
**THE MARITIME TRANSPORT
ACT NO. 5 OF 2006**

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement
2. Interpretation
3. Application

PART II

ADMINISTRATION

4. General Administration
5. Power of the Minister to establish Maritime Safety Administration
6. Administration, implementation and enforcement
7. Appointment of Director, Registrar of ships, surveyors and inspectors

PART III

REGISTRATION OF SHIPS

Registration

8. Zanzibar Registry and Tanzania Zanzibar Ship
9. Qualifications for ownind Tanzania Zanzibar registered ships
10. Obligation to register Tanzania Zanzibar ships

Procedures for Registration

11. Application for Registration
12. Declaration of eligibility
13. Evidence of title on first registry
14. Entry of particulars in register
15. Ship Register
16. Refusal of registration
17. Termination of registration
18. Restriction on deregistration of ships
19. Certificate of deregistration
20. Survey and measurement of ships

21. Marking of ship
22. Documents to be retained by Registrar of Ships
23. Port of Registry

Certificate of Registry

24. Certificate of Registry
25. Custody of certificate
26. Penalty for use of improper certificate
27. Power to grant new certificate
28. Duplicate certificates
29. Endorsement of change of ownership
30. Provisional certificate for ship becoming entitled to be registered while abroad

Transfer of Ownership

31. Registration of transfer of ownership
32. Consequences of registration
33. Provisions relating to the application of this Act
34. Definition of transfer in this Part

Name of Ship

35. Rules as to name of ship

Registration of Alterations and Registration Anew

36. Alteration
37. Registration of Alterations
38. Procedure for registrations of Alteration
39. Registration a new or change of ownership
40. Procedure for registration anew

Tonnage Measurement

41. Tonnage Regulations
42. Tonnage of ships of foreign countries adopting tonnage regulations

Miscellaneous

43. Restriction of registration
44. Trusts, equitable interests and liabilities of beneficial interests
45. Registrar of ships may dispense with declaration or evidence
46. Evidence of certificate of registry and other documents
47. Forms of documents
48. Instructions as to registration

- 49. Forgery of document
- 50. False declarations
- 51. Registration regulations.

Registration of Small Ships and Native Vessels

- 52. Registration of small vessels
- 53. Qualifications for registration
- 54. Regulations for the registration of small ship
- 55. Regulations for the registration of native vessels

**PART IV
RESTRICTION ON TRADING**

- 56. Restriction on Trading in Zanzibar
- 57. Requirements for Insurance Cover

**PART V
NATIONAL CHARACTER AND FLAG**

- 58. National character of ship to be declared before clearance
- 59. Offences relating to Tanzania Zanzibar character of ship
- 60. Right to fly the United Republic of Tanzania flag
- 61. Nationality and colours
- 62. National flag on foreign ship
- 63. Proceedings on forfeiture of a ship

**PART VI
PROPRIETARY INTERESTS IN REGISTERED SHIPS**

General

- 64. Rights of owners and mortgages

Transfers and Transmissions

- 65. Transfers
- 66. Declaration of transfer
- 67. Registration of transfer
- 68. Transmission of property in ship on death, bankruptcy, marriage etc
- 69. Order for sale on transmission to unqualified person
- 70. Transfer of ship or sale by order of court
- 71. Power of court

Mortgages

72. Mortgage of ship or share
73. Priority of mortgage
74. Entry of discharge of mortgage
75. Protection of undercharged of mortgage
76. Mortgagee not owner and mortgagee's power of sale
77. Mortgage not affected by bankruptcy
78. Transfer of mortgages and transmission of mortgage interest by death, bankruptcy, etc.
79. Authority to sell or mortgage out of Zanzibar
80. General rules for certificate of sale
81. Procedure where ship is under certificate of sale granted in Zanzibar
82. Registration in Tanzania where ship sold under certificate of sale granted in a foreign state
83. Rules as to certificate of mortgage
84. Loss of certificate of sale or mortgage
85. Revocation of certificate of sale or mortgage

Maritime Liens

86. Maritime Liens
87. Priority of Liens
88. Order of priority of liens
89. Rights of ship builders and ship repairs
90. Maritime liens attached to a ship
91. Claims arising from radioactive products etc.
92. Limitation
93. Notice of sale to be given
94. Effect of sale on mortgages
95. Disposition of proceeds of sale
96. Issue of Certificate that a ship is free of mortgages, liens and other encumbrances

**PART VII
ENGAGEMENT AND WELFARE OF SEAFARERS**

Interpretation and Application

97. Interpretation
98. Application of this part
99. Functions of registrar of seafarers

Engagement and Discharge of Crews

- 100. Crew agreements
- 101. Regulations relating to crew agreements
- 102. Discharge of Seafarers
- 103. Seafarers left behind abroad otherwise than on discharge
- 104. Discharge of Seafarers when the ship ceases to be registered in Zanzibar

Wages, etc.

- 105. Payment of Seafarer's wages
- 106. Account of Seafarer's wages
- 107. Regulations relating to wages and accounts
- 108. Power of Registrar of Seafarer or proper officer to decide to disputes on wages
- 109. Restriction on assignment of and charge upon wages
- 110. Power of court to award interest on wages due
- 111. Allotment notes
- 112. Right of person named in allotment to sue in his own name
- 113. Right, or loss of right to wages in certain circumstances
- 114. Protection of certain rights and remedies
- 115. Remedies of master remuneration, disbursements etc.

Safety, Health and Welfare

- 116. Obligation of ship owners as to seaworthiness
- 117. Regulations in respect of medical examination
- 118. Regulations in respect of occupational accidents
- 119. Crew accommodation and living and working conditions of seafarers
- 120. Complaints about provisions or water
- 121. Expenses of medical and other treatment during voyage

Manning, Qualifications and Training

- 122. Applications of sections 123 to 127
- 123. Manning
- 124. Power to exempt from manning requirements
- 125. Prohibition of going to sea undermanned
- 126. Production of certificates and other documents of qualifications
- 127. Crew's knowledge of English
- 128. Unqualified seafarer going to sea as qualified persons
- 129. Where a ship does not carry a doctor
- 130. Special certificates of competence
- 131. Young persons

132. Financial assistance

Offences by Seafarers

133. Conduct endangering ship, persons, etc

134. Concerted disobedience and neglect of duty

Disciplinary Offences

135. Seafarers disciplinary body

136. Functions of disciplinary body

137. Codes of conduct

138. Regulations for codes of conduct

Disqualification of Seafarers and Inquiries

139. Inquiry into fitness or conduct of officer

140. Disqualification of holder of certificate

141. Inquiry into fitness or conduct of other Seafarers

142. Re-hearing and appeal from inquiry

143. Rules as to inquiries and appeals

144. Failure to deliver cancelled or suspended certificate

145. Power to restore certificate

146. Power to summon witness to inquiry

147. Refusal to give evidence to inquiry

Civil Liability of Seafarers for Offences

148. Civil liability for absence without leave

149. Civil liability for smuggling

150. Civil liability for fines under immigration laws

Relief and Repatriation and Relief Costs

151. Relief and return of Seafarers left behind or shipwrecked

152. Limit of liability under section 151

153. Recovery of expenses from employer incurred or relief and return

154. Recovery of expensed from Seafarers

Documentation

155. Official and other log books

156. Crew list

157. Seafarers identity cards

158. Discharge book

159. Handing over of documents by master

**PART VIII
PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION**

Collision Regulations, Distress and Safety

- 160. Collision regulations
- 161. Tanzania Zanzibar ships to observe collision regulations
- 162. Foreign ships in Zanzibar
- 163. Collision liability
- 164. Inspection to enforce compliance with collision regulations
- 165. Duty to render assistance following collision
- 166. Offence
- 167. Master to notify hazards to navigation
- 168. Master to proceed moderately in danger area
- 169. Duty to assist ships in distress
- 170. Right to requisition ships when in distress
- 171. Duty to assist persons in danger at sea
- 172. Application of duties imposed by the Master
- 173. Regulations for signals of distress
- 174. Reports of accidents to ship
- 175. Apprehended loss of ship
- 176. Notice to mariners and navigational warnings

Aids to Navigation and Charts and Publications

- 177. Interpretation and application
- 178. Permission to establish navigational aids
- 179. Navigational aids
- 180. Functions of the Registrar ships in respect of navigational aids
- 181. Offence
- 182. Detention of ships
- 183. Fire or lights detrimental to navigation
- 184. Regulations in respect of navigational aids
- 185. Nautical publications, charts and other information

**PART IX
SAFETY OF LIFE AT SEA**

General

- 186. Interpretation
- 187. Application of safety convention and exceptions thereto

- 188. Exemptions
- 189. Regulation relating to safety at sea
- 190. Regulations for cargo ship safety requirements and surveys
- 191. Regulations for small ships safety requirements and surveys

Surveys and Certification

- 192. Surveyor's duties
- 193. Surveyor's power of Inspection
- 194. Surveyors to report to Registrar of ships
- 195. Record of inspections and certificates
- 196. Responsibilities of owner and master and compliance with ISM Code
- 197. Procedure to be adopted when the ship, including structure, machinery and equipment is deficient
- 198. Issue of certificates to Tanzania Zanzibar ships engaged on international or short international voyages
- 199. Issue of certificates to Tanzania Zanzibar ships not engaged on international voyages and ships of less than 500tons
- 200. Form of certificate
- 201. Duration and validity of certificates
- 202. Issue and duration of exemption certificates
- 203. Extension and other provisions
- 204. Issue and endorsement of certificates by another government
- 205. Ships not registered in Zanzibar and to which the safety convention applies
- 206. Other ships which are not Tanzania Zanzibar ships
- 207. Cancellation of a certificate
- 208. Availability of certificate
- 209. Prohibition on proceeding to sea without the appropriate documentation
- 210. Prohibition proceeding on a voyage or excursion without the appropriate certificate.
- 211. Limit on the number of passengers on passenger ships
- 212. Offences
- 213. Power to detain
- 214. Arbitration

Miscellaneous

- 215. Penalty for non compliance with conditions of exemption certificates
- 216. Inspection of ships holding safety convention certificates
- 217. Ships to carry stability information
- 218. Ships to carry continuous synopsis record
- 219. Regulation for local safety certificates including fishing vessel

**PART X
LOAD LINES**

General

- 220. Interpretation
- 221. Application
- 222. Load line regulations

Tanzania Zanzibar ships

- 223. Compliance with load line regulations
- 224. Submersion of load lines
- 225. Miscellaneous offences in relation to marks
- 226. Issue of load line certificates
- 227. Effect of load line certificate
- 228. Duration, endorsement and cancellation of load line certificate
- 229. Ships not to proceed to sea without load line certificate
- 230. Publication of load line certificate and entry of particulars in official log book
- 231. Inspection of ships

Non Tanzania Zanzibar Ships

- 232. Valid convention certificates
- 233. Compliance with load line regulations for non Tanzania Zanzibar ships
- 234. Submersion of load lines for non Tanzania Zanzibar ships
- 235. Tanzania Zanzibar Load Line Certificates
- 236. Production of certificate to customs and excise office
- 237. Provisions as to inspection

Exemptions

- 238. Power to make exemption Orders
- 239. Further powers to exempt ships
- 240. Issue of exemption certificates
- 241. Duration, endorsement and termination of certificates
- 242. Internationa load line exemption certificate

Subdivision Load Lines and Deck Cargo

- 243. Subdivision load lines
- 244. Deck cargo

Miscellaneous

- 245. Notice to consular officer proceedings agains doreign ships
- 246. Surrender of certificates

- 247. Penalty for false statements
- 248. Admissibility of certificates in evidence
- 249. Conception countries
- 250. Order rules and regulations

**PART XI
CARRIAGE OF BULK CARGOES AND
DANGEROUS CARGOES**

General

- 251. Application
- 252. Interpretation

Carriage of Grain and Other Bulk Cargoes

- 253. Bulk cargo regulations
- 254. Carriage of grain
- 255. Delivery of notice and offence

Carriage of Timber

- 256. Timber cargo regulations

Carriage of Dangerous Goods

- 257. Dangerous goods regulations
- 258. Carriage and marking of dangerous goods
- 259. Offences relating to dangerous goods
- 260. Rejection and disposal dangerous goods by ship
- 261. Forfeiture of dangerous goods

**PART XII
MARITIME SECURITY ON SHIPS AND PORT FACILITIES UNDER
SAFETY CONVENTION AND INTERNATIONAL SHIP AND PORT
FACILITY SECURITY CODE**

- 262. Interpretation
- 263. Application
- 264. Security assessment
- 265. Security plans
- 266. International ship security certificate
- 267. Document of Compliance
- 268. Security levels on Tanzania Zanzibar ships and port facilities located in Zanzibar
- 269. Master's discretion for ship safety and security

-
- 270. Power of KMKM to board vessels
 - 271. Minister to make regulations

**PART XIII
MARITIME SECURITY AT HIGH SEAS (PIRACY)
UNDER THE UNITED NATIONS CONVENTION ON
THE LAW OF THE SEA 1982**

- 272. Piracy Interpretation
- 273. Hijacking and destruction of ships
- 274. Offences involving endangering safe navigation, threats and ancillary navigation
- 275. Master's power of delivery

**PART XIV
PREVENTION OF POLLUTION FROM SHIPS**

- 276. Interpretation
- 277. Application
- 278. Discharge of oil dumping of garbage prohibited
- 279. Allowable discharge
- 280. Equipment to be fitted
- 281. Oil record book
- 282. Garbage record book
- 283. Official record books
- 284. Inspections
- 285. Contravention by foreign ships
- 286. Oil reception facilities
- 287. Minister to make regulations for prevention of marine pollution
- 288. Pollution at sea
- 289. Minister may designate arrangements

**PART XV
LIABILITY FOR OIL POLLUTION**

Preliminary

- 290. Meaning of "the Liability Convention" and related expressions

Liability

- 291. Liability for oil pollution in case of tankers
- 292. Liability for oil pollution in case of other ships

- 293. Exceptions from liability under sections 291 and 292
- 294. Restriction of liability for oil pollution

Limitation of liability

- 295. Limitation of liability under section 291
- 296. Limitation actions
- 297. Restriction on enforcement after establishment of limitation fund
- 298. Concurrent liabilities of owners and others
- 299. Establishment of limitation fund outside Zanzibar
- 300. Extinguishment of claims

Compulsory insurance

- 301. Compulsory insurance against liability for pollution.
- 302. Issue of certificate
- 303. Rights of third parties against insurers

Supplementary

- 304. Jurisdiction of Zanzibar High Court and registration of foreign judgments
- 305. Government ships
- 306. Limitation of liability under section 292
- 307. Saving for recourse actions
- 308. Interpretation

**PART XVI
COMPENSATION FUND**

Preliminary

- 309. Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

Contributions to Fund

- 310. Contributions by importers of oil and others
- 311. Power to obtain information

Compensation for persons suffering pollution damage

- 312. Liability of the Fund
- 313. Limitation of Funds’ liability under section 312

Supplemental

- 314. Jurisdiction and effect of judgments

-
- 315. Extinguishment of claims
 - 316. Subrogation
 - 317. Supplementary provisions as to proceedings involving the Fund
 - 318. Interpretation

**PART XVII
UNSAFE SHIPS**

- 319. Power to detain unsafe ships
- 320. Power to pay compensation and require security for compensation
- 321. Owner and Master liable in respect of unsafe ships
- 322. Use of unsafe lighters, etc.
- 323. Owner liable for unsafe operation of ship

**PART XVIII
CONTROL OF FOREIGN SHIPS WHILE IN ZANZIBAR**

- 324. Application
- 325. Port State Control officers or Inspectors
- 326. Duties of Inspectors
- 327. Port State Inspection
- 328. Reporting procedures

**PART XIX
WRECK AND SALVAGE**

General

- 329. Interpretation

Wrecks

- 330. Appointment and powers of Receiver of wreck
- 331. Fees of Receiver
- 332. Duty of Receiver where vessel in distress
- 333. Powers of Receiver in case of vessel in distress.
- 334. Power to pass over adjoining land
- 335. Duties of finder etc of wreck
- 336. Provisions as respects cargo etc
- 337. Receiver to give notice of wreck
- 338. Claims of owners of wreck
- 339. Immediate sale of wreck in certain cases

- 340. Right of Government to unclaimed wreck
- 341. Disposal of unclaimed wreck
- 342. Effect of delivery of wreck etc, under this Part
- 343. Offence for interfering with wrecked vessel or wreck
- 344. Offence for interfering with wrecked vessel or wreck
- 345. Power of entry etc
- 346. Release of goods from customs and excise control
- 347. Power of Port Authority in relation to wrecks

Salvage

- 348. Non-application to platforms and drilling units
- 349. Non-application to foreign state owned vessels
- 350. Life salvage
- 351. Salvage of cargo
- 352. Services excluded from salvage remuneration
- 353. Conditions for salvage remuneration
- 354. Salvage contracts
- 355. Annulment of modification of contracts
- 356. Duties of salvors
- 357. Duties of owner and master
- 358. Duties of Public officer on salvage
- 359. Criteria for fixing salvage rewards
- 360. Responsibility for payment of reward
- 361. Quantum of reward
- 362. Special compensation
- 363. Services rendered under existing contract
- 364. Apportionment between salvors
- 365. Salvors misconduct
- 366. Salvor's Maritime lien
- 367. Duty to provide security
- 368. Interim payment
- 369. State owned cargoes
- 370. Humanitarian cargoes
- 371. Determination of salvage dispute
- 372. Appeal in cases of salvage dispute
- 373. Valuation of property salvaged
- 374. Detention of property able to salvage
- 375. Sale of detained property
- 376. Apportionment of salvage by Receiver
- 377. Apportionment of salvage by court
- 378. Salvor's right to interest

-
- 379. Application to the Government
 - 380. Regulations
 - 381. Time limit for salvage proceedings
 - 382. The common understanding regarding and special compensation
 - 383. Recourse for life salvage payment.

**PART XX
CONTROL OF, AND RETURNS AS TO PERSONS
ON SHIPS**

- 384. Offences in connection with passenger ships
- 385. Power to exclude drunk passengers from passenger ships
- 386. Stowaways
- 387. Unauthorized person on board
- 388. Master's power of arrest
- 389. Unauthorized presence on board
- 390. Passenger returns to be made by master
- 391. Returns of births and deaths in ships, etc.

**PART XXI
LIABILITY OF SHIP OWNERS AND OTHERS CARRIAGE OF
PASSENGERS AND LUGGAGE BY SEA**

- 392. Interpretation
- 393. Application
- 394. Carrier
- 395. Performing carrier
- 396. Valuables
- 397. Contributory fault
- 398. Limits of liability for death or personal injury
- 399. Limits of liability for loss or damage to luggage
- 400. Special Drawing Rights and conversion
- 401. Defences and limits for carriers, servants
- 402. Aggregation of claims
- 403. Loss of right to limit liability
- 404. Basis for claim
- 405. Notice of loss or damage to luggage
- 406. Time-bar for actions
- 407. Competent jurisdiction
- 408. Invalidity of contractual provisions
- 409. Application of other limitation regimes

- 410. Nuclear damage
- 411. Commercial carriage by state-owned ships
- 412. States party to Convention
- 413. Carrier's obligation to give notice to passengers
- 414. Application of section 441(4)
- 415. Application of section 442

PART XXII
LIMITATION AND DIVISION OF LIABILITY
FOR MARITIME CLAIMS

- 416. Interpretation
- 417. Persons entitled to limit liability
- 418. Claims subject to limitation
- 419. Invoking limitation not an admission of liability
- 420. Claims excepted from limitation
- 421. Conduct barring limitation
- 422. Counter claims
- 423. Limitation calculations
- 424. Limits of liability for other claims
- 425. Limits of liability for salvors
- 426. Limitation calculation for fixed claims
- 427. Measurement of ship's tonnage
- 428. Limitation of liability for dock workers
- 429. Limits for passenger claims
- 430. Conversion of units of account
- 431. Aggregation of claims
- 432. Constitution of limitation fund
- 433. Distribution of limitation fund
- 434. Bar to other actions
- 435. Governing law
- 436. Apportionment of liability for damage or loss
- 437. Loss of life or personal injuries, joint and several liability
- 438. right of contribution for loss of life or personal injuries
- 439. Time limits for proceedings against owners or ship
- 440. Scope of application of Part XXII
- 441. Exclusion of liability

**PART XXIII
INDEMNITY AND POWERS OF ENFORCEMENT OFFICERS**

Indemnity and Powers

- 442. Indemnity
- 443. General power to dispense
- 444. Power to require production of ship's documents
- 445. Power to inspect ships and their equipment
- 446. Powers of inspectors in relation to premises and ships
- 447. Provisions supplementary to section 446.

Improvement Notices and Prohibition Notices

- 448. Improvement notice
- 449. Prohibition notices
- 450. Provisions supplementary to sections 448 and 449
- 451. References of notices to arbitration
- 452. Compensation in connection with invalid prohibition notices
- 453. Offences

**PART XXIV
INQUIRIES AND INVESTIGATIONS INTO
MARINE CASUALTIES**

- 454. Investigations of shipping casualties
- 455. Formal investigation
- 456. Rehearing to inquiries and investigations
- 457. Rules relating to inquiries and investigation
- 458. Inquiries into and reports on deaths and injuries
- 459. Transmission of particulars of certain deaths on ships

**PART XXV
LEGAL PROCEEDINGS**

Prosecution of Offences

- 460. Time limit for summary offences
- 461. Time limit for summary orders
- 462. Offence by officers of bodies corporate
- 463. Persons who may prosecute
- 464. Prosecution of offences and penalties
- 465. Compounding of offences

Jurisdiction

- 466. Jurisdiction in relation to offences
- 467. Jurisdiction over ships lying off coasts
- 468. Jurisdiction in case of offences on board ship
- 469. Offences committed by Tanzanian seafarers
- 470. Return of offenders

Detention of Ship and Distress on Ship

- 471. Enforcing detention of ship
- 472. Sums ordered to be paid leviable by distress on the ship

Special Evidentiary Provisions

- 473. Depositions of persons abroad admissible
- 474. Admissibility in evidence and inspection of documents
- 475. Admissibility of documents in evidence
- 476. Inspection and admissibility in evidence of copies of certain documents
- 477. Proof of exemptions
- 478. Services of documents

**PART XXVI
MISCELLANEOUS PROVISIONS**

Administration

- 479. Returns to Registrar of ships
- 480. Forms

Financial Provisions

- 481. Fees
- 482. Destination of fines
- 483. Expenses charge on money provided by the Registrar of ships
- 484. Nautical assessors

Regulations relating to Safety and security

- 485. Safety and security Regulations

Application of the Act to Certain Description of Ships

- 486. Application of an Act to non Tanzania Zanzibar ships

International Conventions and Regional Arrangements

- 487. Application of International conventions to the Act
- 488. Implementation of treaties

- 489. Conventions to prevail
- 490. Contravention of international conventions
- 491. Ministers general powers to make rules regulations

Final Provisions

- 492. Repeal and saving of enactments

Schedule

ACT NO. 5 OF 2006

I ASSENT

**{AMANI ABEID KARUME}
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

9th June, 2006

**AN ACT TO PROVIDE FOR THE REGISTRATION OF SHIPS,
SAFETY AND SECURITY OF SHIPPING AND THE
PROTECTION OF MARINE ENVIRONMENT
AND OTHER MATTERS RELATED
THERE TO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY PROVISIONS**

1.-(1) This Act may be cited as the Maritime Transport Act 2006, and shall come into operation upon such date as the Minister may, by notice published in the Gazette, appoint. Title and commencement.

(2) The Minister may, in pursuant to subsection (1) of this appoint different dates for the coming into operation of provisions or Parts of this Act.

2.-(1) In this Act, unless the context otherwise requires-

Interpretation.

"Collision Convention" means the International Convention on Regulations for the Prevention of Collisions at Sea, 1972 as amended;

"Consular officer" means a person discharging the duties of a consular officer on behalf of the Government of Tanzania and when used in relation to a State other than Tanzania means the officer recognized by the Government of Tanzania as a consular officer of that other State;

"Court" means the High Court of Zanzibar;

"Director" means the Director General responsible for Maritime Safety Administration in Zanzibar;

"Dollar" means the currency of the United States of America;

"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 ship" means a ship which is not registered under this Act or the Merchant Shipping Act 2003;

"Government" means Revolutionary Government of Zanzibar

"Government ship" means any ship owned by the Government or held by any person on behalf of or for the benefit of the Government but not for profit or reward;

"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;

"high speed craft" means a sea craft capable of maximum speed, in metres per second (m/s), equal to or exceeding: $3.7 \nabla^{0.1667}$

where:

∇ = volume of displacement corresponding to the design waterline (m³),

excluding craft the hull of which is supported completely clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect.

"KMKM" means Kikosi Maalum Cha Kuzuia Magendo;

"length" has the same meaning as in the tonnage regulations;

"Load Lines Convention" means the "Load Lines Convention of 1966" as defined in section 220 of this Act;

"master" includes every person, except a pilot, having command or charge of a ship, or sea aircraft;

"Merchant Shipping Act 2003" means an Act which govern shipping activities in Tanzania Mainland;

"mile" means an international nautical mile of 1852 metres;

"Minister" means the Minister for the time being responsible for shipping and seafarers;

"Native vessels" means a vessel other than a fishing vessel which is manned by a crew of whom the master and majority of the crew are citizens of East African Countries such vessel shall be-

- (i) wooden vessel provided with efficient mast, sails and rigging;
- (ii) schooners and other vessels provided with mechanical propulsion of less than 100 tons net registered tonnage.

but does not include vessels engaged in trading outside the limits of East African coasts.

