it may be and any other ship which is present in Saint Vincent and the Grenadines or in the waters of Saint Vincent and the Grenadines ;

and are available to any inspector appointed under section 356(5), for the purpose of performing his functions.

(2) An inspector-

- (a) may at any reasonable time or, in a situation which in his opinion is or may be dangerous, at any time-
  - (i) enter any premises, or
  - (ii) board any ship,
 if he has reason to believe that it is necessary for him to do so;
- (b) may, on entering any premises by virtue of paragraph (a) or on boarding a ship by virtue of that paragraph, take with him any other person authorised for the purpose by the Director, and any equipment or materials he requires;
- (c) may make such examination and investigation as he considers necessary;
- (d) may give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed, whether generally or in particular

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respects, for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);

- (e) may take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c);
- (f) may take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
- (g) may, in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary;
- (h) may, in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely-
  - (i) to examine it and do to it anything which he has power to do under that paragraph;
  - (ii) to ensure that it is not tampered with before his examination of it is completed;
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;
- (i) may require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c)-
  - (i) to attend at a place and time specified by the inspector; and
  - (ii) to answer, in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement

is imposed, such questions as the inspector thinks fit to ask; and

- (iii) to sign a declaration of the truth of his answers;
- (j) may require the production, and inspect and take copies of any entry in,-
  - (i) any books or documents which by virtue of any provision of this Act are required to be kept; and
  - (ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c);
- (k) may require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.

(3) Nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.

(4) The Minister may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2) (f) and subsection (7) and provision as to the way in which samples that have been so taken are to be dealt with.

(5) Where an inspector proposes to exercise the power conferred by subsection (2)(g) in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in, and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.

(6) Before exercising the power conferred by subsection (2)(g), an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(7) Where under the power conferred by subsection (2)(h), an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(8) No answer given by a person in pursuance of a requirement imposed under subsection (2) (i) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of section 360 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the subsection (2)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

360. (1) A person who-

- (a) intentionally obstructs an inspector in the exercise of any power available to him under section 359; or
- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 359 or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b), makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 359,

P r o v i s i o n s  
supplementary to  
section 359

is guilty of an offence and liable-

- (i) on summary conviction, to a fine not exceeding thirty thousand dollars; or
- (ii) on conviction on indictment to a fine not exceeding fifty five thousand dollars, to

imprisonment for a term not exceeding one year, or both.

(2) On an order for discovery in an action in the Court nothing in section 359 shall be taken to compel the production by any person of a document which he would on grounds of legal professional privilege be entitled to withhold.

(3) A person who complies with a requirement imposed on him in pursuance of paragraph (i), (j) or (k) of subsection (2) of section 359 shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as may be prescribed.

(4) Any payments under subsection (3) shall be made out of the Consolidated Fund.

#### **Improvement Notices and Prohibition Notices**

Improvement notices

361. (1) Where an inspector appointed under section 356(5) is of the opinion that a person-

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

he may serve on that person a notice under this section, referred to in the following sections of this Part as an "improvement notice".

(2) An improvement notice shall-

- (a) state that the inspector is of the said opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
- (b) require the person on whom the notice is served to remedy the contravention in question or, as the case may be, the matters occasioning it within such period as may be specified in the notice.

(3) The period specified in pursuance of subsection (2)(b) shall not expire before the end of the period within which a notice can



be given under section 364 requiring questions relating to the improvement notice to be referred to arbitration.

(4) In this and the following sections of this Part “the relevant statutory provisions” means-

- (a) The appropriate provisions of Parts VII to XII of this Act; and
- (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

362. (1) Where, as regards any relevant activities which are being or are likely to be carried on board any ship by or under the control of any person, an inspector appointed under section 356(5) is of the opinion that, as so carried on or as likely to be carried on, the activities involve or, as the case may be, will involve the risk of serious personal injury to any person, whether on board the ship or not, the inspector may serve on the first-mentioned person a notice under this section referred to in the following sections of this Part as a “prohibition notice”.

Prohibition notices

(2) In subsection (1), “relevant activities” means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.

(3) A prohibition notice shall-

- (a) state that the inspector is of the said opinion;
- (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk;
- (c) where in his opinion any of those matters involve or, as the case may be, will involve a contravention of any of the relevant statutory provisions state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
- (d) direct-

(i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, or

(ii) that the ship shall not go to sea,

(or both of those things), unless the matters specified in the notice in pursuance of paragraph (b), and any associated contravention of any provision so specified in pursuance of paragraph (c), have been remedied.

(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) shall take effect-

(a) at the end of a period specified in the notice, or

(b) if the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.

Provisions  
supplementary to  
section 361 and 362

363. (1) An improvement notice or a prohibition notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served-

(a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 361(2)(b) or, as the case may be, section 362; and

(b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 364.

References of notices  
to arbitration

364. (1) Any question-

- (a) as to whether any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 361(2)(a) or 362(3)(b) or (c) in connection with any opinion formed by the-inspector constituted a valid basis for that opinion, or
- (b) as to whether directions included in the notice in pursuance of section 363(1) were reasonable.

shall, if the person on whom the notice was served so requires by a notice given to the inspector within twenty-one days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(2) Where a notice is given by a person in accordance with subsection (1), then-

- (a) in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person;
- (b) in the case of a prohibition notice, the giving of the notice shall have the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs, and then only from the giving of the direction.

(3) Where, on a reference under this section the arbitrator decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances-

- (a) the reason or matter did not constitute a valid basis for the inspector's opinion, or
- (b) the direction was unreasonable,

he shall either cancel the notice or affirm it with such modifications as he may in the circumstances think fit and in any other case the arbitrator shall affirm the notice in its original form.

(4) A person shall not be qualified for appointment as an arbitrator under this section unless he is-

- (a) a person holding ~~a~~ an unrestricted certificate of competency as a master mariner or as a chief engineer officer, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person with at least 10 years standing as an attorney at law;
- (d) a person with special experience of shipping matters, or of activities carried on in ports.

(5) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 359(3).

Compensation in connection with invalid prohibition notices

365. (1) Where on a reference under section 364 relating to a prohibition notice-

- (a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector's opinion; and
- (b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the service of the notice as the arbitrator thinks fit.

(2) Where on any such reference the arbitrator decides that any direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the direction as the arbitrator thinks fit.