"oil tanker" means a ship constructed or adapted primarily to carry petroleum or petroleum products in bulk in its cargo spaces and includes combination carriers and any chemical tanker when it is carrying a cargo or part cargo of petroleum or petroleum products in bulk;

"Organization" or "IMO" means the International Maritime Organization;

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

"passenger" means any person carried on a ship except-

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

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 as-
 - (i) (aa) 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
 - (bb) 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
 - (ii) 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

- (c) 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; and
- (d) in this definition, "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, "relative" means brother, sister, ancestor or lineal descendant, and "owner" includes charterer;

"port" includes place whether proclaimed a harbour or not, and whether natural or artificial to which ships may resort for shelter to ship or unship goods or passengers or related port services;

"Port Authority" includes all persons entrusted with the function of managing, regulating and maintaining a harbour;

"Port Officer" for the purposes of this Act means an officer of the port responsible for the issuance of ship clearance;

"Port of Registry" means a port at which a ship is registered or is to be registered;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

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

"Registrar of Ships" has the same meaning as in section 7(2) of this Act;

"registration regulations" means regulations made pursuant to sections 51, 54 and 55 of this Act;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watch keeping, 1978 as amended;

"Safety Convention" has the same meaning as in section 186 of this Act;

"safety regulations" means regulations made pursuant to sections 189, 190 or 191 of this Act as appropriate;

"Shilling" means the currency of the United Republic of Tanzania;

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

"ship" includes every description of vessel used in navigation;

"small ship" means a ship other than high speed crafts or native vessels of less than 24 metres in length or 50 Gross Tonnage;

"surveyor of ships" means a person appointed under section 7(4) of this Act;

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

"tonnage regulations" means regulations made under section 41 of this Act;

"wages" includes emoluments;

"wreck" includes flotsam, jetsam, lagan and derelict found in or the shores of the sea or of any tidal water, the whole or any portion of a ship lost, abandoned, stranded or in distress, any portion of the cargo, stores or equipment of such a ship, and any portion of the personal property on board such a ship when it was lost, stranded, abandoned or in distress, and includes the following when found in the seas or in tidal water or on the shores thereof-

- (a) goods which have been cast into the sea and then sank and remain under water;
- (b) goods which have been cast or fall into the sea and remain floating on the surface;
- (c) goods which are sunk into the sea, but are attached to a floating object in order that they may be found again;

- (d) goods which are thrown away or abandoned; and
- (e) a vessel abandoned without hope or intention of recovery;

"young person" means a person under the age of eighteen;

"Tanzania Zanzibar ship" means any ship registered under this Act;

"Zanzibar" in this Act means an area as defined in the Constitution of Zanzibar 1984 in Part I under Sections 1 and 2.

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

- (a) Tanzania Zanzibar Registered ships wherever they may be;
- (b) All other ships while in any port in Zanzibar or a place within Zanzibar.

(2) This Act shall not apply to:-

- (a) vessels of the Tanzania Police Force, Tanzania Peoples Defence Forces, vessels of Kikosi Maalum cha Kuzuia Magendo or vessels of Foreign Navy;
- (b) sea aircraft of the Forces mentioned in paragraph (a) of this subsection; and
- (c) any other ships or sea aircrafts belonging to or under the control of the Government while employed otherwise than for profit or reward in the service of the Government.

PART II ADMINISTRATION

4. The Minister, in addition to other powers conferred to him under this Act, shall be responsible for the General Administration of this Act. General Administration.

5. The Minister, in exercising his powers under this Act shall establish a statutory body to be known as Zanzibar Maritime Safety Administration to oversee matters of maritime safety and security. Power of the Minister to establish Maritime Safety Administration.

Administra-
tion,
implemen-
tation and
enforce-
ment

6.-(1) The administration, implementation and enforcement of this Act shall be made by the Maritime Safety Administration established in accordance with preceding section.

(2) Where administration, implementation or enforcement of any matter or decision is necessary for purposes of giving effect to an international agreement, convention, treaty or protocol which the United Republic of Tanzania is a party, the Maritime Safety Administration shall consult the body responsible for Maritime Safety Administration established under Merchant Shipping Act 2003

(3) The Maritime Safety Administration shall liaison with the Maritime Safety Administration established under Merchant Shipping Act 2003 for -

- (a) the proper enforcing and harmonization of standards of Zanzibar Tanzanian ships and ships registered under Merchant Shipping Act 2003 related to international conventions to which the United Republic of Tanzania is a party;
- (b) regulating coastal shipping;
- (c) regulating safety and security of ships trading between Zanzibar ports and Tanzania mainland ports; and
- (d) regulating the names of ships registered under the Maritime Transport Act 2006 and the Merchant Shipping Act 2003.

Appoint-
ment of
Director,
Registrar
of ships,
surveyors
and
inspectors.

7.-(1) The President shall appoint the Director who shall be the chief executive responsible for Maritime Safety Administration in Zanzibar.

(2) The Minister shall appoint the Registrar of Ships and who shall be an officer responsible for registration of Zanzibar Tanzanian ships.

(3) The Minister shall appoint the Registrar of Seafarer's and who shall be an officer responsible for registration, engagement and welfare of seafarers and all other matters related thereto.

(4) The Minister may, as he thinks fit, appoint person or persons to be surveyor or surveyors of ships for the purposes of this Act.

(5) 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.

(6) Surveyors of ships may be appointed either generally or for any particular case or purpose and shall be responsible to Registrar of ships.

(7) The Registrar may, if he thinks fit, direct a surveyor or appoint any other person as an inspector to report to him on -

- (i) 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;

(8) For the better discharge of his functions, the Director may be appointed as Registrar of ships, seafarers and Receiver of wrecks.

(9) In this Act "surveyor of ships" means an individual surveyor or classification society appointed under subsection (4) of this section, 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.

(10) The Minister may appoint any person of any nationality or any corporation(s) as "proper officer" based in foreign countries who shall have duties as Deputy Registrar of ships.

PART III REGISTRATION OF SHIPS

Registration

8.-(1) There shall be established the registers of Tanzania Zanzibar ships to be known as-

- (a) Tanzania Zanzibar International Register of Shipping, for ocean going ships; and
- (b) Tanzania Zanzibar Register of Shipping, for coastal ships.

Zanzibar
Registry
and
Tanzania
Zanzibar
Ship.

(2) A ship shall be a Tanzania Zanzibar ship for the purposes of this Act if that ship is registered under this Part.

Qualifications
for owning
Tanzania
Zanzibar
registered
ships.

9.-(1) Subject to section 53 of this Act a ship shall not be registered in Zanzibar under this Act unless she is owned wholly by persons qualified to own a Tanzania Zanzibar ship, namely -

- (a) Tanzanians,
- (b) individuals or corporations owning ships hired out on bareboat charter to nationals of Tanzania;
- (c) individuals or corporations in bona fide joint venture shipping enterprise relationships with nationals of Tanzania as may be prescribed;
- (d) Bodies corporate incorporated in Foreign Countries and foreign individuals.

(2) Every ship of 50 Gross Tonnage (GT) or over and every High Speed Craft of any size that is owned by persons qualified to be owners of Tanzania Zanzibar ship shall unless exempted be registered as Tanzania Zanzibar ship.

(3) For the purpose of section 72 of this Act ships under construction may be registered subject to the preceding subsection.

Obligations
to register
Zanzibar
Tanzanian
ships.

10.-(1) Whenever a ship is owned wholly by persons qualified to own a registered Tanzania Zanzibar ship, that ship shall, unless it is registered in some other State, be registered in Zanzibar in the manner provided in this Part.

(2) Every Tanzania Zanzibar ship, and every Zanzibar Government ship shall be registered in one of the register books kept pursuant to section 15 of this Act 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 Tanzania Zanzibar ship fails, on demand, to produce the Certificate of Registry, of the ship or such other evidence as satisfies the Registrar of ships that ship complies with the requirements of subsection (1) of this section that ship may be detained until that evidence is produced.

(4) Any ship which is wholly owned by persons qualified to own a Tanzania Zanzibar ship, and which immediately before the commencement of this Act, is

registered in Zanzibar in accordance with any law in force, is entitled to be registered under this Act, but subject to such conditions as may be prescribed by the Minister.

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

Procedures for Registration

11. An application for registration of a ship shall be made to the Registrar of ships according to the requirements of sections 43 to 51 of this Act, and registration regulations, Application for Registration.

- (a) in the case of individuals, by someone or more of the individuals registered or requiring to be registered as owners, or by his or their agent.
- (b) In the case of bodies corporate, qualified for owning Tanzania Zanzibar registered ships under section 9(1)(b),(c) of this Act by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal in accordance with the Companies Decree CAP 153 of the Laws of Zanzibar or Companies Act of the Laws of Tanzania;
- (c) In case of bodies corporate and qualified for owning Tanzania Zanzibar registered ships under section 9(1)(d) of this Act by a duly authorised officer of that body, or by its agent.

12. A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case or a body corporate the person authorized by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to the ship as described in the application form, and containing the following particulars- Declaration of eligibility.

- (a) a statement of his qualifications to own a Tanzania Zanzibar ship, and in the case of a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Tanzania Zanzibar ship;

- (b) in the case of a foreign ship, a statement of her foreign name;
- (c) a statement of the number of shares in the ship the legal title to which is vested in him or, as the case may be, the body corporate, whether alone or jointly with any other person or persons.

Evidence of title on first registry. **13.** 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. **14.** When the requirements of this Act preliminary to registration have been complied with the Registrar of Ships shall register the ship in accordance with the registration regulations by entering in the register particulars respecting the ship as shall be specified by the Minister.

Ship Register. **15.**-(1) There shall be a register of Tanzania Zanzibar ships for all registrations of ships in Zanzibar which may consist of both paper and computerized records and such other records as the Minister may consider to be expedient, which shall be maintained by the Registrar of Ships and shall be available for public inspection on request during the official opening hours.

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

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

(4) The register shall be maintained in accordance with the registration regulations and any directions given by the Director under subsection (2) of this section.

(5) Except as provided in regulations made, 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 for individuals or corporations qualified to register their ships under subsection 9(1),(a),(b) or (c) of this Act;
- (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 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 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.
 - (f) for bodies corporate incorporated in foreign countries, register their ships under section 9(1)(d) of this Act the property in a ship shall be divided in shares according to the foreign country share system to which the bodies corporate incorporated.
 - (g) for foreign individuals register their ships under section 9(1)(d) of this Act the property shall be divided according to the percentage of participation on the ship declared on the bill of sale.
- (6) The Registrar is not obliged to register shares of each share holder separately in the Register however certificate of shareholders shall be submitted to the Registrar.
- (7) The Registrar shall be entitled to amend the Register where:
- (a) a clerical error has occurred;
 - (b) sufficient evidence is produced to satisfy him that the entry is incorrect.

Refusal of
registration.

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

- (a) the condition of the ship so far as is irrelevant 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 unlawful purposes,

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

(2) If the Registrar refuses to register the ship in accordance with subsection (1) of this section, 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.

Termination
of
registration.

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

- (a) where the Registrar is satisfied that-
 - (i) having regard to the matters mentioned in paragraph (a),(b) or (c) of section 16(1) of this Act, it would be detrimental to the interests of Zanzibar 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 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 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.

- (b) the annual tonnage fees of a registered ship has remained unpaid for a period of more than two years;
- (c) 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; or

(2) In the event of a registered ship being in any condition referred to in subsection (1) (e) of this section every registered owner of the ship or any share therein shall, immediately upon obtaining knowledge of the event, 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) of this section 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) of this section 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) of this section 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) of this section 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 Registrar of Ships, that the ship is eligible to remain on the register; and if at the expiry of that period the Registrar of Ships, 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 ship owner 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) of this section knowingly or recklessly furnishes information which is false in a material particular is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings or on conviction on indictment to a fine not less than the equivalent of seven thousand Dollars in Shillings; 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 upon conviction to a fine not less than the equivalent of one thousand Dollars in Shillings.

Restriction
on
deregistra-
tion of
ships.

18. Subject to section 72(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 to the ship registered under this Act.

Certificate
of
deregistra-
tion.

19.-(1) Upon the de-registration of a ship and upon surrender the ship's certificate of registry to the Registrar of Ships for cancellation, 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) 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 less than the equivalent of one thousand Dollars in Shillings.

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

Survey and
measure-
ment of
ships

(2) 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.

21.-(1) Every ship other than small ships shall before registration be marked permanently and conspicuously to the satisfaction of the ship registrar as follows-

Marking
of ship.

- (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) subject to paragraph (e) of this section in the case of every such ship built before the date of metric conversion a scale of feet denoting her draught of water shall be marked on each side of her 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 Registrar may approve;

- (d) in the case of every such ship built after the date of metric conversion, 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 "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the owner line of the figures, or figures and letters as the case may be, coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Registrar may approve;
- (e) every ship built before the date of metric conversion may comply with the requirements of paragraph (d) of this section.

(2) Unless in special circumstances the Registrar directs otherwise, a pleasure vessel of 24 metres in length or over, shall be deemed to be in compliance with subsection (1) (a) of this section 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 upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(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) of this section that owner, master, or person is guilty of an offence, and for each such offence and upon conviction shall be

liable to a fine not less than the equivalent of one thousand Dollars in Shillings 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) of this section to prove that -

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

(7) Where 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 less than the equivalent of one thousand Dollars in Shillings.

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

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

Documents to be retained by Registrar of Ships.

23.-(1) Subject to subsection (2) of this section the port of Zanzibar shall be the port of registry of a ship registered under this Act and the port to which she belongs.

Port of Registry .

(2) The Minister may, by order, declare any other port of Zanzibar as a port of registry.

Certificate of Registry

24. 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.

25.-(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 justice 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 less than the equivalent of one thousand Dollars in Shillings, but where 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.

(3) 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.

Penalty
for use of
improper
certificate.

26. Where a master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he is guilty of an offence, and in respect of each such offence, is liable on summary conviction to a fine not less than the equivalent of ten thousand Dollars in Shillings.

Power to
grant new
certificate.

27. Whenever a ship is deregistered in accordance with the provisions of this Act, The Registrar of Ships may, with the approval of the Director subject to reapplication by the owner or master for certificate of registration of a ship, grant a new certificate of registry in lieu thereof.

Duplicate
certificates.

28.-(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, 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 under subsection (1) of this section 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 Zanzibar, 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 legibility of the certificate;

the proper officer shall notify the Registrar of ships.

(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) of this section 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) of this section is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

29.-(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 upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

Provisional certificate. **30.**-(1) Where a ship becomes entitled to be registered while at port in a Country outside Zanzibar or ship entitled to be registered under section 9(1) (d) of this Act then subject to subsection (2) of this section the proper officer may, on the application of the owner or master of the ship, grant to him a provisional certificate of registry stating-

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

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

(2) No provisional certificate of registry 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 of registry shall have the effect of a certificate of registry until-

- (a) the expiration of three 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 provisional certificate(s) of registry has been granted for a ship under this section for a period of one year from the initial date of registration, no further provisional certificate shall be so granted for the ship.

Transfer of Ownership

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

Registration
of transfer
of
ownership.

- (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 Tanzania Zanzibar ships and who intends to register the ship in Zanzibar;
 - (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 or maritime liens; and
- (c) upon the execution of the bill of sale the ship will be entitled to be registered in Zanzibar.

(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 following modifications:
 - (i) 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
 - (ii) 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 three months.
- (b) grant to the transferee an Interim certificate of registry which is valid for a period of three months from its date of issue.

(3) The Registrar of Ships shall only be satisfied that it is proper for him to make the entry in the register and grant an Interim certificate of registry pursuant to subsection (2)(a) of this section if:-

- (a) sections 20, 21, 11, and 13 of this Act and the registration regulations as modified by subsection (2)(a) of this section have been complied with; and
- (b) the transferee, or in the case of a body corporate the person authorized 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 sections 20 and 15 of this Act and containing the following particulars:
 - (i) if he is a person qualified to own a Tanzania Zanzibar ship, a statement of his qualifications to own a Tanzania Zanzibar ship, or in the case of a body corporate, of such circumstances the constitution and the business thereof as prove it to be qualified to own a Tanzania Zanzibar 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 Zanzibar 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 mortgage or maritime liens; and
 - (cc) to procure the termination of the registration of the ship in the Zanzibar 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) of this section.

(4) Where a ship is registered pursuant to subsection (2) of this section the transferee shall within three months after the date of issue of the certificate of registry granted pursuant to subsection (2)(b) of this section deliver to the Registrar of Ships a declaration made in accordance with section 12 of this Act 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 (3)(c) of this section and thereupon the Registrar of Ships shall make the entries in the register required by section 16 of this Act and grant an Interim certificate of registry pursuant to section 24 of this Act.

(5) Where the transferee does not comply with the requirements of subsection (4) of this section the registration of the ship shall automatically terminate at the expiration of the Interim certificate of registry granted pursuant to subsection (2)(b) of this section and the Interim certificate of registry and any certificate issued in respect of the ship under this Act shall be delivered to the Registrar of Ships.

32.-(1) Where a ship is registered pursuant to section 31 of this Act it shall be deemed to be a Tanzania Zanzibar ship for the purposes of this Act. Consequences of registration

(2) Where a ship is registered pursuant to section 31 it shall not hoist any colours other than colours of the United Republic of Tanzania flag specified in section 61.

33. Where an Interim certificate of registry has been granted in respect of a ship pursuant to section 31(2) of this Act:- Provisions relating to the application of this Act.

- (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 was 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.

Definition of transferee in this Part. **34.** In sections 31 and 33 of this Act "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 31 of this Act.

Name of Ship

Rules as to name of ship. **35.**-(1) A ship shall not be described by any name other than that which she is for the time being registered.

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

(3) The Registrar of ships shall refuse to register any ship by the name by which it is proposed to register that ship if it already the name of a registered Tanzania Zanzibar ship or there is an evidence that the proposed name it already the name of a registered Tanzania ship under the Merchant Shipping Act 2003.

(4) The Registrar of ships may refuse to register any ship by the name by which it is proposed to register that ship if-

- (a) it is calculated or likely to deceive or to offend the public interest.
- (b) is likely, in the opinion of the Registrar of ships, to be confused with the Tanzania Zanzibar ship or with a distress signal

(5) Application for that permission 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.

(6) 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 her bows and stern.

(7) 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 her name be altered to that which she bore before the change, and the name shall be altered on her bows and stern accordingly.

(8) Where any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under

his control to omit to do, anything required by that section, he is guilty, and for each such offence is liable on summary conviction to a fine not less than the equivalent of one thousand Dollars in Shillings 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 Tanzania Zanzibar ship has become a Tanzania Zanzibar ship, the ship may be detained until there is compliance with that section.

Registration of Alterations and Registration Anew

36.-(1) No alteration shall be made to high speed crafts without the written approval of Registrar of ships. Alterations.

(2) An application for alteration on high speed craft shall be made to the Registrar of ships stating kinds of alterations and reasons for alteration, and such application shall be accompanied with drawings or any relevant documents.

(3) Any person who contravenes with the provisions of the preceding subsections shall be guilty of an offence and on conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings and vessel shall be detained until all alterations made have been rectified as directed by the Registrar of ships.

37.-(1) Where a registered ship under this Act is so altered as not to correspond with the particulars relating to its tonnage or description in the register, application for alteration shall be submitted within thirty days after the completion of the alteration to the Registrar; and the notice shall be accompanied by a Certificate of Survey stating the particulars of the alteration. Registration of Alterations.

(2) Upon receipt of application of alteration of a Tanzania Zanzibar ship under subsection (1) of this section 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) of this section the Registrar may suspend the Certificate of Registry of the ship in respect of which the failure occurs.

38.-(1) On the registration of an alteration in a Tanzania Zanzibar ship, the ship's certificate of Registry shall be produced to the Registrar within sixty days after alteration. Procedure for registrations of alteration.

(2) Where a Certificate of Registry has been produced to the Registrar under subsection (1) of this section 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 37 of this Act the owner of the ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings and, in addition, to a fine not exceeding hundred dollars for every day during which the offence continues after conviction.

Registration
anew or
change of
ownership.

39. 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.

Procedure
for
registration
anew.

40.-(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 of registry.

(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

Tonnage
Regulations.

41.-(1) The tonnage of any ship of total length 24 m and above to be registered under this Part shall be ascertained in accordance with the International Convention on Tonnage Measurement of Ships (1969) as amended and as any

regulation made there under, and the same shall be repeated in every subsequent registration thereof, unless any alteration is made in the form or capacity of the ship, or unless 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.

(2) Tonnage regulations referred in subsection (1) of this section may:-

- (a) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
- (b) make any regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
- (c) 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 conviction to a fine not less than the equivalent of seven thousand Dollars in Shillings where such a prohibition or restriction is contravened.
- (d) Tonnage regulations may make provision for :-
 - (i) 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;
 - (ii) 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
 - (iii) 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.
- (e) 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 organizations and may be authorized for the purpose by the Registrar.

- (f) provide for the issue, by the Director or by persons appointed by such organizations as may be authorized for the purpose by the Registrar, 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 Zanzibar and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the regulations.

(3) Failure to comply with the regulations made under this section is an offence punishable up on conviction with a fine not less than the equivalent of three thousand Dollars in Shillings.

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

(5) The tonnage of the ships of total length less than 24 m shall be determined by regulations made by the Minister, for Tanzania Zanzibar ships solely or occasionally engaged in Zanzibar.

(6) For ships of total length less than 24 m solely engaged outside Zanzibar the tonnage shall be determined:

- (a) by the International Convention on Tonnage Measurement of Ships(1969);
- (b) by the tonnage calculation measurement system applied to them;
- (c) The Director shall approve the determination of tonnage on paragraph (b) and calculation has to be submitted for approval.

(7) The Minister may approve a vessel to be registered with the tonnage rules (close shelter) which were in force prior to coming into force of International Convention on Tonnage Measurement of Ships (1969) upon application by the applicant as set out in section 11 and upon submission of evidences of ship tonnage from the previous flag, and may approve all safety certificates described on PART IX issued with that tonnage.

42.-(1) Where it appears to him that the Tonnage Convention has been adopted by a foreign country and is in force there, the Registrar 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 registrar may order that ships of the foreign Country shall, without being re-measured in Zanzibar be treated as being of the tonnage denoted by their certificates of registry or other national papers, to the same extent.

(3) Any such order may-

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

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

Miscellaneous

43.-(1) Where a ship is registered under this Act shall not be re-registered under the law of another Country, unless such ship is registered under parallel registration on a circumstances where a ship is bare boat chartered by the citizen of that country or company registered on that country .

Restriction of registration.

(2) Where a ship is registered under the law of a foreign country in contravention of subsection (1) of this section the registered owner is, subject to subsection (3) of this section guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

(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 (2) of this section as the case may be.

Trusts,
equitable
interests
and
liabilities
of
beneficial
interests.

44.-(1) Subject to subsection (2) of this section no trust, explicit, 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 Tanzania Zanzibar ship or a share therein, provided the ship remains entitled to be registered as Tanzania Zanzibar ship pursuant to section 10 of this Act.

(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:-

- (a) for preventing trusts being entered in the register or received by the Registrar of Ships;
- (b) to the powers of disposition and of giving receipts conferred by this Act on registered downers and mortgagees;
- (c) relating to the exclusion of unqualified persons from the ownership of Tanzania Zanzibar 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 is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties again both or either of the aforesaid parties, with or without joining the other of them.

Registrar
of ships
may
dispense
with
declaration
or
evidence.

45.-(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.

(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 authorized by it for the purpose.

46.-(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) Any person, may, on application accompanied with appropriate application fee 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) Section 475(5) of this Act 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.

47.-(1) The following instruments and documents shall be in the form prescribed by the Minister, namely:

Forms of documents.

- (a) certificate of survey
- (b) declaration of ownership by an individual owner
- (c) declaration of ownership on behalf of body corporate as owner;

- (d) certificate of registration;
- (e) provisional certificate of registration;
- (f) an interim certificate of registration;
- (g) certificate of deregistration;
- (h) declaration of ownership by an individual transferee;
- (i) declaration of ownership on behalf of body corporate as transferee;
- (j) declaration of owner taken by transmission;
- (k) declaration of mortgagee taken by transmission;
- (l) bill of sale.

(2) The Minister may, whenever necessary, and by notice on the Gazette, alter the list of instrument and documents under preceding subsection by adding or subtracting or changing the name or alter particulars thereon.

(3) 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;

Instructions
as to
registration.

48. The Registrar may, for carrying into effect this Part, give such instructions to his officers as to-

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

49.-(1) Where any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered- Forgery of document.

- (a) any entry or endorsement in the register; or
- (b) any other documents or instruments provided under section 47(1) of this Act..

(2) Any person who contravenes with the provision of the preceding subsection shall be guilty of an offence and on conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings or to imprisonment for a term not exceeding eighteen months, or both;

50.-(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 upon conviction to a fine of not less than the equivalent of seven thousand Dollars in Shillings.

(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 Tanzania Zanzibar 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 not less than the equivalent of ten thousand Dollars in Shillings, and that ship or share therein is subject to forfeiture under this Act to the extent of the interest therein of the declarant, and also, 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.

51.-(1) The Minister shall make regulations for and in connection with the registration of ships as Tanzania Zanzibar ships, referred to in this Act as the "registration regulations". Registration regulations.

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

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

(4) The 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 is an offence and shall be punishable by a fine not less than the equivalent of twenty thousand Dollars in Shillings.

Registration of Small Ships and Native Vessels

52.-(1) Subject to subsections (2) and (3) of this section 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 8 of this Act.

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

Qualifications for registration.

53.-(1) A small ship shall not be registered in Zanzibar unless it is owned wholly by individuals or corporations ordinarily resident in Tanzania

(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 resident in Zanzibar or where he fails to comply with subsection (3) of this section 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) of this section.

Regulations for the registration of small ship.

54. 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.

Regulations for the registration of native vessels.

55. The Minister may make regulations regarding native vessels, and without limiting the generality of the foregoing, the regulations may provide for the following matters for:-

- (a) surveying, registering , licensing and regulating native vessels
- (b) forms and procedures for registration;
- (c) registration of change of ownership;
- (d) regulating the examination for certificate of competency and discipline of certificated persons;
- (e) the keeping of records; and
- (f) fees

**PART IV
RESTRICTION ON TRADING**

56.-(1) No ship shall trade in or from Zanzibar unless the ship-

- (a) is a Tanzania Zanzibar ship or ship registered under Merchant Shipping Act 2003; or
- (b) is provided with a certificate of foreign registry.

Restriction
on Trading
in
Zanzibar
waters.

(2) Subject to the provisions of any regulation made under this section or if any international agreement in force in relation to Tanzania only Tanzania Zanzibar ships and ships registered under Merchant Shipping Act 2003 may be engaged in any local trade within Zanzibar.

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

(4) The owner, agent or master of any ship who contravenes subsection (1) or (2) is guilty of an offence and the ship shall be liable to be detained and upon conviction he shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

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

Require-
ments for
Insurance
Cover.

- (a) in respect of the ship owners liabilities to a crew member under any provision of Part VII;
- (b) claims in respect of loss or damage in respect of any cargo carried onboard the ship.

(2) Every Tanzania Zanzibar ship shall carry insurance cover in respect to every passenger carried on board.

(3) Every foreign ship anchoring in or trading in or from Zanzibar or entering a port in the Zanzibar shall carry insurance cover against risks of loss or damage to third parties.

(4) Where a ship is in contravention of this section, the owner thereof is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

(5) The court shall in addition to a fine imposed under subsection (3) of this section shall order the owner to take insurance cover as provided for in subsection (1) of this section.

PART V NATIONAL CHARACTER AND FLAG

National character of ship to be declared before clearance.

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

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

(3) Any person who contravenes with provision of this section shall be guilty of an offence and upon conviction he shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

Offences relating to Tanzania Zanzibar character of ship.

59.-(1) Where the master or owner of a ship which is not a Tanzania Zanzibar ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Tanzania Zanzibar ship then, except as provided by subsections (2) and (3) of this section shall be guilty of an offence and, the ship is liable to forfeiture.

(2) No liability arises under subsection (1) of this section where the assumption of Tanzania Zanzibar 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 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1) of this section.

(4) Where the master or owner of a Tanzania Zanzibar ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship shall be guilty of an offence and, the ship is liable to forfeiture.

(5) Where a person uses the Tanzanian flag and assumes the Tanzanian character on board a ship owned in whole or in part by any person not qualified to own a Tanzania Zanzibar ship for the purpose of making it appear to be a Tanzania Zanzibar ship shall be guilty of an offence and, 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) of this section the burden of proving the right to use the Tanzanian flag and to assume the Tanzanian national character shall be upon the person using and assuming the same.

(7) Any person convicted of an offence under subsections (1), (4) and (5) of this section upon conviction shall be liable to a fine not less than the equivalent of twenty thousand Dollars in Shillings, or imprisonment for a term not exceeding 2 years, or both.

60.-(1) A ship registered in accordance with this Act shall be entitled to fly the flag of the United Republic of Tanzania.

Right to fly the United Republic of Tanzania flag.

(2) Nothing in this section shall be construed to prohibit Tanzania Zanzibar ships which are exempt from registration under this Act from using within Zanzibar the United Republic of Tanzania flag.

Nationality
and
colours.

61.-(1) Tanzania Zanzibar ship shall hoist the United Republic of Tanzania flag-

- (a) on entering or leaving any port;
- (b) on a signal being made to the ship by any ship or aircraft belonging to the service of the Government of any nation;
- (c) while at any port in Zanzibar from sunrise to sun set.

(2) Every foreign ship shall hoist the United Republic of Tanzania flag-

- (a) on entering or while at any location in Zanzibar,
- (b) on entering or leaving any port; and
- (c) while at any port in Zanzibar from sunrise to sun set.

(3) Where a Tanzania Zanzibar ship fails to comply with subsections (1) of this section the master of the ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(4) Where a foreign ship fails to comply with subsections (2) of this section the master of the ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of five thousand Dollars in Shillings.

(5) Where there are hoisted on board any Tanzania Zanzibar ship, any colours or pendant usually worn by ships of the Defence Force of Tanzania 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 upon conviction shall be liable to a fine of not less than the equivalent of two thousand Dollars in Shillings and to seizure of the colours or pendant by the State.

National
flag on
foreign
ship.

62.-(1) Any person who uses or permits to use the flag of Tanzania on board a foreign ship for the purpose of making that ship appear to be a Tanzania Zanzibar ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of four thousand Dollars in Shillings and to imprisonment for one year.

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

63.-(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, KMKM 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 other order as it deems 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 satisfied that there were reasonable grounds for seizure or detention the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

PART VI PROPRIETARY INTERESTS IN REGISTERED SHIPS

General

64.-(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.

Rights of
owners and
mortgagees.

(2) Subsection (1) of this section 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. **65.**-(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. **66.**-(1) For the purpose of this section declaration means a Declaration of Transfer.

(2) Where a registered ship or a share therein is transferred in accordance with section 65(1) of this Act, 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 Tanzania Zanzibar 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 Tanzania Zanzibar 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 Tanzania Zanzibar ships, and the ship is otherwise entitled to be registered.

67.-(1) Every bill of sale for the transfer within the Zanzibar Register of Shipping 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 Zanzibar, 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) of this section the Registrar shall issue a new certificate of registry.

68.-(1) For the purpose of this section declaration means a Declaration of Transmission

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

(2) 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 64 of this Act and a majority interest remains in the ownership of a person qualified to be an owner of a Tanzania Zanzibar ship-

- (a) that person shall authenticate the transmission by making and signing a declaration identifying the ship and containing the several statements here in before 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 there from;
- (d) where the transmission was consequent upon an order of a Court, a copy of the order or judgment 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 Zanzibar 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.

69.-(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 65 of this Act, but as a result of the transmission the ship no longer remains in the ownership of persons qualified to be owners of a Tanzania Zanzibar 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 may direct.

(2) The Court may require any evidence in support of the application if thinks, 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 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 aforesaid, 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.

70. 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; and 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.

71. 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 and 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.

Power of court.

Mortgages

72.-(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) of this section is produced to the Registrar of Ships, he shall register the mortgage in the prescribed manner.

(4) 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.

(5) Where it is stated in the mortgage instrument that it is prohibited to create further mortgages over a vessel without the prior written consent of the mortgagee, the Registrar 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.

(6) Where it is stated in the mortgage instrument that it is prohibited to transfer the ownership of a ship or terminate the registration of the ship in the manner provided in section 17(1)(d) of this Act, 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.

(7) A mortgage may be registered in the register referred to in section 20(1) of this Act in respect of a provisionally registered ship, and where a mortgage is so registered, it shall be subject to all relevant provisions relating to mortgages under this Act and the registration regulations.

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

(9) For the purposes of subsection (1) of this section "ship" includes a ship under construction.

(10) A mortgage in respect of a ship under construction shall be entered in the register referred to in section 18(1) of this Act, so however, upon the registration of such ship under construction being transferred to another appropriate part of the register as provided in section 18(4) of this Act, 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.

(11) 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.

Priority of mortgage.

73.-(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) of this section, be determined by the order in which the mortgages were registered and not by reference to any other matter.

(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.

74.-(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.

75.-(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 undercharged registered mortgage of that ship or any share therein.

Protection of undercharged of mortgage.

(2) Subsection (1) of this section 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.

76.-(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 mortgage be deemed to have ceased to be owner thereof.

Mortgagee not owner and mortgagee's power of sale.

(2) Subject to subsection (1) of this section 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.

77. 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.

Mortgage not affected by bankruptcy.

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

78.-(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) of this section 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) of this section shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share.

Authority
to sell or
mortgage
out of
Zanzibar.

79.-(1) Where a registered owner of a Tanzania Zanzibar ship or a share is desirous of disposing by way of sale or mortgage of that ship or share therein at any place out of Zanzibar, he may apply, by declaration in writing to the Registrar of Ships.

(2) In any application under subsection (3) of this section there shall be set forth the following particulars.

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

(3) Subject to section 80(1) of this Act, in the case of an application to dispose of a ship by way of sale, the Registrar of ships shall enable any such application to dispose of the ship or share in the manner provided under subsection 4 of this section.

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

(5) A Certificate of sale and a Certificate of Mortgage shall.

- (a) each be in the prescribed form;
- (b) not authorise any sale or mortgage to be made in Zanzibar or by any person not named in the certificate; and
- (c) contain a statement of several particular directed to be entered in the Register Book on the application for the certificate, and in additions an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

80.-(1) A certificate of sale shall not be granted except by sale of an entire ship.

General
rules for
certificate
of sale.

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

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

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

Procedure
where ship
is under
certificate
of sale
granted in
Zanzibar.

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

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

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

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

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

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

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

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

(2) Application for registration anew shall be made to the Registrar of ships and there shall be produced to the Registrar of ships the bill of certificate of registration of the ship and de-registration certificate.

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

(4) The Registrar of ships, on registering the ship anew shall-

- (a) retain certificate of sale and registration, and shall endorse on each of those certificates, so endorsed, to the Registrar of ships at the ship's former port of Registry, and
- (b) enter in the register book such particulars as are by this Act required to be entered therein in the case of the first registration of a ship in Zanzibar, and also a statement of any registered mortgages or certificates of mortgages enumerated on the certificate of sale

(5) The registration anew shall consist of-

- (a) the description of the ship contained in her former certificate of registration which may be transferred to the new register

book, without her being resurveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee; and

- (b) all persons appearing on the register to be interested in that ship as owners or mortgages and shall be deemed to have the same rights, and their rights shall be determined in the same manner, as if that ship had been first registered in Zanzibar in the manner provided in this Act and as if any unsatisfied mortgages or existing certificates of mortgages had been entered in the register book at that port.

Rules as to
certificate
of
mortgage.

83. The following rules shall be observed as to certificates of mortgages.

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

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

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

Loss of certificate of sale or mortgage.

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

Revocation of certificate of sale or mortgage.

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

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

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

Maritime Liens

Maritime Liens. **86.**-(1) Subject to the provisions of this Act the following claims may be secured by maritime liens:

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

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

Priority of Liens **87.** The maritime liens set out in section 86 of this Act shall take priority over mortgages and preferential rights registered under this Part, or arising under the law relating to bankruptcy, and except as provided in section 86 no other claim shall take priority over them.

Order of priority of liens. **88.** The maritime liens set out in section 86 of this Act shall-

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

- (b) in the case of claims arising under paragraphs (a), (b), (c) and (d) of section 86 of this Act rank *pari passu* among themselves;
- (c) in the case of claims arising under paragraph (e) of section 86 of this Act, rank in the inverse order of the time when the claim secured thereby accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average act was performed.

89. Where a preferential right arises, pursuant to the provisions of the law relating to bankruptcy, or insolvency, in respect of a ship in the possession of - Rights of ship builders and ship repairs.

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

such rights shall be postponed to all the maritime liens set out in section 86 of this Act but may take precedence over any mortgage or other preferential right registered under this Part so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

90. The maritime liens set out in section 86 shall arise whether the claims secured by such liens are against the owners, the demise or other charterer, manager or operator of the ship and such liens shall (subject to the provisions of section 94 of this Act) remain attached to the ship, notwithstanding any change of ownership or of registration. Maritime liens attached to a ship .

91. A maritime lien shall not attach to a ship to secure a claim under paragraph (c) or (d) of section 86 of this Act, where such claim arises out of or results from the radioactive properties (or a combination of the radioactive properties with toxic, explosive or other hazardous properties) of nuclear fuel or of radioactive products or waste. Claims arising from radioactive products etc.

Limitation. **92.**-(1) The maritime liens relating to a ship set out in section 86 of this Act shall be extinguished period of one year from the time when the claims secured thereby arose unless, prior to the such period, the ship has been arrested and the arrest has led to a forced sale pursuant to the Order of Court or any other law for the time being in force relating to the property in admiralty proceedings.

(2) The one year period referred to in subsection (1) of this section shall not be subject to interruption or suspension except that time shall not run during the period the lien holder is legally prevented from arresting the vessel.

Notice of sale to be given. **93.**-(1) Prior to the forced sale of a ship as described in section 92, of this Act, the executing officer shall give or cause to be given thirty days' written notice of the time and place of such sale to -

- (a) all holders of mortgages and other preferential rights registered under this Part which have not been issued to bearer;
- (b) the holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to the officer;
- (c) the holders of maritime liens set out in section 86, whose claims have been notified to the officer;
- (d) the Registrar of ships.

(2) The notice shall be gazetted in a daily news paper.

Effect of sale on mortgages. **94.**-(1) In the event of the forced sale of a ship as described in section 92 of this Act and in accordance with this Part-

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

shall cease to attach.

(2) No charter party or contract for the use of the ship shall be deemed to be a lien or encumbrance for the purpose of this section.

95. The costs awarded by the Court and arising out of the arrest and subsequent sale of a ship shall be paid first out of the proceeds of such sale, and the balance of such proceeds shall be distributed among - Disposition of proceeds of sale.

- (a) the holders of maritime liens under section 86 of this Act;
- (b) the holders of preferential rights under section 88 and
- (c) the holders of mortgages and other preferential rights registered under this Part,

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

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

PART VII ENGAGEMENT AND WELFARE OF SEAFARERS

Interpretation and Application

97.(1) In this Part-

"crew agreement" has the meaning given to it by section 100 of this Act;

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

"ship's boat" includes a life-raft.

Interpretation.

"occupational accidents" covers accidents to seafarers arising out of or in the course of their employment.

(2) References in this Part to going sea include references to going to sea from any Country outside Tanzania.

(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.

Application
of this
part.

98. With the exceptions specified in this act, this Part applies only to ships, which are sea-going ships, and masters and seafarers employed in sea-going ships.

Functions
of registrar
of
seafarers.

99. The functions of the Registrar of Seafarers appointed under section 7(3) of this Act shall be -

- (a) to conduct all business connected with the engagement and discharge of all persons who serve on board Tanzania Zanzibar ships and all Zanzibar residents seafarers being nationals of Tanzania who serve on foreign ships;
- (b) to afford facilities for engaging and discharging seafarers by maintaining registers of the names and conduct of-
 - (i) seafarers who apply to him for engagement;
 - (ii) seafarers shipped or discharged by him;
 - (iii) seafarers who produce continuous discharge certificates in proof of service in foreign or ships registered under this Act or Merchant Shipping Act 2003;
 - (iv) seafarers who serve in ships registered under this Act or Merchant Shipping Act 2003;
- (c) to cause copies of the certificates referred to in paragraph (b) (iii) to be kept at his office;

- (d) to perform such other duties relating to seafarers and ships as are by or in pursuance of this or any other enactment relating to shipping entrusted to him;
- (e) to keep records of certificate of competence issued by the Government of the United Republic of Tanzania under the Merchant Shipping Act 2003 for seafarers who serve on board Tanzania Zanzibar ships and all Zanzibar residents seafarers being nationals of Tanzania who serve on foreign ships;
- (f) to investigate, analyse and keep records of occupational accidents; and
- (g) to provide necessary assistance to the abandoned foreign seafarers in Zanzibar ports.

Engagement and Discharge of Crews

100.-(1) Except as provided under subsection (5) of this section an agreement in writing shall be made between each person employed as a seafarer in a Tanzania Zanzibar ship and the persons employing him and shall be signed both by him and by or on behalf of them. Crew agreements.

(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 Registrar of seafarers 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 Registrar of seafarers; 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 Registrar of seafarer 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 Register of seafarer 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 Register of seafarer, 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 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 upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

Regulations relating to crew agreements. **101.**-(1) The Minister may make regulations with respect to recruitment and placement of seafarers, and with respect to crew agreements under the principle of Collective bargaining.

(2) For the purpose of this Convention the term "collective bargaining" extends to all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for:-

- (a) determining working conditions and terms of employment;
or
- (b) regulating relations between employers and workers; and or
- (c) regulating relations between employers or their organisations
and a workers' organisation or workers' organisations.

(3) 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 100 to be produced on demand to an inspector or other person authorised by the Registrar.

(4) Regulations made under this section may make a contravention of any provision thereof an offence punishable and upon conviction, shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

Discharge
of
Seafarers.

102.-(1) The Minister may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from Tanzania Zanzibar ships.

(2) Without prejudice to the generality of subsection (1) of this section regulations under this section may include provisions:-

- (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: -

- (a) 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 Zanzibar from a Tanzania Zanzibar ship without the consent of the proper officer.
- (b) make a contravention of any provision thereof an offence punishable, and upon conviction, shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

Seafarers
left behind
abroad
otherwise
than on
discharge.

103. Regulations made under section 101 of this Act may apply to any provision thereof; with such modifications as appear to the Minister to be appropriate, to cases where a seafarer employed in a Tanzania Zanzibar ship is left behind outside Zanzibar otherwise than on being discharged from the ship.

Discharge
of Seafarers
when the
ship ceases
to be
registered
in Zanzibar.

104. Where a Tanzania Zanzibar 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; and sections 105 to 108 shall apply in relation to his wages as if the ship had remained a Tanzania Zanzibar ship

Wages, etc.

105.-(1) Where a seafarer employed under a crew agreement relating to a Tanzania Zanzibar 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 100 referred to as the "time of discharge"), or
- (b) be paid to him in accordance with subsections (4) and (5) of this section.

(2) Where the amount shown in the account delivered to a seafarer under section 106(1) of this Act as being the amount payable to him under subsection (1) (a) of this section is replaced by an increased amount shown in a further account delivered to him under section 106(3) of this Act, 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 106(1) of this Act, exceeds two hundred Dollars and it is not practicable to pay the whole of it at the time of discharge, not less than two 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) of this section, 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) of this section 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) of this section 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) of this section 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) of this section shall not apply if the failure to pay was due to:-

- (a) a mistake,
- (b) the act or default of the seafarer, or
- (c) 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 104 of this Act, is discharged from a ship outside Zanzibar but returns to Zanzibar 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) of this section to the time of discharge there were substituted references to the time of his return to Zanzibar and subsection (8) of this section 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.

106.-(1) Subject to subsections (4) and (5) of this section the master of every Tanzania Zanzibar 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. Account of Seafarer's wages.

(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 105(4) or (5) of this Act 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;
- (b) any such account shall be so delivered at the time when the wages are paid to him; and
- (c) subsections (1) to (3) of this section shall not apply; and section 105(10) of this Act 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 upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

Regulations relating to wages and accounts.

107. The Minister may make regulations -

- (a) authorizing 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 Zanzibar otherwise than on being discharged there from; and
- (e) prescribing the form and manner in which any account required to be delivered by section 106 of this Act is to be prepared and the particulars to be contained therein (which may include estimated amounts).

Power of Registrar of Seafarer or proper officer to decide to disputes on wages.

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

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

109.-(1) With respects to the wages due or accruing to a seafarer employed in a Zanzibar Tanzanian ship-

Restriction on assignment of and charge upon wages.

- (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.

110. 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-

Power of court to award interest on wages due.

- (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 such 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.

111.-(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 Tanzania Zanzibar ship or ships.

Allotment notes.

(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.

Right of person named in allotment to see in own name.

112.-(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 111 of this Act 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.

(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.

Right, or loss of right to wages in certain circumstances.

113.-(1) Where a Tanzania Zanzibar 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.

(2) Where a Tanzania Zanzibar ship is sold outside Zanzibar or ceases to be a Tanzania Zanzibar 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) of this section 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 Tanzania Zanzibar 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.

114.-(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.

Protection of certain rights and remedies .

(2) Subsection (1) of this section 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.

115. 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.

Remedies of master remuneration, disbursements etc.

Safety, Health and Welfare

116.-(1) In every contract of employment between the owner of a Tanzania Zanzibar ship and the master of or any seafarer employed in the ship there shall be implied an obligation that -

Obligation of ship owners as to seaworthiness.

- (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;
 - (iii) the sending of the ship to sea,

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

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

(3) No liability on the owner of a ship arises under subsection (1) of this section 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.

Regulations
in respect
of medical
examination.

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

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

Regulations
in respect
of
occupational
accidents.

118.-(1) The Minister may make general provisions on the prevention of accidents and the protection of health in employment which may be applicable to the work of seafarers.

(2) Regulations shall specify measures for the prevention of accidents which are peculiar to maritime employment which cover;

- (a) general and basic provisions;
- (b) structural features of the ship;
- (c) machinery;
- (d) special safety measures on and below deck;
- (e) loading and unloading equipment;
- (f) fire prevention and fire-fighting;
- (g) anchors, chains and lines;
- (h) dangerous cargo and ballast;
- (i) personal protective equipment for seafarers.

(3) The Minister shall establish an accident prevention committee which shall involve both seafarers' organization and ship owners.

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

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

Crew accommodation and living and working conditions of seafarers.

(2) Without prejudice to the generality of subsection (1) of this section 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 authorize 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 upon conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings and the ship 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.

120.-(1) Where three or more seafarers employed in a Tanzania Zanzibar 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) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings 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 upon conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings 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 upon conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings.

121.-(1) Where a person, while employed in a Tanzania Zanzibar ship, receives outside Zanzibar 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 Tanzania Zanzibar ship and is buried or cremated outside Zanzibar, the expenses of his burial or cremation shall also be borne by persons employing him.

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

Manning, Qualifications and Training

122. Sections 123 to 127 of this Act apply to every Tanzania Zanzibar ship which carries passengers- Applications of sections 123 to 127.

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

Manning. **123.**-(1) Subject to subsection (3) of this section 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), of this section 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 upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

124.-(1) The Minister may exempt any ship or description of ship from any requirements of regulations made under section 123 of this Act.

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.

125.-(1) Subject to section 124 of this Act 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 123 of this Act the owner or master is guilty of an offence and upon conviction liable to a fine not less than the equivalent of twenty thousand Dollars in Shillings.

Prohibition of going to sea undermanned.

(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 Zanzibar" were omitted.

126.-(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 123 of this Act 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.

Production of certificates and other documents of qualifications

(2) Where, without reasonable excuse, a person fails to comply with subsection (1) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings.

Crew's
knowledge
of English

127.-(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 that opinion, the ship shall not go to sea; and
- (b) the ship may be detained.

(2) Where a ship goes to sea or attempts to go to sea in contravention of this section the owner or master is guilty of an offence and liable upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

Unqualified
seaman
going to
sea as
qualified
persons.

128.-(1) Where a person goes to sea as a qualified officer or seafarer of any description without being qualified as such he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

(2) In this section "qualified" means qualified for the purposes of section 123 of this Act.

Where a
ship does
not carry a
doctor

129. Where a Tanzania Zanzibar 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.

Special
certificates
of
competence.

130.-(1) The Register of seafarer 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 123(1)(b) of this Act; and the Minister may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 123(5) of this Act.

(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 upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

131. Any person under the age of 18 years shall not be employed in any Tanzania Zanzibar ship. Minimum age.

132.-(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. Financial assistance.

(2) Assistance under this section may be given by way of a grant or 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) of this section.

(4) For the purposes of promoting maritime training the Minister may establish a special fund from various maritime sources as he may prescribe.

Offences by Seafarers

133.-(1) This section applies- Conduct endangering ship, persons, etc.

- (a) to the master of, or any seafarer employed in, a Tanzania Zanzibar ship; and
- (b) to the master of, or any seafarer employed in, a ship which is a foreign ship; and is in a port in Zanzibar or a place within Zanzibar 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-

- (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, and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission,

he shall, subject to subsections (6) and (7) of this section be guilty of an offence.

(3) The conditions referred to in subsection (2) of this section are:-

- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
- (b) that the master or seafarer in question was under the influence of drink, or a drug at the time of the act or omission.

(4) 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, destruction, death or injury as is mentioned in subsection (2)(a) of this section; 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 (6) and (7) of this section guilty of an offence.

(5) A person who commits an offence under this section shall upon conviction liable to a fine not less than the equivalent of seven thousand Dollars in Shillings or, to imprisonment for a term not exceeding two years, or both.

(6) 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) of this section 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) of this section 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 (4) of this section 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 (4) of this section:-
 - (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.

(7) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) of this section shall have effect as if

subsection (2)(a)(i) and (b)(i) of this section were omitted; and no proceedings for any offence under this section shall be instituted against any such person without the consent of the Registrar of seafarers.

(8) 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 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.

Concerted
disobedience
and neglect
of duty.

134.-(1) Where a seafarer employed in a Tanzania Zanzibar 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, he is guilty of an offence.

(2) A seafarer who commits an offence under subsection (1) of this section shall, upon conviction, be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings, 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

135.-(1) There shall be established within the Office of Registrar of Seafarer to be known as "disciplinary body" which shall be approved by the Minister. Seafarers disciplinary body.

(2) The composition of the "disciplinary body", the tenure of members of the body, its procedures etc shall be as set out in the First Schedule to this Act.

136. The functions of disciplinary body shall be- Functions of disciplinary body.

- (a) to advice the Minister on-
 - (i) disciplinary matters onboard Tanzania Zanzibar ships;
 - (ii) to organise national and international maritime functions;
 - (iii) seafarers welfare;
 - (iv) disciplinary penalties for seafarers and shipping companies;
 - (v) matters to be published on the code of conduct; and
 - (vi) any other matters related to seafarers.
- (b) to observe and advice the Minister about the compliance of shipping companies on seafarers rights;
- (c) to deal with seafarers claims.

137.-(1) For the purpose of maintaining discipline on board Tanzania Zanzibar ships there shall be adopted a Code of Conduct which shall be binding on seafarers, masters and all who have responsibilities in the operation and management of ships. Codes of conduct.

(2) Any breach of the Code of Conduct shall be a disciplinary offence.

138.-(1) The Minister may make regulations under the following provisions of this section which shall be the contents of the Code of Conduct. Regulations for codes of conduct.

(2) Regulations made under sub section (1) of this section may provide for the hearing on shore in Zanzibar by a disciplinary body, of a complaint by the master or owner of a Tanzania Zanzibar 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) of this section.

(3) Regulations made under sub section (1) of this section may enable a disciplinary body-

- (a) to dismiss the complaint if it finds the allegation not proved; or
- (b) if it finds the allegation proved-
 - (i) to warn the seafarer;
 - (ii) to reprimand the seafarer; or
 - (iii) to recommend to the Register of seafarers 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 158 and shall be required to surrender any such book which has been issued to him.

(4) Regulations made under subsection (1) of this section 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 made under subsection (1) of this section may make provision for:-

- (a) securing that a recommendation that the seafarer shall permanently cease to be entitled to a discharge book is not submitted to the Register of seafarer unless it has been confirmed, either on appeal or otherwise, by an appellate body.
- (b) 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.
- (c) the payment, of such remuneration and allowances as the Minister may determine to any member of such a body.
- (d) 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.