(3) An arbitrator shall not award any compensation under subsection (1) or (2) in the case of any prohibition notice unless-

- (a) it appears to him that the direction given in pursuance of section 362(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or
- (b) it appears to him that-

- (i) the inspector was of the opinion that there would be such a risk of injury as is referred to in the notice if the ship went to sea; and
- (ii) the effect of the direction given in pursuance of section 362(3)(d) was to prohibit the departure of the ship unless the matters, or, as the case may be, the matters and contraventions referred to in the direction were remedied.

(4) Any compensation awarded under this section shall be payable out of the Consolidated Fund.

366. (1) Any person who contravenes any requirement imposed by an improvement notice is guilty of an offence and liable - Offences

- (a) on summary conviction to a fine not exceeding fifteen thousand dollars; or
- (b) on conviction on indictment to a fine not exceeding forty thousand dollars.

(2) Any person who contravenes any prohibition imposed by a prohibition notice is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding fifteen thousand dollars; or
- (b) on conviction on indictment to a fine not exceeding seventy thousand dollars, to imprisonment for a term not exceeding two years, or both.

(3) It shall be a defence for a person charged with an offence under this section to prove that he exercised all due diligence to avoid a contravention of the requirement or prohibition in question.

(4) In this section any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 364.

### PART XIX

#### INQUIRIES AND INVESTIGATIONS INTO MARINE CASUALTIES

367. (1) Where any of the following casualties occur, that is to say- Investigations of  
shipping casualties

- (a) the loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship;
- (b) a loss of life or serious injury to any person, caused by fire on board, or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or
- (c) any damage caused by a ship,

and, at the time it occurs, the ship was a Saint Vincent and the Grenadines ship or the ship or ship's boat was in the waters of Saint Vincent and the Grenadines, the Director may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Director who shall have the powers conferred on an inspector by section 364.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), the Minister may cause a Formal Investigation to be held by a Board appointed for that purpose.

Formal investigation

368. (1) A Board holding a formal investigation into a shipping casualty under section 367 shall consist of a Judge of the Court or a Magistrate or an Attorney at Law with at least ten years standing who shall be assisted by one or more assessors appointed by the Minister; such assessors being persons with requisite skills and knowledge in maritime matters.

(2) Where in any investigation, any question as to the cancellation or suspension of the certificate issued to an officer in pursuance of any regulations made under section 99(5)(c) is likely to arise, there shall be not less than 2 assessors.

(3) Where as a result of the investigation the Board is satisfied, with respect to any officer, or any of the matters mentioned in paragraphs (a) to (c) of section 112(1) and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, the Board may cancel or suspend any certificate issued to the officer under regulations made pursuant to section 99(5)(c) or censure him.

(4) Where the Board cancels or suspends the certificate under subsection (3) the officer shall deliver the certificate to the Board or the Director.

(5) Where a person fails to deliver a certificate as required under subsection (4) above, he is guilty of an offence liable on summary conviction to a fine not exceeding ten thousand dollars.

(6) Where a certificate has been cancelled or suspended under this section, the Director, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(7) The Board may make such awards as it thinks just with regard to the costs or, as the case may be, expenses of the investigation, and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the Board may, on the application of any Party named in it, be made an Order of the Court.

(8) Subsections (2), (3) and (5) shall apply to endorsements of certificates in the same manner as they apply to certificates.

(9) The Board shall make a report on the investigation to the Minister.

369. (1) Where a Formal Investigation has been held under section 368, the Minister may order the whole or part of the case to be reheard and shall do so if-

Rehearings and  
appeals

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

(2) An order under subsection (1) may provide for the rehearing to be made by the Board which held the investigation or by the Supreme Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 370, and section 368 shall apply in relation to a rehearing of an investigation by a Board as it applies in relation to the holding of an investigation.

(4) Where the Board holding the investigation has decided to cancel or suspend the certificate of any person issued pursuant to any regulations made under section 99(5) (c), or has found any person at fault, then if no application for an order under subsection (1) has been made, or if such application has been refused, that person or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision or finding, may appeal to the Court.

Rules relating to inquiries and investigations

370. (1) The Minister may make rules for the conduct of inquiries under section 367 for formal investigations under section 368, and for the conduct of any rehearing under section 369 which is not held by the Court.

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

(3) Rules of the court made for the purpose of rehearings under section 369 which are held by the Supreme Court, or of appeals to the Supreme Court, may require the Court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a rehearing or hear such an appeal with the assistance of one or more assessors.

Inquiries into and reports on deaths and injuries

371. (1) Subject to subsection (6), where-

- (a) any person dies in a Saint Vincent and the Grenadines ship or in a boat or life-raft from such a ship, or
- (b) the master of, or a seafarer employed in, such a ship dies in a country outside Saint Vincent and the Grenadines,

an inquiry into the cause of the death shall be held by the Registrar of Seafarers or a proper officer at the next port where the ship calls after the death, or at such other place as the Director may direct.

(2) Subject to subsection (6), where it appears to the Director that-

- (a) in consequence of an injury sustained or a disease contracted by a person when he was the master of, or a seafarer employed in, a Saint Vincent and the Grenadines ship, he ceased to be employed in the ship and subsequently died, and



- (b) the death occurred in a country outside Saint Vincent and the Grenadines during the period of one year beginning with the day on which he so ceased,

the Director may arrange for an inquiry into the cause of the death to be held by the Registrar of Seafarers or a proper officer.

(3) Subject to subsection (6), where it appears to the Director that a person may-

- (a) have died in a Saint Vincent and the Grenadines ship or in a boat or life-raft from such a ship, or
- (b) have been lost from such a ship, boat or life-raft and have died in consequence of being so lost,

the Director may arrange for an inquiry to be held by the Registrar of Seafarers, or a proper officer into whether the person died under the circumstances mentioned in paragraph (a) or (b); and where the Registrar of Seafarers, or proper officer finds that the death occurred under the circumstances referred to in paragraphs (a) or (b) the Registrar of seafarers or proper officer shall inquire into the cause of death.

(4) The Registrar of Seafarers or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 359.

(5) The person holding the inquiry shall make a report of his findings to the Director who shall make the report available-

- (a) if the person to whom the report relates was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;
- (b) in any case, to any person requesting it who appears to the Director to be interested.

(6) No inquiry shall be held under this section where a coroner's inquest is to be held.

372. Where-

Transmission of  
particulars of certain  
deaths on ships

- (a) an inquest is held into a death or a post mortem examination, is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and
- (b) it appears to the coroner that the death in question is such as is mentioned in section 302(2),

it shall be the duty of the coroner to send to the Registrar of Ships, particulars in respect of the deceased of a kind prescribed by regulations made by the Minister.