Disqualifica-tion of Seafarers and Inquiries

- 139.**-(1) Where it appears to the Registrar of Seafarers 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 165 of this Act; the registrar of seafarer may cause an inquiry to be held by one or more persons appointed by him and, if he

Inquiry into fitness or conduct of officer.

does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 123 of this Act and require the officer to deliver it to him.

(2) Where a certificate issued to an officer has been suspended under subsection (1) of this section 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 section 143(1) of this Act 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) of this section cancel or suspend any certificate issued to him under section 123 of this Act 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 registrar of seafarers; and if the certificate is cancelled or suspended the officer (unless he has delivered it to the registrar in pursuance of subsection (1) of this section) shall deliver it forthwith to the persons holding the inquiry or to the Registrar.

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

Disqualifica-
tion of
holder of
certificate.

140.-(1) Where it appears to the registrar of seafarer 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 Registrar of seafarer may give him notice in writing that he is considering the suspension or cancellation of the certificate.

(2) The notice shall state the reasons why it appears to the Registrar of seafarer 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 registrar of seafarer may allow, he may make written representations to him or claim to make oral representations to the Registrar of seafarer..

(3) After considering any representations made in pursuance of subsection (2) of this section the Registrar of seafarer 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 Registrar not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 141 of this Act.

(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 130 of this Act and to any certificate issued under section 123 of this Act other than one certifying that a person is qualified as an officer.

141.-(1) Where a person has, before the date mentioned in section 140(4) of this Act, required his case to be dealt with by an inquiry under this section the Minister shall cause an inquiry to be held by one or more persons appointed by him.

Inquiry into fitness or conduct of other Seafarers.

(2) An inquiry under this section shall be conducted in accordance with section 126(1) of this Act 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 Registrar of seafarer and cancel or suspend the certificate accordingly;
- (b) may, where the decision was to cancel the certificate, suspend it instead;
- (c) may, where the decision was to suspend the certificate, suspend it for a different period;
- (d) may, instead of confirming the decision of the Registrar, censure the holder of the certificate or take no further action;
- (e) may make 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 Registrar.

(4) Any costs which a person is ordered to pay under subsection (3)(e) of this section may be recovered from him by the Minister.

Re-
hearing
and appeal
from
inquiry.

142.-(1) Any person aggrieved by decision made under section 139 or section 141 of this Act may appeal to the Minister.

(2) The decision made under subsection (1) of this section may be appealed to the high court on point of law.

Rules as to
inquiries
and
appeals .

143.-(1) The Minister may make rules for the conduct of inquiries under sections 139 and 141 and for any appeal under section 142 of this Act.

(2) Without prejudice to the generality of subsection (1) of this section 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) In hearing appeal brought to it under the terms of subsection (2) of section 125 of this Act, the High Court may receive maritime expert opinion.

144. Where a person fails to deliver a certificate as required under sections 139, 140, or 141 of this Act he is guilty of an offence and up on conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings.

Failure to deliver cancelled or suspended certificate.

145. Where a certificate has been cancelled or suspended under sections 139, 140, 141, or 142 of this Act, 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.

Power to restore certificate .

146.-(1) The persons holding an inquiry under section 139 or 141 of this Act 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-

- (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 him and bring him before the inquiry at a time and place specified in the warrant.

Refusal to give evidence to inquiry. **147.**-(1) Where any person attending or brought before an inquiry referred to in section 146 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 less than one thousand Dollars in Shillings.

(2) A fine imposed under subsection (1)(b) of this section 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 Seafarers For Offences

Civil liability for absence without leave. **148.**-(1) The following provisions of this section shall apply with respect to the liability of a seafarer employed in a Tanzania Zanzibar 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) of this section does not apply, then:-

- (a) if no special damages are claimed his liability shall be half of monthly salary;
- (b) if special damages are claimed his liability shall not be more than two monthly salaries.

Civil liability for smuggling. **149.** Where a seafarer employed in a Tanzania Zanzibar ship is found in proceedings before a Court in Zanzibar to have committed an act of smuggling, whether within or outside Zanzibar, he shall be liable to make good any loss or expense that the act has caused to any other person.

150.-(1) The following provisions of this section shall apply where, at a time when a Tanzania Zanzibar ship is in the waters under the jurisdiction of any Country other than Tanzania, a seafarer employed in the ship is absent without leave and present in that Country in contravention of that country Immigration laws. Civil liability for fines under immigration laws.

(2) Where, by reason of the contravention, a penalty is incurred under Immigration laws by the persons employing the seafarer the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 148, 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 two months of seafarer's salary then it may be recovered by him from the seafarer by monthly instalments not exceeding fifty percent of the seafarer's salary.

Relief and Repatriation and Relief Costs

151.-(1) Where:-

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

Relief and return of Seafarers left behind or 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 provisions required by regulations made by the Minister.

(2) The provisions made under subsection 1(b) of this section may:

- (a) 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.

- (b) provide for the manner in which any wages due to any person left behind or taken to any Zanzibar as mentioned in subsection (1) , and any property of his left on board ship, are to be dealt with.
- (c) require 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.

(3) 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 Tanzania Zanzibar 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.

(4) Regulations under this section may make a contravention of any provision thereof an offence punishable upon conviction with a fine not less than the equivalent of ten thousand Dollars in Shillings, or such less amount as may be specified in the regulations

(5) This section applies to the master of a ship as it applies to a seafarer and sections 139 and 140 shall have effect accordingly.

Limit of liability under section 151.

152. Where a person left behind in or taken to any Country as mentioned in section 151(1) of this Act 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.

153. Where any expenses are incurred in respect of any matter for which the employers of a seafarer are required to make provision under section 151 of this Act, then:-

Recovery of expenses from employer incurred or relief and return.

- (a) if the expenses are incurred by the Minister, or are incurred by the government of any Country outside Zanzibar and repaid to them on behalf of the Government, the Minister may recover such expenses 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.

154. Where, in the case of any seafarer, expenses are incurred by the Minister or are incurred by the government of any Country outside Zanzibar and repaid to them on behalf of the Government:-

Recovery of expenses from Seafarers.

- (a) in respect of any matter for which, but for section 151 of this Act, the seafarer's last employers would have been required to make provision under section 152 of this Act; or
- (b) in respect of any matter for which provision is required to be made under section 151(3)(b) of this Act;

the Minister may recover such expenses from the seafarer or, if he has died, from his personal representatives.

Documentation

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

Official and other log books.

(2) The Minister may make regulations prescribing the particulars to be entered in English in official logbooks, 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 made under subsection (2) of this section may:-

- (a) require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein
- (b) exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.
- (c) make a contravention of any provision thereof an offence punishable upon conviction with a fine not less than the equivalent of ten thousand Dollars in Shillings.

(4) All Tanzania Zanzibar 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.

(5) Subject to subsection (6) of this section the entries in the deck log book and engine room log book referred to in subsection (4) of this section 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.

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

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

(8) Where a person intentionally destroys or mutilate or renders illegible any entry in any log book he is guilty of an offence and liable to a fine not less than the equivalent of ten thousand Dollars in Shillings.

Crew list. **156.**-(1) Except as provided by regulations made under this section, the master of every Tanzania Zanzibar ship shall make and maintain the crew list containing such particulars as may be required by the regulations.

(2) The Minister may make regulations:-

- (a) specifying the particulars to be entered in the crew list;

- (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 crew list and for the notification to such persons of any changes therein;
- (d) for the production of the crew list to such persons, in such circumstances and within such time as may be specified in the regulations; and
- (e) for the delivery to the Registrar of Seafarers or proper officer or the Registrar of Ships, in such circumstances as may be specified in the regulations, of the crew list or a copy thereof maintained under the regulations and for the notification to him of any changes in such crew list.

(3) Regulations under this section may:

- (a) enable the crew list 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 crew list.
- (b) exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.
- (c) make a contravention of any provision thereof an offence punishable upon conviction with a fine not less than the equivalent of seven thousand Dollars in Shillings.

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

- (a) for the issue of seafarer's identity cards to Tanzanian seafarers resides in Zanzibar and foreign seafarers who have permanent residency in Zanzibar.
- (b) for requiring the holders seafarer's identity cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;

Seafarers
identity
cards.

- (c) for the surrender of seafarer's identity 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.

Provided that any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all seafarer residing in Zanzibar or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not less than the equivalent of seven thousand Dollars in Shillings.

(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 seafarer's identity card he is guilty of an offence and liable on summary conviction to a fine not less than the equivalent of seven thousand Dollars in Shillings.

Discharge
book.

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

- (a) for the issue to persons who are or have been employed in Tanzania Zanzibar 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.

Provided that 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 138(3)(d)(iii) of this Act; and
- (b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.

(3) Regulations under this section may make a contravention of any provision thereof an offence punishable upon conviction with a fine not less than the equivalent of seven thousand Dollars in Shillings.

(4) A person who, in Zanzibar or elsewhere-

- (a) obtains employment as a seafarer on board a Tanzania Zanzibar ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (2)(a) of this section; 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 upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings or imprisonment for a term not exceeding one year, or both.

(5) For the purposes of this Part discharge book means a record book of the seafearers service

159.-(1) Where a person ceases to be the master of a Tanzania Zanzibar 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.

Handing
over of
documents
by master.

(2) Where, without reasonable excuse, the master of such a ship fails to comply with subsection (1) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

**PART VIII
PREVENTION OF COLLISIONS AND
SAFETY OF NAVIGATION**

Collision Regulations, Distress and Safety

Collision regulations. **160.** 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;
- (c) respecting the steering and sailing rules to be observed by ships; and
- (d) respecting the other signals to be carried and used. and in making such regulations he shall have regard to any international convention or treaty for the time being in force for the prevention of collisions at sea.

Tanzania Zanzibar ships to observe collision regulations. **161.**-(1) All owners and masters of Tanzania Zanzibar 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.

(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 conviction thereof shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings or six months imprisonment.

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

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

Foreign
ships in
Zanzibar

163.-(1) Liability for collision damage, including damage to vessels, their cargoes, the effects or other property of the crew, passengers or other persons onboard, 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 force majeure, or if the cause is left in doubt, the damages shall be borne by those who have suffered them, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the casualty.

(5) Where the collision is caused by the fault of one of the vessels, liability to make good the damages shall 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) of this section she ought ultimately to bear, to obtain a contribution from the other vessel or vessels at fault.

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

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

(9) Where no collision has actually taken place, liability for damage to the vessels involved in the incident, or to goods or persons 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.

164. A surveyor or inspector may inspect a ship of any nationality in any port in Zanzibar 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 in accordance with requirements of collision regulations.

Duty to render assistance following collision.

165.-(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) of this section shall apply to the masters of Tanzania Zanzibar ships and to the masters of foreign ships when they are in any place in Zanzibar.

(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.

Offence.

166. Where the master of a ship fails without reasonable cause to comply with section 165, he is guilty of an offence and upon conviction shall be liable thereof:-

- (a) in the case of a failure to comply with section 165(1) (a) of this Act, to a fine not less than the equivalent of seven thousand Dollars in Shillings, or imprisonment for a term not exceeding six months, or to other such fine and imprisonment; and

- (b) in the case of a failure to comply with section 165(1) (b) of this Act, to a fine not less than the equivalent of three thousand Dollars in Shillings, 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.

167.-(1) The master of any Tanzania Zanzibar ship upon encountering any of the dangers to navigation specified in subsection (2) of this section 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) of this section 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) (a) Where the master fails to comply with this section, he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings, or six months imprisonment;
- (b) 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.

(4) 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 are. **168.**-(1) The master of a Tanzania Zanzibar 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 upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings, or six months imprisonment.

Duty to assist ships in distress. **169.**-(1) The master of a Tanzania Zanzibar 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) of this section as soon as he is informed of the requisition of one or more ships, other than his own, under section 165 of this Act that the requisition, is being complied with by the ship or ships requisitioned.

Right to requisition ships when in distress. **170.**-(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.

(2) The master of a ship shall be released from the duty imposed by section 169 subsection (1) of this Act and, if his ship has been requisitioned,

from the duty imposed by subsection (1) of this section 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.

171. 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

172.-(1) The duties imposed on the master of ship by sections 169, 170 and 171 of this Act shall apply to the masters of Tanzania Zanzibar ships and to the masters of foreign ships when they are in Zanzibar.

Application of duties imposed by the master.

(2) Where a master fails to comply with sections 169, 170 and 171 of this Act he is guilty of an offence for each such failure, and upon summary conviction is liable, for each such offence, to a fine not less than the equivalent of seven thousand Dollars in Shillings, or imprisonment for a term not exceeding six months, or both.

(3) Compliance by a master with sections 169, 170 and 171 of this Act shall not affect his right, or the right of any other person to salvage.

173.-(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.

Regulations for signals of distress.

(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;

he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings, or 6 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) of this section shall be subjected to an inquiry into his conduct as provided in section 139 of this Act.

Reports of accidents to ships.

174.-(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;

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 Registrar, a report of the damage.

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

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

(3) Where the owner or managing owner, or if there is no owner or managing owner resident in Zanzibar the representative person of the owner or the agent of any ship to which this section applies, has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1) of this section he shall satisfy himself that the accident or damage has been reported to the Registrar by the master; and, where any such owner, managing owner, representative person or agent has reason to believe that the accident or damage has not been so reported, he shall as soon as possible, send to the Registrar notice in writing stating the name of the ship, its official number, and its port of registry or the port to which it belongs, stating to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(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 up on conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings,

(5) This section applies to all Tanzania Zanzibar ships and to all foreign ships carrying passengers between places in Zanzibar.

175.-(1) Where the managing owner or agent of any Tanzania Zanzibar ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost, he shall cause a reasonable search to be made for the ship and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and stating-

Apprehended
loss of
ship.

- (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 up on conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

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

Notices to
mariners
and
navigational
warnings.

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

Aids To Navigation and Charts and Publications

177. For the purposes of this section and sections 178 to 184 of this Act:-

Interpreta-
tion and
application

"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.

Permission to establish navigational aids.

178.-(1) There shall be established in Zanzibar such navigational aids as are necessary to facilitate safe navigation of ships within Zanzibar.

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

Navigational aids.

179.-(1) No navigational aid shall be established:-

- (a) without the prior written consent of the Director, or any other person authorized 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 authorized by him for the purpose.

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

Functions of the Registrar ships in respect of navigational aids

180. The Registrar of ships shall exercise general supervision over all navigational aids and in particular shall:-

- (a) be responsible for the establishment and maintenance of all navigational aids established and such other government owned navigational aids may be under the control of the authority.
- (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.

181. A person who:-

Offence.

- (a) contravenes section 178 or 179 of this Act;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;
- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;
- (e) trespasses on or without lawful excuse, is found in or on:-
 - (i) an aid; or
 - (ii) on any land upon which an aid is situated; and
- (f) fails to notify the registrar as soon as practicable after the aid is damaged, destroyed or fouled,

is guilty of an offence and, in addition to the expenses of making good any damage so occasioned, upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

182. 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 or security is furnished for payment.

Detention of ships.

183.-(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 Zanzibar.

Fire or lights detrimental to navigation.

(2) Any person who fails to comply with subsection (1) of this section is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

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

Regulations
in respect
of
navigational
aids.

184. The Minister may by regulations:-

- (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;
- (b) the conditions for establishing privately owned navigational aids and such provisions may include-
 - (i) locations of navigational aids to be erected
 - (ii) maintenance and administration
 - (iii) use of the public for the purpose of safety of navigation
 - (iv) charges and revenue collection for the use of such navigational aids
- (b) prescribe the penalties for any contravention of such regulations.

Nautical
publications,
charts and
other
information.

185.-(1) The Minister may make regulations:-

- (a) 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.
- (b) requiring Tanzania Zanzibar Ships or such descriptions of Tanzania Zanzibar 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.

(2) 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 upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

**PART IX
SAFETY OF LIFE AT SEA**

General

186. In this Part:-

Interpreta-
tion.

"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 198 of this Act;

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

"Continuous Synopsis Record" means an official document issued by the ship's Flag State to provide an onboard record of the history with respect to the information recorded therein;

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

"International voyage" means a voyage between a port in one Country and a port in another Country where at least one of the ports is a Safety Convention Country. "Passenger Certificate" and "Tanzania Zanzibar Cargo Ship Safety Construction means certificates of those names issued pursuant to section 185 of this Act.

"Passenger Certificate" and "Tanzania Zanzibar Cargo Ship Safety Certificate", mean the certificates of those names issued pursuant to section 199 of this Act;

"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 thereof as may be in effect in respect of the United Republic of Tanzania;

"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;

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

"short international voyage" means an international voyage:-

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

187.-(1) Subject to subsection (2) of this section the Safety Convention, including all its related instructions, shall, unless excepted by this Act, apply to all Tanzania Zanzibar ships engaged on international voyages wherever may be and all other foreign ships while they are in Zanzibar.

Application of safety convention and exceptions there to

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

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

(3) Notwithstanding that any provision of this Part of any regulations made hereunder is expressed to apply to ships that are not Tanzania Zanzibar ships while they are within any port in Zanzibar 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.

188.-(1) The Minister 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.

Exemptions.

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

(3) (a) Without prejudice to subsection (1) of this section 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, lifesaving appliances and radio communications, the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages;

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

(b) Where any such exemption as is referred to in paragraph (a) above is granted, the Director shall communicate to the Organization particulars of the exemptions and the reasons therefore.

(4) 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 Tanzania Zanzibar ships, or classes of ships which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

Regulation
relating to
safety at
sea.

189.(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" which shall prescribe the requirements for the hull, life saving appliances, equipment and machinery of Safety Convention ships and their survey and inspection.

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

190.-(1) The Minister may make regulations, in this Act referred to as "Tanzania Zanzibar 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 Tanzania Zanzibar 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) The said regulations 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) Tanzania Zanzibar cargo ships of not less than 500 tons not engaged in international voyages;
- (b) Tanzania Zanzibar 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 in Zanzibar and while they are not exempted under this Act.

191. The Minister may make regulations for small ships and in this Act referred to as "Small Ship Safety Regulations"

Regulations for small ships safety requirements and surveys.

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

Surveys and Certification

Surveyor's duties. **192.**-(1) Surveyors appointed pursuant to section 7 of this Act 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 7 of this Act or, subject to such conditions as the Registrar may impose, by any corporation or society for the survey and classification of ships authorized by the Registrar of ships.

Surveyor's power of Inspection. **193.**-(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 Registrar 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) of this Act is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

194. A surveyor, if satisfied on inspection that he can with propriety do so, shall forward a report to the Registrar which shall contain a statement showing- Surveyors to report to Registrar of ships.

- (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.

195. 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 Registrar may direct, and shall furnish copies thereof and any other information pertaining to the duties of his office, which the Registrar may require.

Responsibilities of owner and master and compliance with ISM Code.

196.-(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 other 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 Tanzania Zanzibar ship is in such a case in a port outside Tanzania it is also reported to the appropriate authorities of Tanzania 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) of this section, 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) of this section apply to:-

- (i) Tanzania Zanzibar ships; and
- (ii) except as regards subsection (1)(a) of this section other ships which have been surveyed pursuant to this Part.

(4) All Tanzania Zanzibar ships, all other ships while in Zanzibar 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) of this section "ISM Code" means the International Safety 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.

197.-(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 Registrar.

Procedure to be adopted when the ship, including 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 Registrar who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and give notice of any such suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies only to Tanzania Zanzibar ships and other ships which have been surveyed pursuant to this Part.

198.-(1) When a survey or surveys to meet the requirements set out in this Part and regulations made under section 190 of this Act are satisfactorily completed the Registrar, or any other person authorised by him, shall issue-

Issue of certificates to Tanzania Zanzibar 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;

- (b) in the case of a passenger ship which is only engaged on short international voyages, short international voyage Passenger Ship Safety Certificate;
- (c) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate;
- (e) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate; or

(2) A Cargo Ship Safety Certificate may be issued as an alternative to the certificates referred to in subsection (1)(c),(d) and (e) of this section.

(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 Tanzania Zanzibar ships not engaged on international voyages and ships of less than 500 tons.

199. When a survey or surveys, to meet the requirements set out in this Part or in regulations made under section 191 of this Act are satisfactorily completed the Director shall issue-

- (a) in the case of a Tanzania Zanzibar passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
- (b) in the case of a Tanzania Zanzibar cargo ship of 500 tons or over not engaged on international voyages, a Tanzania Zanzibar Cargo Ship Safety Certificate; or
- (c) subject to regulations made under section 190 of this Act, in the case of a Tanzania Zanzibar cargo ship of less than 500 tons, a Tanzania Zanzibar Cargo Ship Safety Certificate.

200.-(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. Form of certificate.

(2) A Passenger Certificate, Tanzania Zanzibar 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; any condition with which the ship has to comply.

201.-(1) The duration of certificates issued under section 198 of this Act 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 199 of this Act shall be as follows-

- (a) a Passenger Certificate shall be issued for a period of validity not exceeding twelve months;
- (b) a Tanzania Zanzibar 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 203 of this Act;

- (b) if annual and intermediate or periodical surveys have not been carried out in accordance with this Part and the certificate has not been endorsed;
- (d) upon the transfer of a ship to the flag of another State;

Issue and duration of exemption certificates.

202.-(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 sections 198 and 204 of this Act.

(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.

203.-(1) Where a Tanzania Zanzibar ship, at the time when a certificate issued under section 198(1) or (2) of this Act expires, is not in a port in or the port in which it is to be surveyed, the Registrar 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 Zanzibar or the port in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

(2) 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 Zanzibar or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Zanzibar without having obtained a new certificate.

(3) The Registrar may extend a certificate issued under section 198(1) or (2) of this Act which has not been extended under subsection (1) of this section for a period of grace of up to one month from the date of expiry stated on it.

(4) In the case of a Tanzania Zanzibar ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for

a particular voyage is less than the number for which the ship's life-saving appliances provide, the Registrar may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respects to life saving appliances stated on the certificate.

(5) The memorandum referred to in subsection (4) of this section shall be attached to the certificate during the particular voyage and shall be returned to the Registrar at the completion of the voyage.

(6) In the case of a ship that has transferred from the registry of the Government of another Country to Tanzania Zanzibar Register of Shipping, the Registrar, subject to such survey requirements that may be considered to be necessary may, issue one or more of the certificates prescribed by sections 198 and 199 of this Act for a period to be determined by the Registrar, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the Government of that other Country if satisfied that:-

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the Government of that Country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in sub-paragraph (a) above 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 except by direct replacement.

204. The Registrar may request through a proper officer or otherwise, the Government of a Country to which the Safety Convention applies to survey a ship and, if satisfied that the requirements of the Convention are complied with to issue or authorise the issue to the ship the certificates referred to in section 203 of this Act, and a certificate issued in accordance with such a request shall

Issue and endorsement of certificates by another government.

contain a statement that it has been so issued and shall have the same effect as if it was issued by the Registrar of ships.

Ships not registered in Zanzibar and to which the safety convention applies.

205.-(1) The Registrar may, at the request of a Government of a Country to which the Safety Convention applies, survey a ship registered in that Country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 195 of this Act and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that Government and not by the Registrar of ships.

(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 the provisions of section 194 of this Act are being complied with.

Other ships which are not Tanzania Zanzibar ships.

206.-(1) When a survey or surveys of ships which are not Tanzania Zanzibar ships, to meet the requirements set out in this Part, are completed in accordance with this Part-

- (a) the Registrar shall issue in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
- (b) the Registrar shall issue in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Certificate;

(2) Such certificates shall be subject to the requirements of this Part as though they were issued under section 199 of this Act.

207.-(1) The Registrar may cancel a certificate issued to a Tanzania Zanzibar ship where he has reason to believe that- Cancellation of a certificate.

- (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 Registrar may require that a certificate issued to a Tanzania Zanzibar ship which has expired or has been cancelled be surrendered, as directed.

(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) of this section;

is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

208. 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 certificate.

209.-(1) No Tanzania Zanzibar 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 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 Construction Certificate.

(2) No ship registered in a country to which the safety Convention applies shall proceed to a sea from a port in Zanzibar unless there is in force such Convention certificates that would be required if the ship was a Tanzania Zanzibar ship and provisions relating to extension in section 190 of this Act shall apply to such certificates as if the ship was a Tanzania Zanzibar 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 Zanzibar unless it has been surveyed and there is in force a Tanzania Zanzibar 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 190 of this Act, no cargo ship of less than 500 tons shall proceed to sea from a port in Zanzibar unless it has been surveyed and there is in force a Tanzania Zanzibar Cargo Ship Safety Certificate.

(5) No ship registered in a Zanzibar to which the Safety Convention does not apply shall proceed to sea from a port in Zanzibar 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.

(6) No ship registered in a country to which the safety Convention does not apply shall proceed to a sea from a port in Zanzibar unless there is in possession of documentation which shows that either the ship has been surveyed

for compliance with relevant regulations applicable to the ship as though it was a Tanzania Zanzibar ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(7) 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.

(8) 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.

210.-(1) Subject to regulations made under section 189 of this Act, 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.

211. 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 ships.

212.-(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 188 to 190 of this Act, the owner and master of the ship is each guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

Offences.

(2) Any contravention of sections 16(1), 209(1) to (7) or section 210 of this Act is an offence by both the owner and master, and each is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(3) Where a ship proceeds to sea without section 208 of this Act being complied with, the owner and master is each guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(4) Any contravention of section 211 of this Act is an offence by both the owner and master and each is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings, or imprisonment for a term not exceeding two years, or both.

(5) Any contravention of section 210(8) of this Act is an offence by the master and is punishable on conviction by a fine not less than the equivalent of one thousand Dollars in Shillings.

(6) It shall be a defence for a person charged with an offence under this Part to prove that he took all reasonable steps to ensure that the Part was complied with.

Power to
detain.

213. In any case where a ship does not comply with the requirements of this Part, the ship shall be liable to be detained.

Arbitration.

214.-(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 198 or 199 of this Act, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him 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;
- (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 XXIII of this Act.

Miscellaneous

215. Where an exemption certificate, issued in respect of any Tanzania Zanzibar 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 upon conviction each shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

Penalty for non compliance with conditions of exemption certificates.

216.-(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 convention certificates.

(2) Where a Certificate is not acceptable due to the circumstances referred to in subsection (1) of this section 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 onboard, and the following persons shall be notified in writing of the circumstances, namely:-

- (a) Flag State Administration of the ship
- (b) 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
- (c) nominated surveyors or recognized organizations responsible for the issue of the certificate referred to in subsection (1) of this section.

(3) Where any ship referred to in subsection (2) of this section 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.

217.-(1) Every Tanzania Zanzibar passenger ship, regardless of size, and every Tanzania Zanzibar 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 and a copy of which shall be sent to Registrar.

Ships to carry stability information.

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

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2) of this Act, the owner and master is guilty of an offence and upon conviction each is liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

Ships to
carry
Continuous
Synopsis
record.

218.-(1) Every ship to which section 187(1) of this Act applies shall carry onboard the Continuous Synopsis Record book issued by the Administration and be ready any time for inspection.

(2) Every ship shall provide in the Continuous Synopsis Record book the ship's history of previous names and State of registration and other matters related thereto in the form prescribed by the Safety Convention.

(3) The Minister may make regulations for Tanzania Zanzibar ships prescribing the requirements and particulars to be entered in the Continuous Synopsis Record book, that may include:-

- (a) the starting date of ships history to be recorded;
- (b) type of entries to be entered in the Continuous Synopsis Record book;
- (c) the manner in which changes can be entered into the Continuous Synopsis Record book

(4) In making such regulations, the Minister shall consider the Regulation 5 of Chapter XI - 1 of the Safety Convention.

(5) Any master who fails to produce the Continuous Synopsis Record of his ship shall be guilty of an offence and shall be liable to summary conviction to a fine not less than the equivalent of three thousand Dollars in Shillings.

Regulation
for local
safety
certificates
including
fishing
vessel

219.-(1) The Minister may make regulations prescribing safety requirements and providing for the issue of local certificates in respect of-

- (a) fishing vessels;
- (b) native vessels
- (c) pleasure vessels; and

- (d) 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 X LOAD LINES

General

220.-(1) In this Part, except in so far as the context otherwise requires- Interpretation.
Interpretation

"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 249 of this Act;

"non Tanzania Zanzibar ship" means a ship which is not registered in Zanzibar;

"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;and

"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 232(5) of this Act.

(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 Tanzania is the date as from which it is declared under section 249 of this Act 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) below, "international voyage" means a voyage between:-

- (a) a port in Tanzania and a port outside Tanzania; or
- (b) a port in a Convention Country other than Tanzania and a port in any other county or territory whether or not a Convention Country which is outside Tanzania.

(4) In determining, for the purposes of subsection (3) above, what are the ports between which a voyage is, no account shall be taken of any deviation by a ship from its intended voyage made which 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 of 1966 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.

221. This Part applies to all ships except-

Application

- (a) ships of war;
- (b) native vessels
- (c) ships solely engaged in fishing; and
- (d) pleasure vessels not engaged in trade;

222.-(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.

Load line regulations.

(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 that:-

- (a) 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) 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) 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 there under, 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 referred in subsection (2)(c) of this section and "load lines" means such lines referred in subsection (2)(d) of this section.

Tanzania Zanzibar Ships

Compliance with load line regulations **223.**-(1) Subject to any exemption conferred by or under this Part, no Tanzania Zanzibar ship to which this Part applies shall proceed or attempt to proceed to sea unless:-

- (a) the ship has been surveyed in accordance with the load line regulations;

- (b) the ship is marked with a deck-line and with load lines in accordance with 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 222(4) of this Act 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) of this section, the owner or master of the ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(3) Any ship which in contravention of subsection (1) of this section attempts to proceed to sea without being surveyed and marked as mentioned in sub-section (1)(a) and (b) of this section may be detained until it has been so surveyed and marked.

(4) Any such ship as is mentioned in subsection (1) of this section which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of Part XVII of this Act.

224.-(1) Where a Tanzania Zanzibar ship to which this Part applies is marked with load lines, the ship shall not be so loaded that:-

Submersion
of load
lines.

- (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) of this section the owner and master of the ship is (subject to subsection (5) of this section) is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings and to such additional fine, not exceeding an amount calculated in accordance with subsection (3) of this section 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) of this section shall not exceed one hundred thousand Dollars in Shillings for each complete centimetre by which:-

- (a) in a case falling within subsection (1)(a) of this section the appropriate load line on each side of the ship was submerged, or
- (b) in a case falling within subsection (1)(b) of this section 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) of this section, or, if any other person, having reason to believe that the ship is so loaded, sends or is party to sending 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) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(5) Where a person is charged with an offence under subsection (2) of this section, 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) of this section 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 222(2)(d) of this Part, "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.

Miscellaneous
offences in
relation to
marks.

225. Where a Tanzania Zanzibar 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 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 authorize him for that purpose,

he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

226.-(1) Where a Tanzania Zanzibar 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. Issue of load line certificates.

(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 " Tanzania Zanzibar load line certificate".

(3) Subject to subsection (4) below, any certificate required by subsection (1) to be issued-

- (a) shall be issued by the Registrar or by a person authorized for that purpose by the Registrar, 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 Registrar may request a Contracting Government to issue an International Load Line Certificate (1966) in respect of any ship to which this Part applies which is a Zanzibar Tanzanian ship falling within subsection (2)(a) of this section 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 Zanzibar as they have effect in relation to an International Load Line Certificate (1966) issued by the Registrar.

Effect of
load line
certificate.

227. Where a certificate, issued in pursuance of section 226 of this Act and for the time being in force, is produced in respect of the ship to which the certificate relates:-

- (a) the ship shall be deemed to have been surveyed in accordance with the load line regulations, and
- (b) 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.

Duration,
endorsement
and
cancellation
of load line
certificates.

228.-(1) The load line regulations shall make provision for determining the period during which any certificate issued under section 226 of this Act is to remain in force, including-

- (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.

Ships not
to proceed
to sea
without
load line
certificate.

229.-(1) Subject to any exemption conferred by or under this Part, no Tanzania Zanzibar 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.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer of customs and excise 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 upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(4) In this section "the appropriate certificate" means the certificate which is the appropriate certificate for the purposes of section 226 of this Act.

230.-(1) Where a certificate is issued in respect of a ship under section 226 of this Act 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.

Publication of load line certificate and entry of particulars in official log book.

(2) Before any Tanzania Zanzibar 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) of this section 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 less than the equivalent of one thousand Dollars in Shillings.

231. A surveyor may inspect any Tanzania Zanzibar 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.

Inspection of ships.

Non Tanzania Zanzibar Ships

Valid convention certificates. **232.**-(1) This section applies to any non-Tanzania Zanzibar ship to which this Part applies which-

- (a) is registered in a Convention Country or not being registered in any such Country or elsewhere, flies the flag of a Convention Country, and
- (b) is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of not less than 24 meters in length.

(2) The Registrar may, at the request of the Government of Zanzibar as referred to in subsection (1) of this section issue in respect of a ship referred to in subsection (1) of this section a certificate in such form as may be prescribed by the load line regulations, if the Registrar is satisfied that he could properly issue a certificate in respect of the ship under section 222(1) of this Act if the ship were a Tanzania Zanzibar 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 Zanzibar, shall be recognized 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) of this section 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) of this section and is for the time being in force, or
- (b) having been issued as mentioned in subsection (3) of this section, is produced in circumstances in which it is required by the load line regulations to be recognised for the purposes of this Part.

233.-(1) Subject to subsection (2) of this section and to any exemption conferred by or under this Part, no non Tanzania Zanzibar ship to which this Part applies shall proceed or attempt to proceed to sea from any port in Zanzibar unless-

Compliance with load line regulations for non Zanzibar Tanzanian ships.

- (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 222(4) of this Act is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) Subsection (1) of this section 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 upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(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) of this section 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 XVII of this Act.

234.-(1) Where a non Tanzania Zanzibar ship to which this Part applies is within any port in Zanzibar, and is marked with load lines, the ship shall not be so loaded that-

Submersion of load lines for non Tanzania Zanzibar ships.

- (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), and (5) of section 232 of this Act 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 232 of this Act applies, the ship shall not be detained, and no proceedings shall be brought by virtue of subsection (2) of this section unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of section 237 of this Act.

(4) In relation to a ship in respect of which a valid Convention certificate is produced, "load line" in subsection (1) of this section 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 222(2)(d) of this Act, "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) of this section "the relevant provisions" means the provisions of subsection (1) of this section and any provisions of section 239 of this Act as applied by subsection (2) of this section.

Tanzania
Zanzibar
Load Line
Certificates.

235.-(1) Where a non Tanzania Zanzibar 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 Tanzania Zanzibar load line certificate shall be issued to him by the Registrar or a person authorized by him or her.

(2) Subject to subsection (3) below, sections 227 and 228 of this Act shall have effect in relation to a certificate issued under subsection (1) of this section as they have effect in relation to a certificate issued under section 226 of this Act.

(3) Any certificate issued under subsection (1) of this section in respect of a ship to which section 232 of this Act applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Registrar if he has reason to believe that the ship is plying on international voyages.

236.-(1) Subject to any exemption conferred by or under this Part, before a non Tanzania Zanzibar ship to which this Part applies proceeds to sea from any port in Zanzibar, the master of the ship shall produce the appropriate certificate to the officer of customs and excise 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.

Production of certificate to customs and excise office.

(2) For the purposes of this section the appropriate certificate:

- (a) in the case of a ship to which section 232 of this act 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 Tanzania Zanzibar load line certificate for the time being in force in respect of the ship; and
- (c) in any other case, is a Tanzania Zanzibar load line certificate for the time being in force in respect of the ship.

237.-(1) Subject to the following provisions of this section, a surveyor may inspect any non-Tanzania Zanzibar ship to which this Part applies while the ship is within any port in Zanzibar.

Provisions as to inspection.

(2) Any such surveyor may go on board any ship to which section 232 of this Act applies, while the ship is within any port in Zanzibar for the purpose of demanding production of any International Load Line Certificate or Tanzania Zanzibar 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) of this section 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) of this section 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 XVII of this Act.

(5) Where a ship is detained under the provisions of this Act as applied by subsection (4) of this section the Registrar 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

Power to
make
exemption
Orders.

238.-(1) Where in the opinion of the Registrar the sheltered nature and conditions of international voyages:-

- (a) between near neighbouring ports in Tanzania and in another Convention Country, or
- (b) between near neighbouring ports in any two or more countries outside Tanzania make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Registrar 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 Registrar 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 Registrar may by order direct that any ship engaged solely in the coastal 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 Registrar 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.

239.-(1) In this section any reference to exempting a ship is a reference to exempting the ship either-

Further powers to exempt ships.

- (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 Tanzania Zanzibar 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 Registrar 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 Tanzania Zanzibar 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 Registrar may exempt the ship.

(4) Without prejudice to subsection (3) of this section where a Tanzania Zanzibar 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.

Issue of exemption certificates. **240.**-(1) Where the Registrar exempts a ship under section 239 of this Act, the Registrar shall issue the appropriate certificate to the owner of the ship.

(2) For the purposes of this section the appropriate certificate:-

- (a) where the exemption is conferred under subsection (2) or subsection (4) of section 239 of this Act, is "International Load Line Exemption Certificate",
- (b) where the certificate is conferred under subsection (3) of that section, is a "Tanzania Zanzibar Load Line Exemption Certificate".

(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.

Duration, endorsement and termination of certificates. **241.**-(1) The load line regulations shall make provisions for determining the period during which any exemption conferred under section 239, or any certificate issued under section 240 of this Act, is to remain in force, including-

- (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.

242.-(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 221 of this Act applies, and are so issued by Governments other than the Government of Zanzibar 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.

International
load line
exemption
certificate.

(2) Certificates issued as mentioned in subsection (1) above shall be "International Load Line Exemption Certificates".

Subdivision Load Lines and Deck Cargo

243.-(1) Where in pursuance of safety regulations a Tanzania Zanzibar 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 211 of this Act, then that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

Subdivision
load lines.

(2) Where in pursuance of safety regulations a non Tanzania Zanzibar 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 of this Act, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

244.-(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; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

Deck cargo.

(2) Where the load line regulations provide (either generally or in particular cases or classes of cases) for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then (without prejudice to the generality of subsection (1)) the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such special requirements as are mentioned in subsection (2) above, the Minister shall have regard in particular to the provisions of Chapter IV of the Load Lines Convention.

(4) Where any provisions of the deck cargo regulations are contravened-

- (a) in the case of a Tanzania Zanzibar ship, or
- (b) in the case of any other ship while the ship is within any port in Zanzibar the master of the ship is subject to subsection (5) of this section guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

(5) Where a person is charged with an offence under subsection (4) of this section, 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) For the purpose of securing compliance with the deck cargo regulations, any person authorised for the purpose by the Registrar may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck.

Miscellaneous

Notice to
consular
officer
proceedings
against
foreign
ships

245.-(1) Where any non Tanzania Zanzibar 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.

(2) A notice under this section shall specify the grounds on which the ship has been detained or the proceedings have been taken.

246.-(1) The Registrar may require any certificate which can be issued under this Part, which has expired or been cancelled, to be surrendered as he directs. Surrender of certificates

(2) Where any owner or master of a ship fails without reasonable excuse to comply with such requirement, is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

247. 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, is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings. Penalty for false statements.

248. Any certificate issued under this Part shall be admissible in evidence. Admissibility of certificates in evidence.

249. In this Part "Convention Country " means a Country or territory which is either- Convention countries.

- (a) the Government of the United Republic of Tanzania 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) above.

250. 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. Order rules and regulations.

**PART XI
CARRIAGE OF BULK CARGOES AND
DANGEROUS CARGOES**

General

Application. **251.**-(1) Unless expressly provided otherwise, this Part applies to all ships to which the Safety Convention applies and to cargo ships of less than 500 gross tonnage.

(2) The provisions of this Part respecting carriage of dangerous goods in packaged form or in solid form in bulk do not apply to ships' stores and equipment, including ships' distress signals.

(3) The provisions of this Part and any regulations made under section 257 of this Act respecting dangerous goods, shall apply to all Tanzania Zanzibar ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers at any place in Zanzibar as they apply to Tanzania Zanzibar ships.

Interpretation. **252.** 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.

"dangerous goods" means a product, substance or organism included by its nature or by the regulations in any of the classes listed in the IMDG Code or in the schedule to the Dangerous Goods Regulations.

Carriage of Grain and other Bulk Cargoes

Bulk cargo regulations. **253.** The Minister may make regulations relating to-

- (a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safe Practice for Bulk Cargoes issued by the Organization and amendments thereto or replacements thereof;
- (b) the safe carriage and stowage of grain in compliance with the Safety Convention.

254.-(1) Where grain is loaded on board any Tanzania Zanzibar ship, or is loaded within any port in Zanzibar on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.

Carriage
of grain.

(2) It shall be unlawful, where any ship, having been loaded with grain outside Zanzibar without taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Zanzibar so laden.

(3) Where any ship is loaded in contravention with subsection (1) and (2) of this section shall be deemed for the purposes of Part XVII of this Act to be unsafe by reason of improper loading and-

- (a) the owner or master of the ship is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings; and
- (b) the ship shall be detained by reason of improper loading until loading is done in accordance with regulations for safe carriage of grain under section 253(b) of this Act.

(4) No offence is committed under subsection (3) of this section 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.

(5) For the purpose of ensuring the observance of this section a surveyor may go on board any Tanzania Zanzibar ship, or any foreign ship which is in any port of Zanzibar, and inspect any grain loaded in the ship and the manner in which it is stowed.

255.-(1) On the arrival at a port in Zanzibar from a port outside Zanzibar of any ship carrying a cargo of grain, the master shall cause to be delivered to the Registrar, a notice stating:-

Delivery
of notice
and
offence.

- (a) the draught of water and freeboard of the ship after the loading other 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 metres, quarters bushels, or tons weight;

- (ii) the mode in which the grain is stowed; and
- (iii) the precautions taken to prevent the grain from shifting.

(2) If the master fails to deliver any notice required under subsection (1) of this section, 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 upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

Carriage of Timber

Timber
cargo
regulations.

256.-(1) The Minister may make regulations, in this section referred to as the "timber cargo regulations", respecting the conditions on which timber may be carried as cargo outside Zanzibar in any uncovered space on the deck of any Load Line ship.

(2) The timber cargo regulations shall contain such regulations as appear to the Minister to be necessary for the purpose of giving effect to paragraph 2 of Article 6 of the Load Line Convention.

(3) Subject to subsection (2) of this section the timber cargo regulations may prescribe generally the conditions on which timber may be carried as deck cargo outside Zanzibar in any Load Line ship on all voyages or on any particular class of voyages and at all seasons or at any particular season, and in particular may prescribe the manner and position in which the timber is to be stowed and the provision that is to be made on the ship for the safety of the ship and crew.

(4) Where a Load Line ship is about to make a voyage carrying a deck cargo of timber from Zanzibar, the owner or master shall have the ship inspected by a inspector, or other person directed thereto in writing by the Minister who shall, if he is satisfied that he can do so with propriety, give a certificate showing that the ship is suitable for the carriage of deck cargoes of timber, and that the cargo is properly stowed and secured in accordance with the timber cargo regulations.

(5) No ship described in subsection (4) of this section shall proceed unless it has on board the certificate mentioned in that subsection, which shall be produced on demand of the officer of customs or inspector at any port.

(6) For any contravention or attempted contravention of this section, the owner or master of any ship is guilty of an offence and liable to a fine not less than the equivalent of twenty five thousand Dollars in Shillings.

(7) In any proceedings against a master in respect of a contravention of the timber cargo regulations, it is a good defence to prove that the contravention was due solely to deviation or delay, the deviation or delay being caused solely by stress of weather or other circumstances that neither the master, the owner nor the charterer, if any, could have prevented or forestalled.

(8) Any load line ship loaded with a timber deck cargo in any port in Zanzibar in contravention with timber cargo regulations shall be detained for purpose of the provisions of Part XVII of this Act for the reason of improper loading.

(9) The regulations made under this section may contain appropriate provisions applying to any Load Line ship loaded with a timber deck cargo that is at any place in Zanzibar.

Carriage of Dangerous Goods

257.-(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.

Damage and marking of dangerous goods.

258.-(1) No person shall send by or carry in a Tanzania Zanzibar ship, except in accordance with this Part and regulations made pursuant to section 257 of this Act, any dangerous goods.

(2) No person shall send by or carry in a Tanzania Zanzibar 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.

Offences relating to dangerous goods.

259.-(1) Any person who contravenes any of the provisions of this Part with respect to dangerous goods, including regulations made under section 257 of this Act, is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

(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 XVII of this Act, to be unsafe by reason of improper loading and the ship shall be detained by reason of improper loading until loading is done in accordance with the provisions of section 257 of this Act.

Rejection and disposal of dangerous goods by ship.

260.-(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 259 of this Act, the master or owner of the ship may cause the goods, together with any package or container thereof:-

- (a) to be thrown overboard when it danger to the safety of ship, passengers and crew;
- (b) to be thrown overboard whenever is appropriate as is not danger safety of navigation of other vessels and to marine environment and;
- (c) to be offloaded to any port or safe place.

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 and the shipper or his agent shall be liable for cost of such action.

(3) When anything is thrown overboard for the purpose of subsection (2) (a) or (b) of this section it shall be the duty of the master to alert neighbouring ships and if the thrown was in the territorial sea to report to the Authority of the Coastal State to which the thrown was made;

261.-(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. Forfeiture of dangerous goods.

(2) A Court may exercise the powers conferred by subsection (1) of this section 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, the Court may, in its discretion, require such notice as it may direct to be given to the shipper of the goods before they are forfeited.

PART XII
MARITIME SECURITY ON SHIPS AND PORT FACILITIES
UNDER SAFETY CONVENTION AND INTERNATIONAL SHIP
AND PORT FACILITY SECURITY CODE

262. In this Part-

Interpretation.

"code" means international ship and port facility security code;

"Designated Authority" means the Authority responsible for the Maritime Administration in Zanzibar;

"port facility security plans" means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units, ship's stores within the port facility from the risks of security incident;

"safety convention" has same meaning as defined under section 188 of this Act;

"security level" means the qualification of the degree of risk that a security incident will be attempted or will occur;

"ship security alerts" means a secret communication between a ship in security distress and the Designated Authority, when activated by ship;

"ship security plans" means a plan developed to ensure the application of measures onboard the ship designed to protect persons onboard, cargo, cargo transport units, ship's stores or the ship from the risks of security incident.

Application. **263.**-(1) This part applies to-

- (a) the following types of ships engaged on international voyages:
 - (i) passenger ships, including high-speed passenger craft;
 - (ii) cargo ships including high-speed craft, of 500 gross tonnage and upwards; and
 - (iii) mobile offshore drilling units; and
- (b) port facilities serving types of ships mentioned in paragraph (a) above; and
- (c) any other port facilities normally not used by foreign going ships as the Minister may appoint

(2) This part does not apply to warships, naval auxiliaries or other ships owned or operated by a Contracting Government and used only on Government non-commercial service.

Security assessment. **264.**-(1) The Minister shall appoint any qualified person to carry out security assessment on Tanzania Zanzibar ships and Port Facilities located in Zanzibar.

(2) The security assessment shall be approved by Designated Authority

(3) The Designated Authority shall send the recommendations of the security assessment of a ship or port facility to operators for the purpose of being mandatory guidance to prepare security plan of a ship or port facility.

265.-(1) Every Tanzania Zanzibar ships to which this part applies and port facility shall have security plans approved by the Designated Authority:- Security plans.

- (a) in case of a ship, ship security plans on board such ship;
- (b) in case of port facility, port facility security plans of that particular facility.

(2) The Designated Authority before approving any security plan shall ensure such plan is tested and is effectively applicable on such ship or port facility.

266.-(1) Where the Designated Authority is satisfied that a ship has a security plans on board and complies with the requirements of the safety convention and the Code shall issue to that ship an International ship security certificate. Internati-
onal ship
security
certificate.

(2) The certificate mentioned under subsection (1) of this section shall be available ant time for inspection.

(3) Any master who fails to provide a valid certificate on Inspection his ship shall be liable:-

- (a) to a fine not less than the equivalent of ten thousand Dollars in Shillings
- (b) order to leave the port facility

(4) When the ship is ordered to leave the port for the reasons under of sub regulation (3) the Designated Authority shall inform the facts of that ship to the neighbouring Coastal States and to the expected next port of call.

267. Where the Designated Authority is satisfied that a port facility has a security plans and complies with the requirements of the safety convention and the Code shall issue to that Facility a Document of Compliance. Document
of
Compliance.

Security levels on Tanzania Zanzibar ships and Port Facilities located in Zanzibar.

268.-(1) Every Tanzania Zanzibar ship and every port facilities in Zanzibar shall normally operate under security level one, however, security levels at any time can be raised where circumstances dictates threats or risks of security arise.

(2) The Minister shall be responsible for raising and lowering of security level with respect to security circumstances.

(3) For the proper execution of raising and lowering security levels, the Director of the port shall be delegated to have the power to raise security level from level one to two, and by doing that the Port Authority shall immediately inform the Minister and the Designated Authority and the reasons of raising security level.

(4) Where there is a reason to believe that imminent dangers from security threats will occur, Port Authority shall without delay request the Minister to raise security level two to level three.

(5) While waiting Minister's declaration to raise security level, Port Authority shall take all reasonable measures to prevent or minimize incidents or casualties and measures may include to:-

- (a) remove vessels from alongside;
- (b) remove vessels out of the port area;
- (c) restrict any vessels coming to the port;
- (d) close port operation or any part of the port
- (e) alert people in the port by raising emergency alarm or any other means;
- (f) remove people from the port area
- (g) inform responsible forces ready to take command and people responsible for evacuation

(6) Any person who disobey orders given by Port Authority for the purpose of preceding sub section shall be guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of ten thousand Dollars in Shillings

(7) For the purpose of this Part a police officer may arrest any person without warranty.

269.-(1) In any case, if, in the professional judgement of the master of Tanzania Zanzibar ship, there exist a conflict between any safety and security requirements applicable to the ship during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship, such may include - Master's discretion for ship safety and security.

- (a) refusal any decision made by the company, the charterer or any other person in contrary to safety requirements;
- (b) includes denial of access to person (except those identified as duly authorized by a Contracting Government) or their effects; and
- (c) refusal to load cargo, including containers or other closed cargo transport units.

(2) In such cases, the master may implement temporary security measures and shall forthwith inform the Designated Authority and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter, and any such temporary security measures under this section shall, to the highest possible degree, be commensurate with the prevailing security level.

(3) Any master who acts in contravention with the provisions of subregulation (1) shall be held responsible for any incident that may happen and shall be guilty of an offence, upon conviction shall be liable to a fine not less than the equivalent of five thousand Dollars in Shillings.

270.-(1) KMKM Officers shall have the power to board any vessel while in motion or not in motion when there is reason to believe that:- Power of KMKM to board vessels.

- (a) such vessel threatens security order of Zanzibar or infringe the rights of innocent passage in Territorial sea of Tanzania;
- (b) such vessel is engaged in illegal fishing, exploitation, or exploration of any resources, or conducting research in any place in Zanzibar or in Exclusive Economic Zone of Tanzania.

(2) Where a vessel is found in violation of any requirements of laws of Tanzania, such vessel shall be detained until legal procedures are completed or appropriate security bond is secured.

(3) A master or owner of the ship whose ship is detained for the reasons mentioned under subsection (1) of this section shall be guilty of an offence and is liable.

- (a) in case of reasons of subsection (1)(a) of this section a summary conviction and to a fine not less than the equivalent of twenty five thousand Dollars in Shillings;
- (b) in case of reasons of subsection (1)(b) of this section a summary conviction and to a fine not less than the equivalent of twenty thousand Dollars in Shillings.

Minister to
make
regulations.