## **PART XX**

### **LEGAL PROCEEDINGS**

#### **Prosecution of Offences**

Time limit for  
summary offences

373. (1) Subject to subsections (2) and (3), no person shall be convicted of an offence under this Act in summary proceedings unless-

- (a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or
- (b) in a case where the accused happens during that period to be out of Saint Vincent and the Grenadines, the proceedings were commenced within two months after he first happens to arrive within Saint Vincent and the Grenadines and before the expiration of three years beginning with the date on which the offence was committed.

(2) Nothing in subsection (1), shall apply in relation to any indictable offence.

(3) Subsection (1), shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before-

- (a) the expiration of the period of six months beginning with the day when evidence which the Director of Public Prosecutions considers is sufficient to justify

a prosecution for the offence came to his knowledge;  
or

- (b) the expiration of two months beginning with the day when the accused was first present in Saint Vincent and the Grenadines after the expiration of the period mentioned in paragraph (a), if throughout that period the accused was absent from Saint Vincent and the Grenadines.
- (4) For the purpose of subsection (3)-
- (a) a certificate of the Director of Public Prosecutions stating that evidence came to his knowledge on a particular day shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of the Director of Public Prosecutions and to be signed on his behalf shall be presumed to be such certificate unless the contrary is proved.

374. No order for the payment of money shall be made under this Act in proceedings before a Magistrate's Court unless-

Time limit for  
summary orders

- (a) the proceedings were commenced within six months beginning with the date on which the matter of complaint arose; or
- (b) in a case where both or either of the parties to the proceedings happen during that period to be out of Saint Vincent and the Grenadines, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within Saint Vincent and the Grenadines.

375. (1) Where a body corporate is guilty of an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such a capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by officers  
of bodies corporate

(2) A document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act which is alleged to have been committed by the company as the owner of a ship, shall be treated as duly served on that company if the document is served on the master of the ship; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the ship in question.

(3) In subsection (2) “external company” has the same meaning as in the Companies Act.

Persons who may prosecute

376. Prosecutions in respect of offences under this Act may (without prejudice to the provisions of any other enactment relating to prosecutions) be conducted by any officer appointed under this Act and specially authorized in writing in that behalf by the Director.

Prosecution of offences and penalties

377. (1) A person who commits an offence under this Act, for which no specific penalty is provided, is liable to a fine not exceeding fifty five thousand dollars.

(2) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance thereof elsewhere than in this section, every person who commits that offence, in addition to any other liability, is liable to a fine of three thousand dollars for every day or part thereof during which the offence continues after conviction.

Compounding of offences

378. (1) The Director may compound any offence under this Act which is prescribed to be an offence compoundable by the Director on payment by the person suspected of having committed such offence of a sum of money not exceeding fifty five thousand dollars.

(2) On the payment of any sum of money under subsection (1)-

- (a) the person suspected of having committed the offence in respect of which the payment has been made shall, if in custody, be discharged;
- (b) any ship detained in respect of such offence shall be released; and

- (c) no further proceedings shall be taken against such person or ship in respect of such offence.

### Jurisdiction

379. (1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in Saint Vincent and the Grenadines where the offender may be for the time being.

Jurisdiction in relation to offences

(2) For the purpose of conferring jurisdiction, any matter of complaint under this Act shall be deemed to have arisen in any place in Saint Vincent and the Grenadines where the person complained against may be for the time being.

(3) The jurisdiction under subsections (1) and (2), shall be in addition to, and not in derogation of, any jurisdiction or power of the Court under any other enactment.

380. Where the area within which the Court has jurisdiction is situated on the coast of the sea or abuts on or projects into any bay, channel, or other navigable water, the Court shall have jurisdiction as respects offences under this Act over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, or navigable water and over all persons on board that vessel or for the time being belonging to it.

Jurisdiction over ships lying off coasts

381. Where any person is charged with having committed any offence under this Act the person-

Jurisdiction in case of offences on board ship

- (a) if he is a Saint Vincent and the Grenadines citizen and is charged with having committed it-
- (i) on board any Saint Vincent and the Grenadines ship on the high seas;
  - (ii) in any foreign port or harbour, or
  - (iii) on board any foreign ship to which he does not belong; or
- (b) if he is not a Saint Vincent and the Grenadines citizen and is charged with having committed it on board any Saint Vincent and the Grenadines ship on the high seas;

and he is found within the jurisdiction of the Court in Saint Vincent and the Grenadines which would have had jurisdiction in relation to the offence if it had been committed on board a Saint Vincent and the Grenadines ship within the limits of its ordinary jurisdiction to try the offence, the Court shall have jurisdiction to try the offence as if it had been so committed.

Offences committed  
by Saint Vincent and  
the Grenadines  
seafarer

382. (1) Any act in relation to property or person done in or at any place, ashore or afloat, outside Saint Vincent and the Grenadines by any master or seafarer who at the time is employed in a Saint Vincent and the Grenadines ship, which, if done in any part of Saint Vincent and the Grenadines would be an offence under the law of any part of Saint Vincent and the Grenadines, shall-

- (a) be an offence under that law, and
- (b) be treated for the purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the Court.

(2) Subsection (1), also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

(3) Subsections (1) and (2), apply to omissions as they apply to acts.

Return of offenders

383. (1) The powers conferred on a Saint Vincent and the Grenadines consular officer by subsection (2), are exercisable in the event of any complaint being made to him-

- (a) that any offence against property or persons has been committed at any place, ashore or afloat, outside Saint Vincent and the Grenadines by any master or seafarer who at the time when the offence was committed, or within three months before that time, was employed in a Saint Vincent and the Grenadines ship.
- (b) that any offence on the high seas has been committed by any master or seafarer belonging to any Saint Vincent and the Grenadines ship.

(2) Those powers are-

- (a) to inquire into the case upon oath, and

(b) if the case so requires, to take any steps in his power for the purpose of placing the offender under the necessary restraint and sending him by a Saint Vincent and the Grenadines ship as soon as practicable in safe custody to Saint Vincent and the Grenadines for proceedings to be taken against him.

(3) The consular officer may, subject to subsections (4) and (5), order the master of any Saint Vincent and the Grenadines ship bound for Saint Vincent and the Grenadines to receive and carry the offender and the witnesses to Saint Vincent and the Grenadines; and the officer shall endorse upon the agreement of the ship such particulars with respect to them as the Director requires.