271. The Minister shall make regulations as may appear to him to be necessary and expedient to give effect to the Convention and its Code; and to provide generally for security of ships and port facilities, referred to as "Security Regulations" which shall include provisions:-

- (a) procedures to carry out ship and port facility security assessments and the matters to be considered;
- (b) procedures to determine port facility;
- (c) training requirements and manner of recruiting security officers;
- (d) to prescribe means for control of access;
- (e) to specify the manner to respond ship security alerts when activated
- (f) to determine procedures, forms, particulars and period of declaration of security and keeping records thereof;
- (g) to define obligation of companies to deal with their ships or port facilities on security matters;
- (h) to determine circumstances to raise security levels;
- (i) manner, forms and period to keep security records onboard the ship;

- (j) prescribe procedures for inspection of ships on security matters
- (k) procedures of verification and certifications for ships;
- (l) to specify security measures to be practised on board the ship to non convention ship and to port facilities used by ships not engaged on international voyages;
- (m) to provide means and duration of carrying out security auditing on port facility security plans or ship security plans and enforcement of the Convention and the Code;
- (n) to prescribe security equipment to be fitted in ships and port facilities;
- (o) prescribing-
 - (i) the location and ways of operating the centre responsible for responding to ship's security alerts;
 - (ii) provide means of responding to ship security alerts
 - (iii) offences and penalties for ships which produce false ship security alerts
- (p) to provide offences of security matters and penalties thereof; and
- (q) any other related matters.

PART XIII
MARITIME SECURITY AT HIGH SEAS (PIRACY) UNDER THE
UNITED NATIONS CONVENTION ON
THE LAW OF THE SEA 1982

272.-(1) In this Part:-

"piracy" means-

- (a) any act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:-

Piracy
Interpreta-
tion.

- (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) any voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
- (c) any act of inciting or of intentionally facilitating an act described in paragraph (a) or (b) above;

"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.

Hijacking
and
destruction
of ships.

273.-(1) Subject to subsection (5) of this section 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) of this section 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) of this section 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) of this section; 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) of this section subsections (1) and (2) of this section apply-

- (a) whether the ship referred to in those subsections is in Zanzibar or elsewhere;
- (b) whether any such act as is mentioned in those subsections is committed in Zanzibar elsewhere;
- (c) whatever the nationality of the person committing the act.

(5) Subsections (1) and (2) of this section 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) of this section or committing the act under subsection (2) of this section as the case may be, is a Tanzanian citizen;

- (b) the act is committed in Zanzibar ;or
- (c) the ship is used in the customs service of Zanzibar or in the service of the police force in Zanzibar.

(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 Zanzibar which constitutes the offence of murder, attempted murder, manslaughter, or assault; or
- (b) any act done outside Zanzibar which, if done in Zanzibar would constitute such an offence as is mentioned in paragraph (a) above; and

"unlawfully"-

- (a) in relation to the commission of an act in Zanzibar means so as (apart from this Part) to constitute an offence under the law of Zanzibar and;
- (b) in relation to the commission of an act outside Zanzibar , means that the commission of the act would (apart from this Part) have been an offence under the laws of Zanzibar if it had been committed in Zanzibar.

Offences involving endangering safe navigation, threats and ancillary navigation.

274.-(1) Subject to subsection (8) of this section 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) of this section 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) of this section 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) of this section 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 273(2)(a), (b) or (c) of this Act; and
- (b) the making of that threat is likely to endanger the safe navigation of the ship.

(6) Subject to subsection (8) of this section 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) of this section; and
- (b) the making of that threat is likely to endanger the safe navigation of any ship.

(7) Except as provided by subsection (8) of this section subsections (1), (3), (5) and (6) of this section apply whether any such act as is mentioned in those subsections is committed in Zanzibar or elsewhere and whatever the nationality of the person committing the offence.

(8) For the purposes of subsections (1), (3) and (6)(b) of this section 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 Tanzanian citizen;
- (b) the act is committed in Zanzibar

Master's
power of
delivery.

275.-(1) This section shall have effect for the purposes of any proceedings before the Court.

(2) Where the master of a ship, wherever that ship may be, and whatever the State (if any) in which it may be registered, has reasonable grounds to believe that any person on board the ship has:-

- (a) committed any offence under section 273 or 274 of this Act;
- (b) attempted to commit such an offence; or
- (c) aided, abetted, counselled, procured or incited, or been art and part in, 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 Zanzibar or any other Convention Country.

(3) Where the master of a ship intends to deliver any person in Zanzibar or any other Convention Country in accordance with subsection (2) of this section 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) of this section 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) above 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) of this section 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) of this section is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(7) It is a defence for a master of a ship charged with an offence under subsection (6) above of failing to comply with subsection (3) to show that he believed on reasonable grounds that the giving of the notification required by subsection (3) above would endanger the safety of the ship and, except where the place concerned is Zanzibar, that either -

- (a) he notified some other competent authority in the country concerned within the time required by subsection (4) of this section; 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 Zanzibar, a police officer or immigration officer; and
- (b) in relation to any other Convention country, an officer having functions corresponding to the functions, in Zanzibar, either of a police officer or of an immigration officer; and

"Convention Country" means a Country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which was signed at Rome on 10th March, 1988, is for the time being in force; and the Minister may by Order certify that any country specified in the Order is 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 XIV PREVENTION OF POLLUTION FROM SHIPS

Interpreta-
tion.

276. In this part, unless the context otherwise requires-

"discharge" in relation to oil or oily mixtures means any discharge escape or leak howsoever caused;

"garbage" means any waste as defined under Annex IV of the International Convention for the Prevention of Pollution From Ships, 1973,

"oil" means-

- (a) crude oil;
- (b) fuel oil;
- (c) marine diesel oil conforming to such specifications as may be prescribed;
- (d) lubricating oil.

"oily mixture" means a mixture containing not less than a hundred parts of oil in a million parts of a mixture;

"oil reception facilities" in relation to a port, means facilities for the enabling ships using the port to discharge or deposit oil residue;

"prohibited zone" means any such sea area as may be specified in the regulations made under section 287 of this Act to be a prohibited zone for the purpose of this Act;

"ship" for the purpose of this Part means any sea going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage;

"tanker" means a ship which the greater part is constructed or adapted for the carriage of liquid cargoes in bulk and which is not for the time being, carrying a cargo other than oil in that part of its cargo.

277. This part shall apply to:-

Application.

- (a) tankers of one hundred and fifty tons gross or more;
- (b) other ships of five hundred tons or more, and;
- (c) offshore installations.

278. It shall be prohibited for any ship to:-

Discharge of oil and dumping of garbage prohibited.

- (a) discharge any;
 - (i) oil or oily mixture from cargo tanks;
 - (ii) fuel oil residues;
 - (iii) chemicals;
- (b) dump any kind of garbage.

within the prohibited zone or in any port in Zanzibar or within any place in Zanzibar.

279.-(1) Notwithstanding with the provision of section 278 of this Act on emergency situation the discharge or escape of oil or oily mixture from a ship shall be allowable -

Allowable discharge.

- (a) for the purpose of securing the safety of a ship, preventing damage to a ship or cargo or saving life at sea;
- (b) as a result of a damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimising the escape.

(2) When the situation under subregulation (1) (a) and (b) occurs:-

- (a) in any place in Zanzibar the master of a ship shall immediately report the extent of discharge and dangers to Registrar of ships;
- (b) within the water other than Zanzibar but within the Jurisdiction of Tanzania the master of Tanzania Zanzibar ship shall immediately report, the extent of discharge and likely dangers or threats, to Registrar of ships;
- (b) within the territorial water of any Coastal State other than Tanzania or within the water under the jurisdiction of a foreign country the master of Tanzania Zanzibar ship shall report immediately the extent of discharge and dangers to the Proper Officer and Competent Authority of the Coastal State in which the ship at the being is situated;

(3) Any master who fails to comply with the requirements of subsection (2) of this section shall be guilty of an offence and conviction shall be liable to a fine not less than the equivalent of twenty five thousand Dollars in Shillings.

Equipment
to be
fitted.

280.-(1) For the purpose of preventing or reducing discharge of oil and oily mixtures into the sea, the Minister may make regulations requiring Tanzania Zanzibar ships to be fitted with such equipment and to comply with other such requirements including requirement for preventing the escape of fuel, oil or oily mixtures into bilges as may be prescribed.

(2) If any ship is found with fitted an equipment which is not specified for the purpose of preventing or reducing discharge of oil and oily mixture, or is found with a connection when in use may result unlawful discharge, the owner and the master of the ship shall be guilty of offence and upon conviction shall be liable to a fine not less than the equivalent of thirty thousand Dollars in Shillings.

Oil record
book.

281.-(1) The Minister may make regulations requiring oil record books to be carried in Tanzania Zanzibar ships and requiring the master of any such ship to record in the oil record book carried by it:-

- (a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed relating to:-

-
- (i) the loading of oil cargo;
 - (ii) the transfer of oil cargo during a voyage;
 - (iii) the discharge of oil cargo;
 - (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks,
 - (v) the separation of oil from water, or from other substances, in any mixture containing oil;
 - (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v) above, or
 - (vii) the disposal of any other oil residues;
- (b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life;
 - (c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.

(2) The Minister may make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are in Zanzibar; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) above.

(3) Any records required to be kept by regulations made under subsection (2) above shall, unless the ship is a barge, be kept by the master of the ship, and shall, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

(4) Regulations under this section may-

- (a) be made with respect to all or with respect to any one or more of the classes of ship or other matters to which this section relates;
- (b) make different provision for different classes of ship or otherwise for different classes of case or different circumstances.

(5) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on conviction to a fine not less than the equivalent of fifteen thousand Dollars in Shillings

(6) If any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on conviction to a fine not less than the equivalent of ten thousand Dollars in Shillings.

(7) In this section "barge" includes a lighter and any similar vessel.

Garbage
record
book.

282.-(1) Every Tanzania Zanzibar ship shall maintain garbage record book for keeping records of garbage management and disposal.

Official
record
books.

283.-(1) For the purpose of this Part an official record book means oil record book under section 281 of this Act and garbage record book under section 282 of this Act.

(2) The Minister may make regulations to:-

- (a) prescribe the form of the official record books or records and the nature of the entries to be made in them;
- (b) require the person providing or keeping the books or records to retain them for a prescribed period;
- (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.

(3) If any person makes an entry in any official record book carried or record kept under this Part which is to his knowledge false or misleading in any material particular, he shall be liable:-

-
- (a) on summary conviction, to a fine not less than the equivalent of twenty thousand Dollars in Shillings or imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (4) In any proceedings under this Part:-
- (a) any official record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence of the facts stated in it;
 - (b) any copy of an entry in such official record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence of the facts stated in the entry;
 - (c) any document purporting to be an official record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in paragraph (b) above, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

284.-(1) A surveyor or any person appointed in his behalf may, at any reasonable time, go on board a ship to which any of the provisions of this Part apply for the purposes of:- Inspections.

- (a) ascertaining if appropriate pollution certificates are on board;
- (b) ensuring that the prohibitions, restrictions and obligations imposed by or under this part are complied with;
- (c) satisfying himself about the adequacy of the measures taken to prevent the escape of oil or oily mixture from a ship;
- (d) ascertaining the circumstances relating to an alleged discharge of oily mixture from a ship in contravention of the provisions of this Part;

- (e) examining the condition of a ship and its equipment are in accordance with the specifications entered on the pollution certificate; and
- (f) inspecting the official record books;

(2) The surveyor or any person appointed in his behalf may, if necessary make without unduly delaying the ship, a true copy of any entry in any official record book of the ship may require the master of the ship, to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

(3) Where a survey or surveys conducted in Tanzania Zanzibar ship to the requirements set at in this Part are satisfactorily completed the Registrar of ship to the requirements set at in this Part are satisfactorily completed the Registrar of ships or any other person authorised by him, shall issue Pollution Prevention Certificate.

(4) Any found in contravention of sub section (1) of this section shall be detained until deficiencies are properly rectified.

Contraven-
tion by
foreign
ships.

285.-(1) Where, on report from a surveyor or other person authorised to inspect a vessel under the preceding section, the Director is satisfied that any provision of this Part and regulations there under has been contravened by a foreign ship he shall transmit particulars of the alleged contravention to the Government of the country to which the ship belongs.

(2) On receipt of information that a Zanzibar Tanzanian ship has contravened any provision of pollution prevention laws of any Coastal State, the Minister shall investigate the matter, and is satisfied that any provision of this Part has been contravened, take appropriate action against the owner or master and intimate.

Oil
reception
facilities.

286.-(1) Notwithstanding anything contained in the Zanzibar Ports Corporation Act 1997, the power of Zanzibar Ports Corporation shall include the power to provide oil reception facilities from its resources or from investors or from any other persons.

(2) Zanzibar Ports Corporation providing oil reception facilities or any person providing such facilities by arrangement with the Zanzibar Ports Corporation may make charges for the use of such facilities at such rates and may impose conditions in respect of the use thereof as may be approved by notice in the Gazette by the Minister.

(3) The Minister may make regulations for the use of the reception facility on -

- (a) size of ships allowed to discharge
- (b) kinds of waste allowable to be discharged
- (c) means of managing the waste; and
- (d) means of disposing the waste.

(4) The Minister may, by notice in the Gazette, specify the locations in Zanzibar where oil reception facilities can be installed in accordance with the requirements of the provisions and regulations made under this part.

287.-(1) The Minister may, make regulations to carry out the purposes of this Part.

Minister to make regulations for prevention of marine pollution.

(2) In particular and without prejudice to the generality of the provisions of subsection (1) of this section such regulations may:-

- (a) prescribe the specifications of marine diesel oil for the purpose of section 276 of this Act;
- (b) specify areas which shall be deemed prohibited zones for the purpose of this Part;
- (c) prescribe the form and manner in which the oil and garbage record books shall be maintained, the nature of the entries to be made therein, the time and circumstances in which entries shall be made, the custody and disposal thereof and all other matters relating thereto
- (d) prescribe the manner in which investigation may be made by the Minister for the purpose of subsection (2) of section 285 of this Act; and
- (e) provide for the prevention of marine pollution by oil hazardous waste, noxious liquid sewage and toxic waste garbage and other substances and the Protection of Marine Environment in general.

- Pollution at sea. **288.**-(1) If any oil or oily mixture or harmful chemicals is discharged from
- (a) a ship into a harbour, or in any place in Zanzibar or into the sea within 100 miles from the eastern coasts of Zanzibar and Pemba islands; or
 - (b) a Zanzibar ship into the sea within 100 miles of any nearest land, the owner or master of the ship shall be guilty of an offence and is liable to a fine not less than the equivalent of forty five thousand Dollars in Shillings or 5 years imprisonment

(2) A person laying information or giving evidence leading to the conviction of the master or owner of a ship for an offence under this section may, at the discretion of the Court trying the case be awarded a portion not exceeding one half of the fine imposed.

(3) Where a person is liable to a fine mentioned in subsection (1) of this section, he shall be liable also to any expense that has been incurred or will be incurred in removing pollution or making any damage attributable to the pollution.

Minister may designate arrangements. **289.** The Minister may designate arrangements in Zanzibar for the effective fulfilment of the objectives and functions of this Part

PART XV LIABILITY FOR OIL POLLUTION

Preliminary

- Meaning of "the Liability Convention" and related expressions. **290.** In this Part-
- "the Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1992;
 - "Liability Convention country" means a country in respect of which the Liability Convention is in force; and
 - "Liability Convention State" means a State which is a party to the Convention;
 - "bank" means Peoples Bank of Zanzibar or any other Bank as the Minister may instruct

Liability

291.-(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Part) the owner of the ship shall be liable:-

Liability for oil pollution in case of tankers.

- (a) for any damage caused outside the ship in Zanzibar by contamination resulting from the discharge or escape; and
- (b) or the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in Zanzibar by contamination resulting from the discharge or escape; and
- (c) for any damage caused in Zanzibar by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Part) the owner of the ship shall be liable:-

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in Zanzibar; and
- (b) for any damage caused outside the ship in Zanzibar by any measures so taken;

and in this Part any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship:-

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where:-

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable, each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(6) For the purposes of this Part:-

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

Liability
for oil
pollution
in case of
other
ships.

292.-(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 291 of this Act applies, then (except as otherwise provided by this Part) the owner of the ship shall be liable:-

- (a) for any damage caused outside the ship in Zanzibar by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in Zanzibar by contamination resulting from the discharge or escape; and

- (c) for any damage so caused in Zanzibar by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 291 of this Act applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Part) the owner of the ship shall be liable:-

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in Zanzibar; and
- (b) for any damage caused outside the ship in Zanzibar by any measures so taken;

and in the subsequent provisions of this Part any such threat is referred to as a relevant threat of contamination.

(3) Where:-

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) In this section "ship" includes a vessel which is not sea going.

293. No liability shall be incurred by the owner of a ship under section 291 or 292 of this Act by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination-

Exceptions from liability under sections 291 and 292.

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Restriction
of liability
for oil
pollution.

294.-(1) Where, as a result of any occurrence-

- (a) any oil is discharged or escapes from a ship (whether one to which section 291 or one to which section 292 applies), or
- (b) there arises a relevant threat of contamination, then, whether or not the owner of the ship in question incurs a liability under section 291 or 292 of this Act:-
 - (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
 - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) above applies to:-

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;

- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 291 or 292 of this Act;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

(3) The liability of the owner of a ship under section 291 or 292 of this Act for any impairment of the environment shall be taken to be a liability only in respect of-

- (a) any resulting loss of profits, and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

Limitation of liability

295.-(1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 291 of this Act by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) below):-

Limitation of liability under section 291.

- (a) he may limit that liability in accordance with the provisions of this Part, and
- (b) if he does so, his liability (being the aggregate of his liabilities under section 291 of this Act resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1) above, "the relevant amount" means:-

- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;
- (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Minister may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to this part.

(3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 291 of this Act or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Minister.

(5) Any such order shall, so far as it appears to the Minister to be practicable, give effect to the Tonnage regulations under this Act.

Limitation
actions

296.-(1) Where the owner of a ship has or is alleged to have incurred a liability under section 291 of this Act he may apply to the court for the limitation of that liability to an amount determined in accordance with section 295 of this Act.

(2) If on such an application the court finds that the applicant has incurred such a liability and is entitled to limit it, the court shall, after determining the limit of the liability and directing payment into court of the amount of that limit:-

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in dollars; and

- (a) for the purpose of converting such an amount from special drawing rights into dollar one special drawing right shall be treated as equal to such a sum in dollar as the International Monetary Fund have fixed as being the equivalent of one special drawing right for:-

- (i) the day on which the determination is made; or
 - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Bank stating:-
- (i) that a particular sum in Dollar has been so fixed for the day on which the determination was made, or
 - (ii) that no sum has been so fixed for that day and that a particular sum in Dollar has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Part;

- (c) 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.

(4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends:-

- (a) by the owner or the persons referred to in section 303 of this Act as "the insurer" ; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 291 of this Act, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 418 or 420 of this Act;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(7) 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 that may later be established before a court outside Zanzibar.

(8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

Restriction
on
enforce-
ment after
establi-
shment of
limitation
fund.

297. Where the court has found that a person who has incurred a liability under section 291 of this Act is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount:-

- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs.

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 296 of this Act had been taken.

Concurrent
liabilities
of owners
and others.

298. Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 291 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if-

- (a) the owner has been found, in proceedings under section 296 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and

- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 418 or 420 of this Act;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

299. Where the events resulting in the liability of any person under section 291 of this Act also resulted in a corresponding liability under the law of another Liability Convention country sections 297 and 298 of this Act shall apply as if the references to sections 291 and 296 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

Establishment of limitation fund outside Zanzibar.

300. No action to enforce a claim in respect of a liability incurred under section 291 or 292 of this Act shall be entertained by any court in Zanzibar unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

Extinguishment of claims.

Compulsory insurance

301.-(1) Subject to the provisions of this Part relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Minister.

Compulsory insurance against liability for pollution.

(2) The ship shall not enter or leave any port in Zanzibar or arrive at or leave a terminal in Zanzibar nor, if the ship is a Tanzania Zanzibar ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of the Liability Convention (cover for owner's liability).

(3) The certificate must be:-

- (a) if the ship is a Tanzania Zanzibar ship, a certificate issued by the Registrar of ships;

- (b) if the ship is registered in a Liability Convention country other than the Tanzania, a certificate issued by or under the authority of the government of the other Liability Convention country; and
- (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Flag State Administration of the ship or by or under the authority of the government of any Liability Convention country other than the Tanzania

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of KMKM surveyor State Control Officer and, if the ship is a Tanzania Zanzibar ship, to any Inspector or surveyor.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not less than the equivalent of seven thousand Dollars in Shillings

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4) above, the master shall be liable on summary conviction to a fine not less than the equivalent of seven thousand Dollars in Shillings.

(7) If a ship attempts to leave any port in Zanzibar in contravention of this section the ship may be detained.

Issue of
certificate.

302.-(1) Subject to subsection (2) below, if the Registrar of ships is satisfied, on the application for such a certificate as is mentioned in section 301 in respect of a Zanzibar ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of this Part, the Registrar of ships shall issue such a certificate to the owner.

(2) If the Registrar of ships is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations there under, or whether the insurance or other security will cover the owner's liability under section 291 of this Act in all circumstances, he may refuse the certificate.

(3) The Minister may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) above to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not less than the equivalent of three thousand Dollars in Shillings .

(5) The Registrar of ships, in respect of a Tanzania Zanzibar ship, shall make the copy of each certificate issued under subsection (1) of this section available for public inspection.

303.-(1) Where it is alleged that the owner of a ship has incurred a liability under section 291 of this Act as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 301 of this Act related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

Rights of
third parties
against
insurers.

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability) to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 295(3) of this Act.

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(5) The right of Third Parties against Insurers under any insurance laws shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 301 of this Act relates.

Supplementary

Jurisdiction
of
Zanzibar
High Court
and
registration
of foreign
judgments.

304.-(1) In respect of claims for damage done by ships shall be construed as extending to any claim in respect of a liability incurred under this Part, and the High Court of Zanzibar shall extend to any case arising out of any such claim.

(2) Where:-

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in Zanzibar and no measures are reasonably taken to prevent or minimise such damage in that territory, or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in Zanzibar.

no court in the Zanzibar shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost-

- (i) against the owner of the ship, or
- (ii) against any person to whom section 294(1)(ii) of this Act applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(4) In subsection (2) above, "relevant damage or cost" means-

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 294(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

(4) Any judgment given by a court in a Liability Convention country in respect of Tanzania Zanzibar ship to enforce a claim in respect of a liability incurred corresponding to section 291 of this Act shall have same effect under Zanzibar courts.

305.-(1) Nothing in the preceding provisions of this part applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes. Government ships.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 301(2) of this Act if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in Zanzibar to enforce a claim in respect of a liability incurred under section 291 of this Act, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on.

306. For the purposes of any liability incurred under section 418 of this Act shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention Limitation of liability under section 292.

307. Nothing in this Part shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Part may have against another person in respect of that liability. Saving for recourse actions.

308.-(1) In this Part- Interpretation.

"damage" includes loss;

"oil" means persistent hydrocarbon mineral oil;

"owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

"relevant threat of contamination" shall be construed in accordance with section 291(2) or 292(2) of this Act; and

"ship" (subject to section 292(5)) means any sea-going vessel or sea-borne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Part to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) References in this Part to the territory of any country include the territorial sea of that country and

- (a) in the case of Zanzibar, means water area of Zanzibar, and for the purpose of this Part includes Exclusive Economic Zone of Tanzania;
- (b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

PART XVI COMPENSATION FUND

Preliminary

Meaning of the "Liability Convention", "the Fund Convention" and related expressions.

309. In this Part-

"the Liability Convention" has the same meaning as in preceding Part of this Part;

"the Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

"the Fund" means the International Fund established by the Fund Convention; and

"Fund Convention country" means a country in respect of which the Fund Convention is in force.

Contributions to Fund

310.-(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in Zanzibar otherwise than on a voyage only within Tanzania.

Contributions by importers of oil and others.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in Zanzibar after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is

- (a) in the case of oil which is being imported into Zanzibar, the importer, and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above:-

- (a) all the members of a group of companies shall be treated as a single person, and

- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall:-

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Minister may by regulations impose on persons who are or may be liable to pay contributions under this section obligation to give security for payment to the Minister, or the Fund.

(9) Regulations under subsection (8) above-

- (a) may contain such supplemental or incidental provisions as appear to the Minister expedient, and
- (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not less than the equivalent of one thousand Dollars in Shillings.

(10) In this section and in section 311 of this Act, unless the context otherwise requires:-

"company" means a body incorporated under the law of Zanzibar, or of any other country;

"group" in relation to companies, means a holding company and its subsidiaries;

"importer" means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and "import" shall be construed accordingly;

"oil" means crude oil and fuel oil, and

- (a) "crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes:-
 - (i) crude oils from which distillate fractions have been removed, and
 - (ii) crude oils to which distillate fractions have been added,
- (b) "fuel oil" means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power"

"terminal installation" means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

311.-(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 310 of this Act are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Minister may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

Power to obtain information.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 310(6) of this Act.

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 310 of this Act, particulars contained in any list transmitted by the Minister to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made:-

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the execution of this section, or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings;

he shall be liable on summary conviction to a fine not less than the equivalent of two thousand Dollars in Shillings.

(6) A person who:-

- (a) refuses or wilfully neglects to comply with a notice under this section; or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be liable:-

- (i) on summary conviction, to a fine not less than the equivalent of two thousand Dollars in Shillings in the case of an offence under paragraph (a) above and not less than the equivalent of three thousand Dollars in Shillings in the case of an offence under paragraph (b) above, and
- (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or to both.

Compensation for persons suffering pollution damage

Liability of the Fund. **312.**-(1) The Fund shall be liable for pollution damage in Zanzibar if the person suffering the damage has been unable to obtain full compensation under section 291 of this Act:-

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused:-
 - (i) resulted from an exceptional, inevitable and irresistible phenomenon; or
 - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage; or
 - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

(and because liability is accordingly wholly displaced by section 293), or

- (b) because the owner or guarantor liable for the damage cannot meet his obligations in full; or
- (c) because the damage exceeds the liability under section 291 as limited by section 295 of this Act.