(4) A consular officer shall not exercise the power conferred by subsection (3), unless no more convenient means of transport is available or it is available only at disproportionate expense.

(5) No master of a ship may be required under subsection (3), to receive more than one offender for every 100 tons of his ship's gross tonnage, or more than one witness for every 50 tons of his ship's gross tonnage.

(6) The master of any ship to whose charge an offender has been committed under subsection (3), shall, on his ship's arrival in Saint Vincent and the Grenadines give the offender into the custody of a police officer.

(7) Where any master of a ship, when required under subsection (3), to receive and carry any offender or witness in his ship-

(a) fails to do so; or

(b) in the case of an offender, fails to deliver him as required by subsection (6);

he is guilty of an offence and liable on summary conviction to a fine not exceeding thirty thousand dollars.

(8) The expense of imprisoning any such offender and of carrying him and witnesses to Saint Vincent and the Grenadines otherwise than in the ship to which they respectively belong, shall be paid out of the Consolidated Fund.

(9) References in this section to carrying a person in a ship include affording him subsistence during the voyage.

**Detention of Ship and Distress on Ship**

Enforcing detention  
of ship

384. (1) Where under this Act a ship is to be detained, any of the following officers may issue an order for detention and detain the ship-

- (a) the Director;
- (b) any surveyor of ships authorised by the Director for the purpose;
- (c) any Saint Vincent and the Grenadines consular officer; and
- (d) any person authorised in writing by the Director.

(2) Where a ship which has been detained or as respects which, notice of detention or an order for detention has been served on the master, proceeds to sea before it is released by a competent authority, the master of the ship is guilty of an offence and liable-

- (a) on summary conviction, to a fine not exceeding fifty five thousand dollars;
- (b) on conviction on indictment, to a fine not exceeding one hundred and thirty five thousand dollars.

(3) The owner of a ship, and any person who sends to sea a ship, as respects which an offence is committed under subsection (2) is, if party or privy to the offence, also guilty of an offence under that subsection and is liable accordingly.

(4) Where a ship proceeding to sea in contravention of subsection (2), takes to sea, any officer authorised by subsection (1), to detain the ship, who is on board the ship in the execution of his duty, the owner and master of the ship shall each -

- (a) be liable to pay all expenses of, and incidental to, the officer being so taken to sea; and
- (b) be guilty of an offence.

(5) A person guilty of an offence under subsection (4), is liable-



- (a) on summary conviction, to a fine not exceeding fifteen thousand dollars;
- (b) on conviction on indictment, to a fine not exceeding thirty thousand dollars.

(6) Where under this Act a ship is to be detained, an officer of customs and excise shall, and where under this Act a ship may be detained, an officer of customs and excise may, refuse to clear the ship outwards or grant a transire to the ship.

(7) When any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of customs and excise the officer able to grant a clearance or transire of the ship is, unless the context otherwise requires, that officer.

(8) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea and references to sending or taking to sea shall be construed accordingly.

(9) A person exercising the power of detention in respect of an alleged contravention of this Act shall immediately release the ship if -

- (a) no proceedings for the offence in question are instituted within seven days beginning with the day of which the ship is detained;
- (b) such proceedings, having been instituted through exercise of the power conferred by subsection (1) within that period, are concluded without the master or owner being convicted;
- (c) either -
  - (i) the sum of two hundred and seventy thousand dollars is paid to the Director by way of security; or
  - (ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than two hundred and seventy thousand dollars is given to the Minister by or on behalf of the master or owner; or

- (d) where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid, or:
- (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Act of the Sea 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(10) The Director shall repay any sum paid in pursuance of subsection (9) (c) or release any security so given -

- (a) if no proceedings for the offence in question are instituted within seven days beginning with the day on which the sum is paid; or
- (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.

(11) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (9) (c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied -

- (a) first in the payment of any costs or expenses ordered by the Court to be paid by the master or owner; and
- (b) next in the payment of any fine imposed by the Court;

and the balance shall be repaid to the person paying the sum, or giving the security.

Sums ordered to be paid leviable by distress on the ship

385. (1) Where the Court makes an order directing payment to be made of any seafarer's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the Court which made the order may direct the amount remaining unpaid to be levied by distress.

(2) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any costs or expenses ordered to be paid by him are not paid at the time ordered by the Court, the Court shall, in addition to any other

powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or arrestment and sale of the ship, her tackle, furniture and apparel.

(3) Where a person is convicted of an offence under this Act and the Court imposes a fine in respect of the offence, then if it appears to the Court that any person has incurred, or will incur, expenses in making good any damage, which is attributable to the offence, the Court may order the whole or part of the fine to be paid to ~~that person for or towards defraying those expenses~~

#### Special Evidentiary Provisions

386. (1) Where the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceedings and it is proved that that person cannot be found in Saint Vincent and the Grenadines, any deposition that he may have previously made at a place outside Saint Vincent and the Grenadines in relation to the same subject matter shall, subject to subsection (2), be admissible in evidence in those proceedings.

Depositions of  
persons abroad  
admissible

(2) For a deposition to be admissible under subsection (1), in any proceedings, the deposition-

- (a) must have been taken on oath;
- (b) must have been taken before a justice or magistrate or a Saint Vincent and the Grenadines consular officer in any other place;
- (c) must be authenticated by the signature of the justice, magistrate or officer taking it; and
- (d) must, if the proceedings are criminal proceedings, have been taken in the presence of the accused;

and, in a case falling within paragraph (d), the deposition shall be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.

(3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence of that fact.

(4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.

(5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of the Court.

Admissibility in evidence and inspection of certain documents

387. (1) The following documents shall be admissible in evidence and, when in the custody of the Director shall be open to public inspection-

- (a) documents purporting to be submissions to or decisions by the Registrar of Seafarers or proper officers under section 85;
- (b) the official log book of any ship kept under section 128 and, without prejudice to section 388(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
- (c) crew agreements, lists of crews made under section 129 and notices given under Part V of additions to or changes in crew agreements and lists of crews;
- (d) returns or reports under section 302; and
- (e) documents transmitted to the Director under section 396.

(2) A certificate issued under regulations made pursuant to section 99 shall be admissible in evidence.

Admissibility of documents in evidence

388. (1) Where a document is by this Act declared to be admissible in evidence the document shall, on its production from proper custody-

- (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
- (b) subject to all just exceptions, be evidence of the matters stated in the document.

(2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3), also be admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2), unless-

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Director determines.

(4) A person shall, on payment of such reasonable price as the Director determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.

(5) Where any officer having duties of certification under subsection (3), in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract he is guilty of an offence and liable-

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding fifteen thousand dollars; or
- (b) on conviction on indictment to a fine not exceeding thirty thousand dollars, to imprisonment for a term not exceeding two years, or both.

389. (1) Where under any enactment a document is open to public inspection when in custody of the Director-

- (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but
- (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.

(2) Where the Director destroys any document which has been sent to him under or by virtue of any enactment and keeps a copy or other reproduction of that document, then-

Inspection and admissibility in evidence of copies of certain documents

- (a) an enactment providing for that document to be admissible in evidence or open to public inspection, and
- (b) in the case of a document falling within subsection (1), that subsection,

shall apply to the copy or other reproduction as if it were the original.

(3) For the purposes of this section, and of section 388(2) in its application to documents in the custody of the Director, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

Proof, etc. of exemptions

390. (1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act-

- (a) it may be proved by the defendant; but
- (b) need not be specified or negatived in any information or complaint;

and, if so specified or negatived, shall not require to be proved by the informant or complainant.

(2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.

Service of documents

391. (1) A notice or document authorised or required to be served on any person may be served on that person-

- (a) by delivering it to him;
- (b) by leaving it at his proper address; or
- (c) by sending it by post to him at his proper address.

(2) Any such document required to be served on the master of a ship may be served-

- (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship; and
- (b) where there is no master, on-
  - (i) the managing owner of the ship; or

- (ii) if there is no managing owner, on any agent of the owner; or
- (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.

(3) Any document authorised or required to be served on any person may-

- (a) in the case of a body corporate, be served on the secretary or clerk of that body; or
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) Any notice authorised by section 361 or 364 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.

(5) For the purposes of this section, the proper address of any person on whom any document is to be served shall be his last known address, except that-

- (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body; or
- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside Saint Vincent and the Grenadines shall be its principal office in Saint Vincent and the Grenadines.

(6) Where the person to be served with any notice has, whether in pursuance of registration regulations or otherwise, specified an address in Saint Vincent and the Grenadines other than his proper address within the meaning of subsection (5), as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section as his proper address.

**PART XXI****SUPPLEMENTAL****Administration**

Power of Minister to  
administer Act

392. The Minister in addition to any other power conferred on him by any other provisions of this Act shall be responsible for the administration and implementation of this Act.

Department of  
M a r i t i m e  
Administration

393. (1) There is hereby established an administration to be called the Department of Maritime Administration which shall exercise general supervision over all matters to which this Act relates.

(2) The Administration shall comprise the following persons-

- (a) the Director for Maritime Administration;
- (b) the Registrar of Ships;
- (c) the Registrar of Seafarers;
- (d) the Commissioner for Maritime Affairs; and
- (e) a Surveyor of Ships.

(3) The Administration shall be managed by a Commission which shall consist of not more than seventeen members as specified in subsection (4) all of whom shall be appointed by the Prime Minister in consultation with the Minister.

(4) The following persons shall comprise the Commission-

- (a) the Permanent Secretary in the Ministry of National Security who shall be the Chairperson;
- (b) the Registrar of Ships who shall be the Secretary;
- (c) the Director for Maritime Administration;
- (d) the Registrar of Seafarers;
- (e) the Commander Coast Guard;
- (f) the Director General Finance and Planning or his nominee;
- (g) the Commissioner of Maritime Affairs;



- (h) the Harbour Master;
- (i) the Port Manager;
- (j) the Solicitor General or his nominee;
- (k) the Comptroller of Customs and Excise Department;
- (l) the Permanent Secretary Ministry of Telecommunications or his nominee;
- (m) Chief Fisheries Officer;
- (n) Chief Environmental Co-ordinator or his nominee;
- (o) the Permanent Secretary Ministry of Transport, Works and Housing or his nominee.

(5) A vacancy in the Commission shall not affect the functioning of the Commission or its powers, and the participation of any eight members shall be sufficient for the purpose of the functioning of the Commission.

(6) No action shall lie against the Government or any public officer or other person appointed or authorised to perform any function under this Act in respect of anything done or omitted to be done by him in good faith in the exercise or performance of any power, authority or duty conferred or imposed on him under this Act.

394. (1) The Director may, and upon such conditions, if any, as the Director thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under, this Act, or dispense with the observance of any such requirement in the case of any ship, if he is satisfied, as respects that requirement, of the matters specified in subsection (2).

General power to dispense

- (2) Those matters are-
  - (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and
  - (b) that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

Nautical assessors	395. There shall be paid to any assessor appointed under this Act such remuneration, out of money provided by the Consolidated Fund.
Return, etc. to Director	396. All consular officers of Saint Vincent and the Grenadines shall make and send to the Director such reports on any matter relating to Saint Vincent and the Grenadines seafarers as the Director may require.
Forms	<p>397. (1) The Director may prepare and approve forms for any book, instrument or paper required under this Act and may alter such forms as he thinks fit.</p> <p>(2) The Director shall cause every such form to be marked with the distinguishing mark of the Administration and, before finally issuing any form or making any alteration in a form, shall cause public notice thereof to be given in such manner as he thinks requisite in order to avoid inconvenience.</p> <p>(3) The Director shall cause such forms to be available from the Administration.</p> <p>(4) Every such book, instrument or paper shall be made in the form, if any, approved by the Director, or as near as circumstances permit; and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.</p> <p>(5) Every such book, instrument or paper if made in a form purporting to be the proper form and to be marked in accordance with subsection (2) shall be deemed to be in the form required by this Act, unless the contrary is proved.</p> <p>(6) The foregoing provisions do not apply where special provisions is made by this Act.</p> <p>(7) Where any person prints, sells or uses any document purporting to be a form approved by the Director knowing that the document is not the form approved for the time being or that the document has not been prepared or issued by the Director, that person is guilty of an offence and liable on summary conviction, to a fine not exceeding five thousand dollars.</p>

#### **Financial Provisions**

Fees and fines	398. (1) The Minister may make regulations prescribing fees to be charged in respect of-
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- (a) the issue or recording in pursuance of this Act of any certificate, licence or other document; or
- (b) the doing of any thing in pursuance of this Act.

(2) In the case of fees for the measurement of a ship's tonnage the fees may be prescribed as maximum fees.

(3) All fees and fines payable under this Act shall be paid into the Consolidated Fund.