(2) Subsection (1) above shall apply with the substitution for the words "Zanzibar " of the words "a territory of Fund Convention country" where:-

- (a) the headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country, or
- (b) the incident has caused pollution damage in Zanzibar and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in Zanzibar.

(3) Where the incident has caused pollution damage in Zanzibar and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Part XV shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2)(a) above, references in this section to the provisions of Part XV of this Act shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 291 of this Act.

(7) The Fund shall incur no obligation under this section if-

- (a) it proves that the pollution damage:-
 - (i) resulted from an act of war, hostilities, civil war or insurrection; or
 - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service.
- (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly:-

- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or
- (b) from the negligence of that person.

the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 291 of this Act in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.

(10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

313.-(1) The Fund's liability under section 312 of this Act shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention, and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Part.

Limitation of Fund's liability under section 312.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 312 of this Act shall be conclusive evidence for the purposes of this Part that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 312 of this Act shall notify the Fund, and:-

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it;
- (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in dollars; and-

- (a) for the purpose of converting such an amount from special drawing rights into dollar 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:-

- (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident; or
 - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
- (b) a certificate given by or on behalf of the Bank stating:-
- (i) that a particular sum in dollar has been so fixed for the relevant day; or
 - (ii) that no sum has been so fixed for the relevant day and that a particular sum in dollar has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

shall be conclusive evidence of those matters for the purposes of this Part.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Supplemental

Jurisdiction
and effect
of
judgments.

314.-(1) In respect of claims for damage done by ships shall be construed as extending to any claim in respect of a liability falling on the Fund under this Part, and the Court in Zanzibar shall extend to any case arising out of any such claim.

(2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 291 of this Act, any judgment given in the proceedings shall, after it has become final and enforceable,

become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to the preceding Part for damage, which is partly in Zanzibar, subsection (2) above shall, for the purpose of proceedings under this Part, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(4) Any judgment given by a court in a Fund Convention country in respect of Zanzibar Tanzanian ship to enforce a claim in respect of a liability incurred under any provisions corresponding to section 312 of this Act shall have same effect under Zanzibar courts if:-

- (a) the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention or that it is to be reduced to a specified amount; and
- (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

315.-(1) No action to enforce a claim against the Fund under this Part shall be entertained by a court in the Zanzibar unless-

Extinguish-
ment of
claims.

- (a) the action is commenced, or
- (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

In this subsection "third party notice" means a notice of the kind described in section 314(2) and (3) of this Act.

(2) No action to enforce a claim against the Fund under this Part shall be entertained by a court in the Zanzibar unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

Subrogation. **316.**-(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in Zanzibar as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Part.

Supplementary provisions as to proceedings involving the Fund. **317.**-(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

Interpretation. **318.**-(1) In this Part, unless the context otherwise requires:-

"damage" includes loss;

"discharge or escape", in relation to pollution damage, means the discharge or escape of oil from the ship;

"guarantor" means any person providing insurance or other financial security to cover the owner's liability of the kind described in section 301 of this Act;

"incident" means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

"oil", except in sections 310 and 311 of this Act, means persistent hydrocarbon mineral oil;

"owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

"pollution damage" means:-

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;
- (b) the cost of preventive measures; and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of:-

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

"preventive measures" means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken;

- (a) after an incident has occurred; or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

"relevant threat of contamination" means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

"ship" means any ship (within the meaning of preceding Part) to which section 291 of this Act applies.

(2) For the purposes of this Part:-

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Part to the territory of any country shall be construed in accordance with section 308 (4) of this Act reading the reference to a Liability Convention country as a reference to a Fund Convention country.

PART XVII UNSAFE SHIPS

Power to detain unsafe ships.

319.-(1) Where the Registrar has reason to believe that any ship, being in any port in Zanzibar, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in subsection (2) of this section unfit to proceed to sea without serious danger to human life and marine environment 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) of this section 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) damage to marine environment
- (e) any other matter relevant to the safety of the ship;

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

Power to pay compensation and require security for compensation.

320.-(1) Subject to subsection (2) of this section where a ship is detained under the provisions of this Act or any regulations made under this Act and the owner of the ship proves to the satisfaction of the Registrar that there was not reasonable cause for the detention of the ship, the owner of the ship so referred is eligible for compensation for any loss or damage sustained by the owner by reason of such detention.

(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) of this section where a complaint is made to the Minister or the Registrar that a Tanzania Zanzibar 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) of this section.

(4) The security referred to in subsection (3) of this section shall not be required where the complaint is made by one fourth, being not less than three, of the seafarers belonging to the ship and is not in the opinion of the Registrar of seafarer 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) of this section the complainant shall be liable to pay to the Government all such compensation as the Government may pay under subsection (1) of this section in respect of the detention of the ship.

321.-(1) Where a ship which:-

- (a) is in a port in Zanzibar or
- (b) is a Tanzania Zanzibar ship and is in any other port,

Owner and Master liable in respect of unsafe ships.

is unsafe, then, subject to subsections (4) and(5) of this section each of the master and the owner of the ship 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) of this section 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 upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings, 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) of this section 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 for the period during which they had been assumed by some other person or persons as mentioned in paragraph (a) of this section and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6) of this section.

(6) Those matters 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 not able, under the terms of any such charter party or management agreement as is mentioned in subsection (5)(a) of this section:-
 - (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) of this section.

(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.

322.-(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 upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

(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.

Owner
liable for
unsafe
operation
of ship.

323.-(1) It shall be the duty of the owners of a ship to which this section applies to take all reasonable steps to ensure that the ship is operated in a safe manner.

(2) This section applies to:-

- (a) any Tanzania Zanzibar ship; and
- (b) any ship which:-
 - (i) is registered under the law of, or flies the flag of, any Country other than Tanzania, and
 - (ii) is within Zanzibar while proceeding to or from a port in Zanzibar,

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) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings; 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 321 of this Act any reference to the owner of the ship in subsection (1) or (3) of this section shall be construed as including a reference:-

- (a) to the charterer under the charter by demise, or
- (b) to any such manager as mentioned above, or
- (c) if the ship is both chartered and managed as mentioned above, to both the charterer and any such manager,

and accordingly the reference in subsection (1) of this section to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

PART XVIII
CONTROL OF FOREIGN SHIPS WHILE IN ZANZIBAR

324.-(1) This part shall apply to foreign ships while they are in Zanzibar. Application

(2) This part shall not apply to:-

- (a) ships of war and troop ships;
- (b) government ships not engaged in trade; and
- (c) pleasure vessels not engaged in trade;

325.-(1) The Minister shall appoint competent officers to be Port State Control officers referred under this Part as Inspectors whose main function shall be to inspect foreign ships. Port State control offence or Inspectors.

326.-(1) In exercising the functions conferred under this Act, the inspectors shall have the following duties:- Duties of Inspectors.

- (a) to target and detain substandard ships;
- (b) to verify ships and crew documents
- (c) to ensure ships condition or its equipment correspond substantially with the particulars of the certificates;
- (d) to ensure ships before going to sea:-

- (i) are safe and security secured;
- (ii) hold proper certificates and documents;
- (iii) does not impose any danger to marine environment.
- (e) to keep records of ships inspected, detentions and other related information; and
- (f) to prepare and submits inspection report to the Director.

(2) Inspectors when verifying ships and crew documents, verification shall be limited to documents related to conventions or relevant instruments in which Tanzania is a party to those conventions or any relevant instruments.

Port State Inspection. **327.**-(1) Inspectors shall have the power to board any vessel to which this Part applies to assess whether the ship:-

- (a) has valid certificates and relevant documents;
- (b) has the crew required in accordance with Minimum Safe Manning Document;
- (c) is safe and security secured to proceed to sea, and without endangering the marine environment.

(2) Where the Inspector from general impression or observation onboard has a clear grounds for believing that the ship, its equipment or its crew do not substantially meet requirements of the conventions shall proceed to more detailed inspections.

(3) Where more detailed inspection is to be carried, the Inspector shall:-

- (a) further assess:-
 - (i) structural integrity of a ship;
 - (i) requirements and maintenance of Life Saving Appliance;
 - (ii) emergency power system;
 - (iii) condition and assignment of load line
- (b) assess whether the ship and crew, throughout its forthcoming voyage, is able:-

- (i) navigate safely;
- (ii) safely handle, carry and monitor the condition of the cargo;
- (iii) operate the engine room safely;
- (iv) maintain proper propulsion and steering;
- (v) fight fires effectively in any part of the ship if necessary;
- (vi) abandon ship speedily and safely and effect rescue if necessary;
- (vii) prevent pollution of the marine environment;
- (viii) maintain and adequate watertight integrity;
- (ix) communicate in distress situations if necessary; and
- (x) provide safe and healthy conditions on board.

(4) Upon completion of inspection, the inspector shall inform in writing the master of the ship the results of inspection, which shall be in the prescribed manner.

(5) Where the result of the inspection under subsections (1) and (3) of this section is negative the ship shall be considered substandard and shall be entitled to be detained.

(6) The ship shall be released when Inspector is satisfied that deficiencies found has been rectified in accordance with the requirements of the conventions, and where some deficiencies can not be corrected within the port of inspection the inspector may allow the ship to proceed to appropriate nearest shipyard or agreed shipyard on conditions if a vessel can proceed without:-

- (a) risk to the safety of passengers and crew or risk to other ships;
- (b) being unreasonable threat of harm to the marine environment

(7) No ship shall be detained for the failure to produce a valid Tonnage Certificate.

(8) Where a ship fails to produce a valid Tonnage Certificate, the master of the ship shall be guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

Reporting procedures.

328.-(1) Where a ship is detained for the purpose of section 327(5) of this Act, the director shall inform in writing the Flag State Administration of the ship the reason thereof.

(2) Where a ship is released for the purpose of section 327(6) (a) and (b) of this Act, the director shall inform in writing all the facts to the Port State Authority of the country of the next port of call and the Flag State Administration of the ship.

PART XIX WRECK AND SALVAGE

General

Interpretation.

329.-(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, 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; designated as such under section 330(1) of this Act;

"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 330(2) of this Act;

"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 Zanzibar; or
- (b) found or taken possession of beyond Zanzibar and brought within Zanzibar;

shall be treated as wreck for the purposes of this Part.

Wrecks

330.-(1) The Director shall 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) There may be designated by the Director 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 authorized by this Part to be carried out by a receiver may be carried out by the Principal Receiver of Wreck.

(4) Sections 332, 333 and 334 of this Act, apply in circumstances where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of Zanzibar or any tidal water in Zanzibar.

(5) In any of those sections "shipwrecked persons", in relation to a vessel, means persons belonging to the vessel.

Fees of Receiver.

331.-(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.

(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) of this section, 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 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.

Duty of Receiver where vessel in distress.

332.-(1) In circumstances in which this section applies by virtue of section 330 of this Act, in relation to any vessel the receiver shall, on being informed of the circumstances:-

- (a) forthwith proceed to the place where the vessel is;
- (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 (2) of this section is any person intentionally disobeys the direction of the receiver he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

333.-(1) In circumstances where this section applies by virtue of section 330 of this Act, in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment:- Powers of Receiver in case of vessel in distress.

- (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 vessel that may be near at hand.

(2) Where any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) of this section he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

334.-(1) In circumstances where this section applies by virtue of section 330 of this Act, in relation to any vessel, all persons may, subject to subsections (3) and (4) of this section 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 re-pass 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) of this section is a right of passage with or without vehicles.

(3) No right of passage is conferred by subsection (1) of this section where there is some public road equally convenient.

(4) The rights conferred by subsection (1) of this section 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;

is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

Duties of
finder etc
of wreck.

335.-(1) Where any person finds or takes possession of any wreck at sea in Zanzibar or finds or takes possession of any wreck outside Zanzibar and brings it in Zanzibar 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) of this section is guilty of an offence and upon conviction, shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings and if he is not the owner of the wreck, 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) of this section to the owner of the wreck or to the persons entitled to the wreck may be recovered as a civil debt.

336.-(1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of Zanzibar 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. Provisions as respects cargo etc.

(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 authorized by the receiver to require delivery,

is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

(3) The Principal Receiver or any person authorized by him may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

337.-(1) Where a receiver takes possession of any wreck he shall, within forty-eight hours:- Receiver to give notice of wreck.

- (a) make 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 ten thousand Dollars, also transmit a similar description to the Principal receiver.

(2) The record made by the receiver under subsection (1)(a) of this section shall be kept by him available for inspection by any person during reasonable hours without charge.

Claims of owners of wreck.

338.-(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.

(2) Where:-

- (a) a foreign ship has been wrecked on or near the coasts of Zanzibar, 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 Zanzibar 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 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) of this section "the appropriate consular officer", in relation to a foreign ship, means the embassy, high commission or consul general in Tanzania to which the ship or, as the case may be, the owners of the cargo, may have belonged or any officer in Tanzania authorized for the purpose by any treaty or arrangement with Tanzania.

Immediate sale of wreck in certain cases.

339.-(1) The receiver may at any time sell any wreck in his possession if, in his opinion:-

- (a) it is under the value of ten 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.

340. The Government of Zanzibar is entitled to all unclaimed wreck found at sea in Zanzibar.

Right of Government to unclaimed wreck

341.-(1) Where, as respects any wreck found at sea in Zanzibar 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 (4), after making the deductions required by subsection (2) and paying to the salvors the amount of salvage determined under subsection (3) of this section.

Disposal of unclaimed wreck.

(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.

342.-(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.

343.-(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 Zanzibar or any tidal water in Zanzibar;
- (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 less than the equivalent of eighty five thousand Dollars in Shillings, or to imprisonment for a term not exceeding five years, or both.

Offence
for
interfering
with
wrecked
vessel or
wreck.

344.-(1) Subject to subsection (2) of this section 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.

(2) No offence is committed under subsection (1) above 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 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 any wreck.

(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1) of this section.

(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) of this section to a fine not less than the equivalent of one thousand Dollars in Shillings;
- (b) in the case of an offence under subsection (3) of this section to a fine not less than the equivalent of two thousand Dollars in Shillings.

345.-(1) Where the receiver has reason to believe that-

Power of entry etc.

- (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) of this section 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 two hundred dollars, as the Principal Receiver may allow.

346.-(1) The Controller 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 on its homeward voyage to be forwarded to the port of its original destination.

Release of goods from customs and excise control.

(2) The Controller of Customs shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.

(3) In this section "goods" includes wares and merchandise.

Power of
Port
Authority
in relation
to wrecks.

347.-(1) Where any vessel is sunk, stranded or abandoned in, or near any approach to, any port, harbour or tidal water in Zanzibar under the control of a Port Authority in such a manner as, in the opinion of the Authority, to be, or be likely to become, 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.

- (a) to 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) to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and
- (c) subject to subsections (5) and (6) if this section, 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) above;
- (d) to 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) of this section extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.

(3) Any surplus of the proceeds of a sale under subsection (1)(c) of this section 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) of this section 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) of this section, 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) of this section 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) of this section 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) of this section from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

Salvage

348. Sections 350 to 383 of this Act 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 platforms and drilling units.

349.-(1) Sections 350 to 383 of this Act 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 recognized principles of international law unless that State has decided to apply the Salvage Convention to such ships or vessels.

Non-application to foreign state owned 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) of this section and the terms and conditions of such application, shall be prima facie evidence of the facts stated therein.

350.-(1) Where services are rendered-

Life salvage.

- (a) wholly or in part at sea in Zanzibar in saving life from any vessel; or
- (b) at sea outside Zanzibar, in saving life from any Zanzibar Tanzanian 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.

Salvage of cargo.

351.-(1) Where any vessel is wrecked, stranded or in distress at sea in Zanzibar or on the shores of Zanzibar and services are rendered:-

- (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.

352. 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 negligence;
- (d) if and to such extent as it appears that he has concealed or unlawfully disposed of any property salvaged.

353.-(1) Except as otherwise provided in section 350 of this Act, no remuneration shall be due under this Act if the salvage operations had no useful result. Conditions for salvage remuneration.

(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 belongs to the same owner.

354.-(1) Sections 350 to 381 of this Act shall apply to any salvage operation unless a contract expressly or by implication provides otherwise. Salvage contracts.

(2) The master of a Tanzania Zanzibar 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 Tanzania Zanzibar 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 355 of this Act or the duties to prevent or minimise damage to the environment provided in paragraph (b) of section 356 and paragraph (b) of section 357 of this Act.

355. Any contract relating to salvage or any terms thereof may be annulled or modified by the Court, where it appears to the Court that:- Annual of modification of contracts.

- (a) the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is too large or too small for the services actually rendered.

356. The salvor shall owe a duty to the owner of the vessel or other property in danger to- Duties of salvors.

- (a) carry out the salvage operation with due care;
- (b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a) above;

- (c) seek assistance from other salvors whenever the circumstances reasonably so require; and
- (d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or 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.

Duties of owner and master.

357. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor-

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a) above to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

Duties of Public officers on salvage.

358.-(1) The Registrar may:-

- (a) give directions in relation to any salvage operation; and
- (b) take measures in accordance with generally recognized 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 Registrar shall, in giving directions and taking measures under subsection (1) of this section 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 salvaging life or property; and
- (d) preventing or minimising damage to the environment.

359. 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-

Criteria
for fixing
salvage
rewards.

- (a) the salved value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimizing 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.

Responsibility for payment of reward. **360.**-(1) Payment of a reward fixed in accordance with section 359 shall be made by all of the owners of the vessel and other property interests in proportion to their respective salvaged values.

(2) For expediency the ship owner shall pay the reward on behalf of all interests referred to in subsection (1) of this section subject to his retaining the right to be reimbursed by these other interests.

(3) The ship owner who makes the payment under subsection (2) of this section, may require the other interests to provide security not exceeding the values of their respective salvaged interests until he has been fully reimbursed.

Quantum of reward. **361.** 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.

Special compensation. **362.**-(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) of this section he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as defined in subsection (3) of this section.

(2) Where, in the circumstances set out in subsection (1) of this section 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) of this section 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 359 of this Act; 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 subsections (1) and (2) of this section "salvor's expenses" means the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in paragraphs (h), (i) and (j) of section 359 of this Act.

(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 359 of this Act.

(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.

363. 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.

Services rendered under existing contract

364.-(1) The apportionment between salvors of a reward fixed under section 360 of this Act shall be made on the basis of the criteria listed in that section.

Apportionment between salvors.

(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) In case for the Tanzania Zanzibar ship, apportionment referred in this section shall be made in accordance with the agreement entered between owner, master and other crew before salvage operation.

(4) Where the salvage referred to in subsection (1) of this section 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.

365. 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.

366. Nothing in this Part shall affect the salvor's maritime lien under any law of Zanzibar 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.

Salvor's Maritime lien.

Duty to
provide
security.

367.-(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.

(2) Without prejudice to subsection (1) of this section 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) of this section 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.

Interim
payment

368.-(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.

(2) In the event of any interim payment under subsection (1) of this section the security provided under section 367 of this Act, shall be reduced accordingly.

State owned
cargoes.

369. 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.

Humanita-
rian
cargoes.

370. 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.

371.-(1) Disputes as to the amounts of salvage, whether rendered within or outside Zanzibar 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.

Determina-
tion of
salvage
dispute.

(2) Subject to subsection (1) of this section disputes as to salvage shall be determined by the Court, but if the claimant does not recover in the Court more than ten 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.

(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.

(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.

372. Where a dispute relating to salvage has been determined by the Court or by arbitration, any party aggrieved by the decision may appeal there from, in like manner as in the case of any other judgment.

Appeal in
cases of
salvage
dispute.

373.-(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.

Valuation
of property
salvaged.

(2) A copy of the valuation purporting to be signed by the valuer and certified as a true copy by the receiver shall be admissible as evidence in any subsequent proceedings.

(3) Fee shall be paid in respect of any valuation made under this section by the person applying for such valuation as the Registrar may direct.

374.-(1) Where salvage is due to any person under this Part, the receiver shall:-

Detention
of
property
able to
salvage.

- (a) where the salvage is due in respect of services rendered in assisting any vessel or in saving life there from or in

saving the cargo or equipment thereof, detain the vessel or cargo or equipment;

- (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) of this section 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) of this section where security is given to his satisfaction, or, where the claim for salvage exceeds ten 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 ten thousand Dollars may be enforced by the Court in the same manner as if bail had been granted in that Court.

Sale of
detained
property.

375.-(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:-

- (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 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 374 of this Act.

376.-(1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Zanzibar has been finally determined either by the Court in the manner provided by this Part or by agreement, and does not exceed ten 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.

Apportionment of salvage by Receiver.

(2) The receiver shall, if he thinks fit, receive the amount referred to in subsection (1) of this section 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) of this section 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) of this section shall be made on the basis of the criteria set out in section 359 of this Act.

(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.

377.-(1) Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Zanzibar has been finally determined and exceeds ten thousand Dollars, or whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Zanzibar 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 359 of this Act.

Salvor's right to interest. **378.** 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.

Application to the Government. **379.**-(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.

(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 there from, 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.

Regulations. **380.** The Minister may make regulations providing for the application or modification of the provisions of this Part to ships referred to in subsection (2) of this section and in relation to the services referred to in subsection (1) of section 379 of this Act.

Time limit for salvage proceedings. **381.**-(1) 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; but the Court may extend any such period to such extent and on such conditions as it considers fit.

(2) 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.

382. In fixing a reward under sections 359, 360 and 361 of this Act and assessing special compensation under section 362 of this Act, the Court or arbitrator is under no duty to fix a reward under sections 359, 360 and 361 of this Act, up to the maximum salved value of the vessel and other property before assessing the special compensation to be paid under section 362 of this Act.

The common understanding regarding and special compensation

383.-(1) This section applies where:-

Recourse for life salvage payment.

- (a) services are rendered wholly or in part at sea in Zanzibar in saving life from a vessel of any nationality or elsewhere in saving life from any Tanzania Zanzibar ship; and
- (b) either:-
 - (i) the vessel and other property are destroyed, or
 - (ii) the sum to which the salvor is entitled under section 351 (2) of this Act 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 XX
CONTROL OF, AND RETURNS AS TO
PERSONS ON SHIPS**

384.-(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 he has paid it) 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 Zanzibar at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;
- (c) 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 he has paid it) 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 he has paid it) 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) of this section 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) of this section and, upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(5) Where any person commits an offence against subsection (1) or (2) of this section 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, upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(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 recognized by this Act.

385. 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.

Power to exclude drunken passengers from passenger ships

386.-(1) A person who, without the consent of the master or of any other person authorized to give it, goes to sea or attempts to go to sea in a Zanzibar Tanzanian ship, is guilty of an offence.

Stowaways.

(2) The Minister may make regulations specifying various penalties for various circumstances of stowaways as he sees fit.

(3) The Master of any Tanzania Zanzibar ship shall be guilty of an offence if he throws overboard any stowaway and on conviction he shall be liable for disciplinary offence under the seafarers code of conduct, and in addition he shall be liable to a fine of not less than fifteen thousand dollars in shillings or to imprisonment for a term of not less than fifteen thousand dollars in shillings or to imprisonment for a term of not less than three years, or both.

(4) Nothing in section 468 of this Act shall be taken to limit the jurisdiction of any court in Zanzibar to deal with an offence under this section, which has been committed in a Country outside Zanzibar by a person who is not a Tanzania citizen.

Unauthori-
zed person
on board.

387. Where a Tanzania Zanzibar ship or a ship registered in any other Country, is in a port in Zanzibar and a person who is neither in the service of the Government of Zanzibar nor authorised by law to do so:-

- (a) goes on board the ship without the consent of the master or of any other persons authorized to give it; or
- (b) remains on board the ship after being requested to leave by the master, a police officer, an officer authorized by the Registrar or an officer of customs and excise,

he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

Master's
power of
arrest.

388. The master of any Tanzania Zanzibar 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.

Unauthorized
presence
on board.

389.-(1) Where a person goes to sea in a ship without the consent of the master or of any other person authorized to give it or is conveyed in a ship shall be offence under this Act and sections 133, 134 and 138 of this Act shall apply as if he were a seafarer employed in the ship.

(2) Subsection (1) of this section shall, in its application to section 133 of this Act 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.

390.-(1) The master of every ship, whether or not a Tanzania Zanzibar ship, which carries any passenger to a place in Zanzibar from any place out of Zanzibar, or from any place in Zanzibar to any place out of Zanzibar, shall

furnish to such person and in such manner as the Registrar directs, a return giving the total number of any passengers so carried, distinguishing, if so directed by the Registrar, the total number of any class of passengers so carried, and giving, if the Registrar so directs, such particulars with respect to passengers as may be for the time being required by the Registrar.

(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 upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings in the case of a failure or refusal and not less than the equivalent of two thousand Dollars in Shillings in the case of a false return or false information.

391.-(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 Tanzania Zanzibar 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 Zanzibar; and to notify any such death to such 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 Zanzibar which calls at a port in Zanzibar 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 Tanzanian 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 such a death as is referred to in subsection (2) of this section 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) any of the circumstances specified in subsection (5) of this section exist.

(5) Those circumstances are that:-

- (a) 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 386 of this Act, and the findings of the inquest or inquiry includes a finding that the death occurred;
- (b) 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.

(6) Regulations under this section may require the Registrar of Seafarers to send a certified copy of any return or record made there under to the Registrar of Births and Deaths for Zanzibar.

(7) 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 Zanzibar 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.

(8) Regulations under this section may make a contravention of any provision thereof an offence punishable upon conviction with a fine not less than the equivalent of three thousand Dollars in Shillings.

(9) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside Zanzibar in circumstances where no return is required to be made under the preceding provisions of this section:-

- (a) any birth or death of a Tanzanian seafarer residing in Zanzibar, which occurs in a ship not registered in Zanzibar;
- (b) any death of any such seafarer who has been employed in a ship not registered in Zanzibar which occurs elsewhere than in the ship; and
- (c) any death of a person who has been employed in a Tanzania Zanzibar ship which occurs elsewhere than in the ship.