399. The following expenses and other amounts shall be payable out of the Consolidated Fund-

Expenses charged on money provided by the Consolidated Fund

- (a) the expenses incurred by the Director under this Act;
- (b) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
- (c) such sums as the Director may, in his discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
- (d) the expenses incurred in respect of a receiver of wreck in the performance of his duties;
- (e) such expenses as the Director directs for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or rewarding the preservation of life in such cases;
- (f) any other amounts which are by virtue of any provision of this Act payable out of money provided out of the Consolidated Fund.

#### **Regulations**

400. (1) Without prejudice to any other provision of this Act, the Minister may make regulations making such provisions as he considers appropriate for all or any of the following purposes-

Regulations, etc.

- (a) for securing the safety of ships registered in Saint Vincent and the Grenadines and persons on them and for protecting the health of persons on Saint Vincent and the Grenadines ships;

- (b) for giving effect to any provisions of an international agreement so far as the agreement relates to the safety of other ships or persons on them, or to the protection of the health of persons on other ships;
- (c) for securing the safety of other ships and persons on them while they are within a port in Saint Vincent and the Grenadines.

(2) The power conferred by subsection (1) to make provision for giving effect to an agreement includes power to provide for the provision to come into force although the agreement has not come into force.

(3) Regulations made under subsection (1) may-

- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside Saint Vincent and the Grenadines;
- (d) contain such incidental and transitional provisions as the Minister considers appropriate.

**Application of Act to Certain Descriptions of Ships, etc.**

Applications of the Act to non-Saint Vincent and the Grenadines ships

401. (1) The Minister may make regulations specifying any description of non Saint Vincent and the Grenadines- ships and directing that such of the provisions of this Act and of instruments under this Act as may be specified in the regulations-

- (a) shall extend to non Saint Vincent and the Grenadines-ships of that description and to masters and seafarers employed in them; or
- (b) shall so extend in such circumstances as may be so specified, with such modifications, if any, as may be so specified.

(2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Minister to be expedient.

(3) In this section, “non-Saint Vincent and the Grenadines ships” means ships that are not registered in Saint Vincent and the Grenadines.

402. (1) Except as otherwise provided in this Act, nothing in this Act shall apply-

Application of Act to government ships

- (a) to Saint Vincent and the Grenadines Government ships, operated for non commercial purposes;
- (b) to ships or aircraft of the Defence Force.

(2) The Minister may make regulations prescribing the manner and extent to which the provisions of this Act shall apply to Saint Vincent and the Grenadines government ships operated for non-commercial purposes.

#### **International Conventions**

403. (1) Sections 405 and 406 apply in respect of international conventions, including amendments thereto and replacements thereof and other international instruments.

Application of the Act

(2) The Minister shall from time to time by Notice publish the international conventions relating to ships and shipping including amendments thereto and replacements thereof and other international instruments which apply to Saint Vincent and the Grenadines the reservations if any, entered thereon by Saint Vincent and the Grenadines as well as those international conventions, including amendments thereto and replacements thereof and other international instruments which cease to apply to Saint Vincent and the Grenadines.

(3) The Director shall keep in his office a copy of-

- (a) all the instruments referred to in subsection (2) that have application in Saint Vincent and the Grenadines;
- (b) all regulations and notices made pursuant to this Act,
- (c) and copies shall be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public, seafarers or persons concerned with or having an interest in ships or merchant shipping.

Implementation of treaties 404. (1) For the purpose of giving effect to any international agreement or other international treaty instrument relating to shipping or the prevention of pollution of the marine environment, to which Saint Vincent and the Grenadines is a party, the Minister may -

- (a) by order make such amendment to any provision of the Act; or
- (b) make such regulations,
- (c) as appear to him to be necessary and any order or such regulations, as the case may be, shall be subject to affirmative resolution.

Conventions to prevail 405. Where an international convention or other international instrument applies to Saint Vincent and the Grenadines and a provision of that convention or instrument and a provision of this Act conflict in any manner, the provision of the convention or instrument shall prevail unless the Minister otherwise provides.

Contravention of international conventions 406. Where, in respect of any Saint Vincent and the Grenadines ship, there is any contravention of a requirement of any international convention or other international instrument which applies to Saint Vincent and the Grenadines, the Director may suspend the Certificate of Registry of the ship until the contravention is rectified.

#### **Final Provisions**

Commencement 407. (1) This Act shall come into force on such day or days as the Governor General may appoint by proclamation in the Gazette and different days may be appointed for different provisions or for different purposes of the same provision.

(2) The Governor General may appoint a later date for the coming into force of Parts XVI and XVII.

Repeals, savings and transitional

408. (1) The Merchant Shipping Act is repealed.

(2) The Wrecks and salvage Act is repealed.

(3) Where the provisions of any other law relating to shipping is inconsistent with the provision of this Act, this Act shall take precedent over all such provisions.

(4) Notwithstanding subsections (1), (2) and (3) all subsidiary legislation made pursuant to those Acts shall remain in force and are to be modified and adapted as necessary in conformity

with the provisions of this Act, until the Regulations made under this Act are in place. Cap. 364

(5) Notwithstanding subsection (1) if on the commencement date any transaction, proceeding, claim or otherwise is enacted with respect to matters arising under sections 229-235 of the Merchant Shipping Act those transactions, proceedings, claims or otherwise, shall be continued under that Act as if this Act had not been enacted. Cap. 375

**SCHEDULE****[section 74 (F)]****INTERNATIONAL CONVENTION  
ON MARITIME LIENS AND MORTGAGES****“Article 1****Recognition and enforcement of mortgages,  
“hypothèques” and charges**

Mortgages, “hypothèques” and registrable charges of the same nature, which registrable charges of the same nature will be referred to hereinafter as “charges” effected on seagoing vessels shall be recognised and enforceable in States Parties provided that:

- (a) such mortgages, “hypothèques” and charges have been effected and registered in accordance with the law of the State in which the vessel is registered;
- (b) the register and any instruments required to be deposited with the registrar in accordance with the law of the State in which the vessel is registered are open to public inspection, and that extracts from the register and copies of such instruments are obtainable from the registrar; and
- (c) either the register or any instruments referred to in subparagraph (b) specifies at least the name and address of the person in whose favour the mortgage, “hypothèque” or charge has been effected or that it has been issued to bearer, the maximum amount secured, if that is a requirement of the law of the State of registration or if that amount is specified in the instrument creating the mortgage, “hypothèque” or charge, and the date and other particulars which, according to the law of the State of registration, determine the ranking in relation to other registered mortgages, “hypothèques” and charges.

**Article 2****Ranking and effects of mortgages, “hypothèques” and charges**

The ranking of registered mortgages, “hypothèques” or charges as between themselves and, without prejudice to the provisions of this Convention, their effect in regard to third parties shall be determined by the law of the State of registration; however, without prejudice to the provisions of this Convention, all matters relating to the procedure of enforcement shall be regulated by the law of the State where enforcement takes place.



**Article 3****Change of ownership or registration**

1. With the exception of the cases provided for in articles 11 and 12, in all other cases that entail the de-registration of the vessel from the register of a State Party, such State Party shall not permit the owner to de-register the vessel unless all registered mortgages, "hypothèques" or charges are previously deleted or the written consent of all holders of such mortgages, "hypothèques" or charges is obtained. However, where the de-registration of the vessel is obligatory in accordance with the law of a State Party, otherwise than as a result of a voluntary sale, the holders of registered mortgages, "hypothèques" or charges shall be notified of the pending de-registration in order to enable such holders to take appropriate action to protect their interests; unless the holders consent, the de-registration shall not be implemented earlier than after a lapse of a reasonable period time which shall be not less than three months after the relevant notification to such holders.

2. Without prejudice to article 12, paragraph 5, a vessel which is or has been registered in a State Party shall not be eligible for registration in another State Party unless either:

- (a) a certificate has been issued by the former State to the effect that the vessel has been de-registered; or
- (b) a certificate has been issued by the former State to the effect that the vessel will be deregistered with immediate effect, at such time as the new registration is effected. The date of de-registration shall be the date of the new registration of the vessel.

**Article 4****Maritime liens**

1. Each of the following claims against the owner, demise charterer, manager or operator of the vessel shall be secured by a maritime lien on the vessel:

- (a) claims for 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, including costs of repatriation and social insurance contributions payable on their behalf;
- (b) claims in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the vessel;
- (c) claims for reward for the salvage of the vessel;
- (d) claims for port, canal, and other waterway dues and pilotage dues;
- (e) claims based on tort arising out of physical loss or damage caused by the

operation of the vessel other than loss of or damage to cargo, containers and passengers' effect carried on the vessel.

2. No maritime lien shall attach to a vessel to secure claims as set out in subparagraphs (b) and (e) of paragraph 1 which arise out of or result from:

- (a) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to international conventions or national law providing for strict liability and compulsory insurance or other means of securing the claims; or
- (b) the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive products or waste.

#### **Article 5**

##### **Priority of maritime liens**

1. The maritime liens set out in article 4 shall take priority over registered mortgages, "hypothèques" and charges, and no other claim shall take priority over such maritime liens or over such mortgages, "hypothèques" or charges which comply with the requirements of article 1, except as provided in paragraph 3 and 4 of article 12.

2. The maritime liens set out in article 4 shall rank in the order listed, provided however that maritime liens securing claims for reward for the salvage of the vessel shall take priority over all other maritime liens which have attached to the vessel prior to the time which the operations giving rise to the said liens were performed.

3. The maritime liens set out in each of subparagraph (a), (b), (d) and (e) of paragraph 1 of article 4 shall rank pari passu as between themselves.

4. The maritime liens securing claims for reward for the salvage of the vessel shall rank in the inverse order of the time when the claims secured thereby accrued. Such claims shall be deemed to have accrued on the date on which each salvage operation was terminated.

#### **Article 6**

##### **Other maritime liens**

Each State Party may, under its law, grant other maritime liens on a vessel to secure claims, other than those referred to in article 4, against the owner, demise charterer, manager or operator of the vessel, provided that such liens:

- (a) shall be subject to the provisions of articles 8, 10 and 12;

- (b) shall extinguished
  - (i) after a period of 6 months, from the time when the claims secured thereby arose unless, prior to the expiry of such period, the vessel has been arrested or seized, such arrest to seizure leading to a forced sale; or
  - (ii) at the end of a period of 60 days following a sale to a bona fide purchaser of the vessel, such period to commence on the date on which the sale is registered in accordance with the laws of the State in which the vessel is registered following the sale;which ever period expires first; and
- (c) shall rank after the maritime liens set out in article 4 and also after registered mortgages, “hypothèques” or charges which comply with the provisions of article 1.

#### **Article 7**

##### **Rights of retention**

1. Each State Party may grant under its law a right of retention in respect of a vessel in the possession of either:
  - (a) a shipbuilder, to secure claims for the building of the vessel; or
  - (b) a shiprepairer, to secure claims for repair, including reconstruction of the vessel, effected during such possession.
2. Such right of retention shall be extinguished when the vessel ceases to be in the possession of the shipbuilder or shiprepairer, otherwise than in consequence of an arrest or seizure.

#### **Article 8**

##### **Characteristics of maritime liens**

Subject to the provisions of article 12, the maritime liens follow the vessel, notwithstanding any change of ownership or of registration or of flag.

#### **Article 9**

##### **Extinction of maritime liens by lapse of time**

1. The maritime liens set out in article 4 shall be extinguished after a period of one year unless, prior to the expiry of such period, the vessel has been arrested or seized, such arrest or seizure leading to a forced sale.

2. The one-year period referred to in paragraph 1 shall commence:
  - (a) with respect to the maritime lien set out in article 4, paragraph 1 (a), upon the claimant's discharge from the vessel
  - (b) with respect to the maritime liens set out in article 4, paragraph 1 (b) to (e), when the claims secured thereby arise;and shall not be subject to suspension or interruption, provided, however, that time shall not run during the period that the arrest or seizure of the vessel is not permitted by law.

#### **Article 10**

##### **Assignment and subrogation**

1. The assignment of or subrogation to a claim secured by a maritime lien entails the simultaneous assignment of or subrogation to such a maritime lien.
2. Claimants holding maritime liens may not be subrogated to the compensation payable to the owner of the vessel under an insurance contract.

#### **Article 11**

##### **Notice of forced sale**

1. Prior to the forced sale of a vessel in a State Party, the competent authority in such State Party shall ensure that notice in accordance with this article is provided to:
  - (a) the authority in charge of the register in the State of registration;
  - (b) all holders of registered mortgages, "hypothèques" or charges which have not been issued to bearer;
  - (c) all holder of registered mortgages, "hypothèques" or charges issued to bearer and all holders of the maritime liens set out in article 4, provided that the competent authority conducting the forced sale receives notice of their respective claims; and
  - (d) the registered owner of the vessel.
2. Such notice shall be provided at least 30 days prior to the forced sale and shall contain either:
  - (a) the time and place of the forced sale and such particulars concerning the forced sale or the proceedings leading to the forced sale as the authority in a State Party conducting the proceedings shall determine is sufficient to protect the interests of persons entitled to notice; or

- (b) if the time and place of the forced sale cannot be determined with certainty, the approximate time and anticipated place of the forced sale and such particulars concerning the forced sale as the authority in a State Party conducting the proceedings shall determine is sufficient to protect the interest of persons entitled to notice.

If notice is provided in accordance with subparagraph (b), additional notice of the actual time and place of the forced sale shall be provided when known but, in any event, not less than seven days prior to the forced sale.

3. The notice specified in paragraph 2 of this article shall be in writing and either given by registered mail, or given by any electronic or other appropriate means which provide confirmation of receipt, to the person interested as specified in paragraph 1, if known. In addition, the notice shall be given by the press announcement in the State where the forced sale is conducted and, if deemed appropriate by the authority conducting the forced sale in the other publications.

## **Article 12**

### **Effects of forced sale**

1. In the event of the forced sale of the vessel in a State Party, all registered mortgages, "hypothèques" or charges, 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 vessel, provided that:

- (a) at the time of the sale, the vessel is in the area of the jurisdiction of such State; and
- (b) the sale has been effected in accordance with the laws of the said state and the provisions of article 11 and this article.

2. The costs and expenses arising out of the arrest or seizure and subsequent sale of the vessel shall be paid first out of the proceeds of sale. Such costs and expenses include, inter alia, the costs for the upkeep of the vessel and crew as well as wages, other sums and costs referred to in article 4, paragraph 1 (a), incurred from the time of arrest or seizure. The balance of the proceeds shall be distributed in accordance with the provisions of this Convention, to the extent necessary to satisfy the respective claims. Upon satisfaction of all claimants, the residue of the proceeds, if any, shall be paid to the owner and it shall be freely transferable.

3. A State Party may provide in its law that, in the event of the forced sale of a stranded or sunken vessel following its removal by a public authority in the interest of safe navigation or the protection of the marine environment, the costs of such removal shall be paid out of the proceeds of the sale, before all other claims secured by a maritime lien on the vessel.

4. If at the time of the forced sale the vessel is in the possession of the shipbuilder or of a shiprepairer who under the law of the State Party in which the sale takes place enjoys a right of retention, such shipbuilder or shiprepairer must surrender possession of the vessel to the purchaser but is entitled to obtain satisfaction of his claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens mentioned in article 4.

5. When a vessel registered in a State Party has been the object of a forced sale in any State Party, the competent authority shall, at the request of the purchaser, issue a certificate to the effect that the vessel is sold free of all registered mortgages, "hypothèques" or charges, except those assumed by the purchaser, and of all liens and other encumbrances, provided that the requirements set out in paragraph 1 (a) and (b) have been complied with. Upon production of such certificate, the registrar shall be bound to delete all registered mortgages, "hypothèques" or charges except those assumed by the purchaser, and to register the vessel in the name of the purchaser or to issue a certificate of deregistration for the purpose of new registration, as the case may be.

6. States Parties shall ensure that any proceeds of a forced sale are actually available and freely transferable.

### **Article 13**

#### **Scope of application**

1. Unless otherwise provided in this Convention, its provisions shall apply to all seagoing vessels registered in a State Party or in a State which is not a State Party, provided that the latter's vessel are subject to the jurisdiction of the State Party.

2. Nothing in this Convention shall create any rights in, or enable any rights to be enforced against, any vessel owned or operated by a State and used only on Government non-commercial service.

### **Article 14**

#### **Communication between States Parties**

For the purpose of articles 3, 11 and 12, the competent authorities of the States Parties shall be authorized to correspond directly between themselves.

### **Article 15**

#### **Conflict of conventions**

Nothing in this Convention shall affect the application of any international convention providing for limitation of liability or of national legislation giving effect thereto.

**Article 16****Temporary change of flag**

If a seagoing vessel registered in one State is permitted to fly temporarily the flag of another State, the following shall apply:

- (a) For the purposes of this article, references in this Convention to the “State in which the vessel is registered” or to the “State of registration” shall be deemed to be references to the State in which the vessel was registered immediately prior to the change of flag, references to “the authority in charge of the register” shall be deemed to be references to the authority in charge of the register in that State.
- (b) The law of the State of registration shall be determinative for the purpose of recognition of registered mortgages “hypothèques” and charges.
- (c) The State of registration shall require a cross-reference entry in its register specifying the State whose flag the vessel is permitted to fly temporarily; likewise, the State whose flag the vessel is permitted to fly temporarily shall require that the authority in charge of the vessel’s record specifies by a cross-reference in the record the State of registration.
- (d) No State Party shall permit a vessel registered in that State to fly temporarily the flag of another State unless all registered mortgages “hypothèques” or charges on that vessel have been previously satisfied or the written consent of the holders of all such mortgages “hypothèques” or charges has been obtained.
- (e) The notice referred to in article 11 shall be given also to the competent authority in charge of the vessel’s record in the State whose flag the vessel is permitted to fly temporarily.
- (f) Upon production of the certificate of deregistration referred to in article 12 paragraph 5 the competent authority in charge of the vessel’s record in the State whose flag the vessel is permitted to fly temporarily shall at the request of the purchaser issue a certificate to the effect that the right to fly the flag of that State is revoked.
- (g) Nothing in this Convention shall be understood to impose any obligation on States parties to permit foreign vessels to fly temporarily their flag or national vessels to fly temporarily a foreign flag.

Passed in the House of Assembly this                      day of                      2004.

Clerk of the House of Assembly

**OBJECTS AND REASONS**

The object of this Bill is to provide for the registration of ships, the national character and flags of ships; to regulate proprietary interests in ships and terms of engagement of masters and seafarers and matters ancillary thereto; to provide for the prevention of collisions at sea, the safety of navigation and of life at sea, the safety of submersibles, the regulation of load lines, the carriage of bulk and dangerous cargoes, unsafe ships, wreck and salvage; the control of persons on ships, the liability of shipowners and others and inquiries and investigations into marine casualties; to consolidate the law relating to shipping, and for incidental and connected purposes.

Sir Vincent I. Beache  
Minister of National Security,  
The Public Service and Airport  
Development