(10) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

PART XXI
LIABILITY OF SHIP OWNERS AND OTHERS
CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

392.-(1) In this Part, unless the context otherwise requires-

Interpreta-
tion .

"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) of this section and section 399 of this Act luggage which the passenger has in or on his vehicle;

"carriage" has the meaning assigned to it in subsection (2) of this section;

"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 redelivered 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 this Part, "carriage" covers the following periods; namely:-

- (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) above 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) above 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.

393.-(1) Subject to subsection (2) of this section 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) of this section this Part 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) of this section 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.

Carrier. **394.**-(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) of this section 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.

395. Where the performance of the carriage or part thereof has been entrusted to a performing carrier, the following rules shall apply:- Performing carrier.

- (a) subject to paragraphs (b), (c), (d) and (e) of this section 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) of this section 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 this Part, 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.

396. The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jeweller, 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 399 of this Act. Valuables.

397. 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 laws of Zanzibar. Contributory fault.

Limits of liability for death or personal injury.

398.- (1) With respect to limits of liability of the carrier for death or personal injury, the following rules shall apply; namely:-

- (a) subject to paragraphs (b), (c) and (d) of this section liability for the death of or personal injury to a passenger shall not exceed 6,666 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) above;
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraphs (a) and (b) of this section;
- (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) above.

(2) Notwithstanding subsection (1)(a) of this section, the Minister may by Order provide for a limit of liability higher than that provided for in subsection (1)(a) of this section for a carrier whose principal place of business is in Zanzibar.

Limits of liability for loss of or damage to luggage.

399. With respect to limits of liability of the carrier for the loss of or damage to luggage, the following rules shall apply; namely-

- (a) subject to paragraphs (b) and (c) of this section 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) above.
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraph (a) above.

400.-(1) For the purpose of converting from special drawing rights into dollars, the amounts mentioned in sections 398 and 399 of this Act in respect of which a judgment 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 judgment 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) of this section 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 398 and 399 of this Act 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.

Defences
and limits
for
carriers,
servants.

401. Where an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Part, 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.

Aggregation
of claims.

402.-(1) Where the limits of liability prescribed in sections 398 and 399 of this Act 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 395 to avail himself of the limits of liability prescribed in sections 398 and 399 of this Act, 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, 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 Zanzibar or elsewhere.

Loss of
right to
limit
liability.

403.-(1) The carrier shall not be entitled to the benefit of the limits of liability prescribed in sections 398 and 399 of this Act, 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.

404. 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. Basis for claim.

405.-(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 redelivery;
- (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 redelivery 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.

406.-(1) Subject to subsections (2), (3) and (4) of this section 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; namely:-
- (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 embarkation 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, whichever is later.

(4) Notwithstanding subsections (1), (2) and (3) of this section 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.

Competent jurisdiction. **407.**-(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 Zanzibar;
- (b) the place of departure or destination according to the contract of carriage is in Zanzibar;
- (c) the contract of carriage was entered into in Zanzibar and the defendant has a place of business in, and is subject to, the jurisdiction of Zanzibar.

(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 406 of this Act shall, in such case, apply to arbitration as it applies to an action.

(3) The Court before which proceedings are brought in pursuance of subsection (1) of this section to enforce a liability which is limited by virtue of section 403 of this Act 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 403 of this Act and of any other proceedings which have been or are likely to be begun in Zanzibar or elsewhere to enforce the liability in whole or in part;

(4) Without prejudice to the generality of the preceding provisions of this subsection, such a Court shall, where the liability is or may be partly enforceable in other proceedings in Zanzibar 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.

408. Any 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 399 of this Act, 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 407 of this Act 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 contractual provisions.

409. This Part shall not modify the rights or duties of the carrier, and their servants or agents provided for in international conventions applicable to Tanzania, this Act or any other law of Zanzibar relating to the limitation of liability of owners of sea-going ships.

Application of other limitation regimes.

410. 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 Zanzibar, or any other law of Zanzibar relating to nuclear damage.

Nuclear damage.

411. 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 392 of this Act.

Commercial carriage by state-owned ships.

412.-(1) The Minister may by order declares 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.

413. The Minister may by Order make provision for:-

Carrier's obligation to give notice to passengers.

- (a) requiring 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;
- (b) a person who fails to comply with a requirement imposed on him by the Order is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings 440(4) of this Act.

Application of section 440(4). **414.** It is hereby declared that nothing in this Part affects the operation of section 440(4) of this Act which limits a ship owner's liability in certain cases of loss of life, injury or damage.

Application of section 441. **415.** Nothing in section 441 of this Act that, among other things, limits a ship owner'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 XXII
LIMITATION AND DIVISION OF LIABILITY
FOR MARITIME CLAIMS**

Interpretation. **416.** For the purposes of this Part unless the context otherwise requires:-

"salvage services" means services rendered in direct connection with salvage operations;

"salvor" means any person rendering salvage services;

"salvage operation" has the meaning given in section 329 of this Act and includes or the operations referred to in paragraphs (d), (e) and (f) of section 418(1) of this Act.

Persons entitled to limit liability. **417.**-(1) Ship owners 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 ship owner or salvor is responsible may limit his liability under this Part.

418.-(1) Subject to sections 419 and 420 of this Act, 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 there from;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize 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) of this section 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) of this section shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

(3) Subsection 1 of this section (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 this section 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) of this section may contain such incidental and supplemental provisions as appear to the Minister to be necessary or expedient.

Invoking
limitation
not an
admission
of liability.

419. For the purposes of this Part, the liability of a ship owner shall include liability in an action against his ship, and the act of invoking limitation shall not constitute an admission of liability.

Claims
excepted
from
limitation.

420. Limitation of liability under this Part shall not apply to the following claims:-

- (a) claims for salvage under section 348 of this Act and corresponding claims under a contract;
- (b) claims for contribution in general average;
- (c) claims by servants of the ship owner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make claims, if under the contract of service between the ship owner or salvor and such servants the ship owner 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 423 of this Act;
- (d) claims for oil pollution damage in respect of any liability incurred under the provisions of Part XV of this Act;
- (e) claims subject to any law applicable in Zanzibar governing or prohibiting limitation of liability for nuclear damage.
- (f) claims against the ship owner of a nuclear ship for nuclear damage.

Conduct
barring
limitation.

421. 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.

Counter
claims.

422. 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.

423. The limits of liability for claims other than those provided for in section 420 of this Act, arising on any distinct occasion, shall be calculated as follows:- Limitation calculations.

- (a) in respect of claims for loss of life or personal injury:-
 - (i) 166,667 special drawing rights for a ship with a tonnage not exceeding 300 tons;
 - (ii) 333,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons; and
 - (iii) for a ship with a tonnage in excess of 500 tons, the following amounts in addition to that mentioned in sub-paragraph (ii) above:-
 - (aa) for each ton from 501 to 3,000 tons, 500 special drawing rights;
 - (bb) for each ton from 3,001 to 30,000 tons, 333 special drawing rights;
 - (cc) for each ton from 30,001 to 70,000 tons, 250 special drawing rights; and
 - (dd) for each ton in excess of 70,000 tons, 167 special drawing rights; and
- (b) in respect of any other claims-
 - (i) 83,333 special drawing rights for a ship with a tonnage not exceeding 300 tons;
 - (ii) 167,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons;
 - (iii) for a ship with a tonnage in excess of 500 tons the following amounts in addition to that mentioned in sub-paragraph (ii) above:-
 - (aa) for each ton from 501 to 30,000 tons, 167 special drawing rights;

- (bb) for each ton from 30,001 to 70,000 tons, 125 special drawing rights; and for each ton in excess of 70,000 tons, 83 special drawing rights.

Limits of liability for other claims.

424.-(1) Subject to subsection (2), the limits of liability for claims other than those provided for in section 418, arising on any distinct occasion, shall be calculated as follows-

- (a) in respect of claims for loss of life or personal injury:-
 - (i) 2,000,000 special drawing rights for a ship with a tonnage not exceeding 2,000 tons;
 - (ii) for a ship with a tonnage in excess of 2,000 tons, the following amounts in addition to that mentioned in subparagraph (i) above:-
 - (aa) for each ton from 2,001 to 30,000 tons, 800 special drawing rights;
 - (bb) for each ton from 30,001 to 70,000 tons, 600 special drawing rights; and
 - (cc) for each ton in excess of 70,000 tons, 400 special drawing rights.
- (b) in respect of any other claims:-
 - (i) 1,000,000 special drawing rights for a ship with a tonnage not exceeding 2,000 tons;
 - (ii) for a ship with a tonnage in excess of 2,000 tons the following amount in addition to that mentioned in subparagraph (i) above:-
 - (aa) for each ton from 2,001 to 30,000 tons, 400 special drawing rights;
 - (bb) for each ton from 30,001 to 70,000 tons, 300 special drawing rights; and
 - (cc) for each ton in excess of 70,000 tons, 200 special drawing rights.

(2) The Minister may make regulations for the limits of liability for ships of less than 300 tons and shall inform the Organization of any such limits of liability.

425. 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.

Limits of liability for salvors.

426. Where the amount calculated in accordance with paragraph (a) of section 423 is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph (b) of section 423 of this Act shall be available for payment of the unpaid balance of claims under paragraph (a) of section 423 of this Act and such unpaid balance shall rank ratably with claims mentioned under paragraph (b) of section 423 of this Act.

Limitation calculations for fixed claims .

427. 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.

Measurement of ship's tonnage.

428.-(1) This section applies in relation to a Port Authority and the owners of any dock.

Limitation of liability for dock workers.

(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) of this section by reference to the tonnage of the largest Tanzania Zanzibar 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.

(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.

(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 421 of this Act.

(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 423(b) read with section 427 of this Act.

(6) Sections 432 and 433 of this Act shall apply for the purposes of this section.

(7) For the purposes of subsection (2) of this section 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 dock.

Limits for
passenger
claims.

429.-(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 ship owner thereof shall be an amount of 175,000 special drawing rights multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

(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) of this section shall be that certificate.

430.-(1) For the purpose of converting the amounts mentioned in sections, 424 and 425 of this Act 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:-

Conversion of units of account.

- (a) the date the limitation fund shall have been constituted, payment is made, or security is given under section 432 of this Act; 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) of this section 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.

431.-(1) The limits of liability determined in accordance with sections 423, 424 and 425 of this Act shall apply to the aggregate of all claims which arises on any distinct occasion:-

Aggregation of claims.

- (a) against the ship owner and any person for whose act, neglect or default he or they responsible;
- (b) against the ship owner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible ;
- (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 429 of this Act shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the ship owner in respect of the ship referred to in section 430 of this Act and any person for whose act, neglect or default he may be responsible.

Constitution
of
limitation
fund.

432.-(1) Any person alleged to be liable and seeking to limit his liability under this Part may constitute a fund by depositing with the Court an amount at least equivalent to the limit provided for in section 423 or section 429 of this Act 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.

(2) A fund constituted by one of the persons mentioned in paragraphs (a), (b) or (c) of section 431(1) of this Act or his insurer; or by a person or his insurer in respect of section 431(2), shall be deemed to have been constituted by all persons mentioned in paragraphs (a), (b) or (c) of section 431(1) of this Act, or all persons in respect of section 431(2), as the case may be.

(3) The Minister may determine the rate of interest to be applied for the purposes of subsection (1) of this section.

(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.

Distribution
of
limitation
fund.

433.-(1) Subject to section 423, 426 and 429 of this Act, the fund shall be distributed among the claimants in proportion to their established claims, against the 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.

434.-(1) Where a limitation fund has been constituted in accordance with section 432 of this Act, 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. Bar to other actions.

(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 Zanzibar 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) of this section 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.

Governing law. **435.** Where a limitation fund is constituted in Zanzibar, the rules relating to its constitution and distribution, and all rules of procedure in connection therewith shall be governed by the laws of Zanzibar.

Apportionment of liability for damage or loss. **436.**-(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.

(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. **437.**-(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 436 of this Act 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 436 of this Act applies also for the interpretation of this section.

438.-(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 byway 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.

Right of contribution for loss of life or personal injuries.

(2) Subsection (3) of section 436 of this Act applies also to this section.

(3) Nothing in this section authorizes 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 therefore.

(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.

439.-(1) This section applies to any proceedings to enforce any claim or lien against a ship or owners:-

Time limits for proceedings against owners or ship.

- (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) of this section, 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 436 to 438 of this Act to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal 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 Zanzibar of 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.

Scope of application of Part XXII. **440.**-(1) Subject to subsection (3) of this section this Part shall apply whenever any person referred to in section 432 of this Act 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 Zanzibar

(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 laws of Zanzibar.

441.-(1) Subject to subsection (3) of this section the owner of a Tanzania Zanzibar ship shall not be liable for any loss or damage in the following cases, namely:- Exclusion of liability.

- (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) of this section 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) of this section 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 407 of this Act.

(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 XXIII INDEMNITY AND POWERS OF ENFORCEMENT OFFICERS

Indemnity and Powers

Indemnity. **442.** 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.

General power to dispense **443.**-(1) The Minister may, and upon such condition, as he thinks it 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) of this section.

(2) The matters specified under subsection (1) of this section include:-

- (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances, and
- (b) that the action taken or provision made as respects the subject matter of the requirement in the actual compliance with the requirement.

Power to require production of ship's documents. **444.**-(1) The powers conferred by this section are conferred in relation to Tanzania Zanzibar ships and are available to any of the following officers, namely:-

- (a) the Director;
- (b) a surveyor of ships;
- (c) any proper officer;

- (d) the Registrar of Ships;
- (e) the Registrar of Seafarers;
- (f) receiver of wreck.

whenever the officer has reason to suspect that this Act or any law for the time being in force relating to merchant shipping or navigation is not complied with.

(2) Those powers are:-

- (a) to require the owner, master, or any of the crew to produce any official log books or other documents relating to the crew or any member of the crew in their possession or control;
- (b) to require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log books or other such documents;
- (c) to muster the crew; and
- (d) to require the master to appear and give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

(3) Where any person, on being duly required by an officer under this section to produce a logbook or any document, fails without reasonable excuse to produce the log book or document, is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(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;

is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings.

Power to inspect ships and their equipment.

445.-(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.

(2) The powers conferred by subsection (1) of this section are, if the ship is a Tanzania Zanzibar ship, also exercisable outside Zanzibar 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) of this section has reasonable grounds for believing that there are on any premises, provisions or waters intended for supply to a Tanzania Zanzibar 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) of this section he is guilty of an offence upon conviction shall be liable, to a fine not less than the equivalent of three thousand Dollars in Shillings.

Powers of inspectors in relation to premises and ships

446.-(1) The powers conferred by this section are conferred in relation to:-

- (a) any premises in Zanzibar; or
- (b) any Tanzania Zanzibar ship wherever it may be and any other ship which is present in Zanzibar or in Zanzibar; and

are available to any inspector appointed under sections 7 or 325 of this Act, for the purpose of performing his functions.

(2) Such an inspector may:-

- (a) at any reasonable time or, in a situation which in his opinion is or may be dangerous, at 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) on entering any premises by virtue of paragraph (a) above or on boarding a ship by virtue of that paragraph, take with him any other person authorized for the purpose by the Registrar, and any equipment or materials he requires;
- (c) make such examination and investigation as he considers necessary;
- (d) give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c) above;
- (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) 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) in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary;

- (h) in the case of any such article or substance as is mentioned in paragraph (g) above 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 above;
 - (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) 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) of this section;
- (j) to attend at a place and time specified by the inspector; and
- (k) 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
- (l) to sign a declaration of the truth of his answers;
- (m) require the production of, and inspect and take copies of, or 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) above;
- (n) 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 authorizes a person unnecessarily to prevent a ship from proceeding on a voyage.

(4) The Minister may make regulations provide for the procedure to be followed in connection with the taking of samples under subsection (2) (f) and subsection (7) of this section 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) of this section 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), of this section 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) of this section 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) of this section 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 447 of this Act

in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (2)(i) of this section 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.

Provisions
supplemen-
tary to
section
446.

447.-(1) A person who:-

- (a) intentionally obstructs an inspector in the exercise of any power available to him under section 446 of this Act; or
- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 446 of this Act or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b) above, 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 446 of this Act.

is guilty of an offence and upon conviction, shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings; or imprisonment for a term not exceeding one year, or both.

(2) Nothing in section 446 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 production on an order for discovery in an action in the Court.

(3) A person who complies with a requirement imposed on him in pursuance of paragraph (i), (j) or (k) of subsection (2) of section 446 of this Act 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) above shall be made out of money provided out of the Consolidated Fund.

Improvement Notices and Prohibition Notices

448.-(1) Where an inspector appointed under section 7 of this Act is of the opinion that a person:- Improvement notice.

- (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 contravened and give reasons to his or her 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) above shall not expire before the end of the period within which a notice can be given under section 451 of this Act 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 VIII to XI and XVII of this Act; and
- (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

Prohibition
notices.

449.-(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 7 of this Act 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".

(2) In subsection (1) above, "relevant activities" means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried out 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), above, and any associated contravention of any provision so specified in pursuance of paragraph (c) above, have been remedied.

(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) of this section 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) of this section or the notice so declares, immediately.

450.-(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.

Provisions supplementary to sections 448 and 449.

(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 448(2)(b) or, section 449 of this Act as the case may be; 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 451.

451.-(1) Any question as to whether:-

- (a) any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 448(2)(a) or 449(3)(b) or (c) of this Act in connection with any opinion formed by inspector constituted a valid basis for that opinion, or
- (b) directions included in the notice in pursuance of section 450(1) of this Act were reasonable.

References of notices to arbitration.

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 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.

- (e) a person with special experience of regulatory matters and maritime administration.

(5) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 446(3) of this Act.

452.-(1) Where on a reference under section 541 of this Act 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,

Compensation in connection with invalid prohibition notices

the arbitrator may, subject to subsection (3) of this section 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) of this section 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) above in the case of any prohibition notice unless:-

- (a) it appears to him that the direction given in pursuance of section 449(3)(d) of this Act 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 449(3)(d) of this Act 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.

Offences. **453.**-(1) Any person who contravenes any requirement imposed by an improvement notice is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of three thousand Dollars in Shillings; or to imprisonment for a term not exceeding two years, or both.

(2) 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.

(3) In this section any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 451 of this Act.

**PART XXIV
INQUIRIES AND INVESTIGATIONS INTO
MARINE CASUALTIES**

Investigations of shipping casualties.

454.-(1) Where any of the following casualties occur, that is to say:-

- (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 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 Tanzania Zanzibar ship or the ship or ship's boat was in Zanzibar.

the Registrar may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the registrar who shall have the powers conferred on an inspector by section 445 of this Act.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), of this section Minister may cause a Formal Investigation to be held by a Board appointed for that purpose.

455.-(1) A Board holding a Formal Investigation into a shipping casualty under section 454 of this Act shall consist of a Judge of the High 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.

Formal
investigation

(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 123(5)(c) of this Act is likely to arise, there shall be not less than two assessors.

(3) Where as a result of the investigation the Board is satisfied, with respect to any officer, or any of the matters mentioned in paragraphs (a) to (c) of section 139(1) of this Act 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 123(5)(c) of this Act or censure him; and where the Board cancels or suspends the certificate the officer shall deliver the certificate to the Board or the Director.

(4) Where a person fails to deliver a certificate as required under subsection (3) above, he is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of one thousand Dollars in Shillings.

(5) Where a certificate has been cancelled or suspended under this section, the Registrar of seafarer, 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.

(6) The Board may make such awards as it thinks just with regard to the costs or, as the case may be, expenses of the investigation, and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the Board may, on the application of any Party named in it, be made an Order of the Court.

(7) Subsections (2), (3) and (4) of this section shall apply to endorsements of certificates in the same manner as they apply to certificates.

(8) The Board shall make a report on the investigation to the Minister.

Rehearing to inquiries and investigations. **456.**-(1) Where a Formal Investigation has been held under section 455 of this Act, the Minister may order the whole or part of the case to be reheard and shall do so if:-

- (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) of this section 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 457, and section 455 of this Act 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 123(5) (c) of this Act, or has found any person at fault, then if no application for an order under subsection (1) of this section 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 investigation. **457.**-(1) The Minister may make rules for the conduct of inquiries under section 454 of this Act for Formal Investigations under section 455 of this Act, and for the conduct of any rehearing under section 456 of this Act which is not held by the Supreme Court.

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

(3) Rules of the court made for the purpose of re-hearings under section 456 of this Act 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.

458.-(1) Subject to subsection (6) of this section where:-

Inquiries into and reports on deaths and injuries.

- (a) any person dies in a Tanzania Zanzibar ship or in a boat or life-raft from such a ship, or
- (b) the master of, or a seafarer employed in, such a ship dies in a Country outside Tanzania,

an inquiry into the cause of the death shall be held by the Registrar of Seafarers or a proper officer at the next port where the ship calls after the death, or at such other place as he may direct.

(2) Subject to subsection (6) of this section where it appears to the Registrar of seafarer 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 Tanzania Zanzibar ship, he ceased to be employed in the ship and subsequently died, and
- (b) the death occurred in a Country outside Tanzania during the period of one year beginning with the day on which he so ceased, the Registrar of Seafarers may arrange for an inquiry into the cause of the death to be held.

(3) Subject to subsection (6) of this section where it appears to the Registrar that a person may:-

- (a) have died in a Tanzania Zanzibar 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 Registrar of seafarer may arrange for an inquiry to be held into whether the person died as mentioned above and, if the Registrar of Seafarers, or proper officer finds that he did, 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 446 of this Act.

(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 crew list 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 Registrar of seafarer to be interested.

(6) No inquiry shall be held under this section where a coroner's inquest is to be held.

Transmis-
sion of
particulars
of certain
deaths on
ships.

459. Where:-

- (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 391(2) of this Act, it shall be the duty of the coroner to send to the Registrar of Seafarer, particulars in respect of the deceased of a kind prescribed by regulations made by the Minister.

PART XXV LEGAL PROCEEDINGS

Prosecution of Offences

Time
limit for
summary
offences

460.-(1) Subject to subsections (2) and (3) of this section 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 Zanzibar, the proceedings will have to commence within two months after he first happens to arrive within Zanzibar and before the expiration of three years beginning with the date on which the offence was committed.

(2) Nothing in subsection (1) of this section shall apply in relation to any indictable offence.

(3) Subsection (1) of this section shall not prevent a conviction for an offence in proceedings begin before the expiration of three years beginning with the date on which the offence was committed and before:-

- (a) the expiry 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 expiry of two months beginning with the day when the accused was first present in Zanzibar after the expiry of the period mentioned in paragraph (a) above, if throughout that period the accused was absent from Zanzibar.

(4) For the purpose of subsection (3) of this section:-

- (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) 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.

461. 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 Zanzibar, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within Zanzibar.

Offences by officers of bodies corporate. **462.**-(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.

(2) Any document required or authorized, 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 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 authorized 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) of this section "foreign company" has the same meaning as in the Companies Decree Cap. 153.

Persons who may prosecute. **463.** 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. **464.**-(1) A person who commits an offence under this Act, for which no specific penalty is provided, upon conviction, shall be liable to a fine not less than the equivalent of fifteen thousand Dollars in Shillings.

(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, upon conviction shall be liable to a fine of the equivalent of one thousand Dollars in Shillings for every day or part thereof during which the offence continues after conviction.

(3) Where an offence under this Act is punished by fine of a particular amount and a person is convicted of an offence but fail to pay such fine and there is no other penalty prescribed in that section, such person shall be liable to imprisonment for a term not less than three months and not more than three years.

465.-(1) The Director of Public Prosecutions 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 less than the equivalent of fifteen thousand Dollars in Shillings. Compounding of offences.

(2) On the payment of any sum of money under subsection (1) of this section:-

- (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

466.-(1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in Zanzibar where the offender may be for the time being. Jurisdiction in relation to offences.

(2) For the same purpose, any matter of complaint under this Act shall be deemed to have arisen in any place in Zanzibar where the person complained against may be for the time being.

(3) The jurisdiction under subsections (1) and (2) of this section shall be in addition to, and not in derogation of, any jurisdiction or power of the Court under any other enactment.

467. 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 Jurisdiction over ships lying off coasts.

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
in case of
offences
on board
ship.

468. Where any person is charged with an offence under this Act the person:-

- (a) if he is a Tanzanian citizen and is charged with having committed it:-
 - (i) on board any Tanzania Zanzibar 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 Tanzanian citizen and is charged with having committed it on board any Tanzania Zanzibar ship on the high seas; and he is found within the jurisdiction of the Court in a Country which would have had jurisdiction in relation to the offence if it had been committed on board a Tanzania Zanzibar 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
Tanzanian
seafarers.

469.-(1) Any act in relation to property or person done in or at any place, ashore or afloat, outside Zanzibar by any master or seafarer who at the time is employed in a Tanzania Zanzibar ship, which, if done in any part of Zanzibar would be an offence under the law of any part of Zanzibar, 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) of this section 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) of this section apply to omissions as they apply to acts.

470.-(1) The powers conferred on a Tanzanian consular officer by subsection (2) of this section are exercisable in the event of any complaint being made to him:- Return of offenders.

- (a) that any offence against property or persons has been committed at any place, ashore or afloat, outside Tanzania by any master or seafarer who at the time when the offence was committed, or within three months before that time, was employed in a Tanzania Zanzibar ship;
- (b) that any offence on the high seas has been committed by any master or seafarer belonging to any Tanzania Zanzibar 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 Tanzania Zanzibar ship as soon as practicable in safe custody to Zanzibar for proceedings to be taken against him.

(3) The consular officer may, subject to subsections (4) and (5) of this section order the master of any Tanzania Zanzibar ship bound for Zanzibar to receive and carry the offender and the witnesses to Zanzibar; 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) of this section 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) of this section 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) of this section shall, on his ship's arrival in Zanzibar give the offender into the custody of a police officer.

(7) Where any master of a ship, when required under subsection (3) of this section 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) of this section;

is guilty of an offence and upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

(8) The expense of arresting any such offender and of carrying him and witnesses to Zanzibar otherwise than in the ship to which they respectively belong, shall be paid out of money provided in 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.

471.-(1) Where under this Act a ship is to be detained, any of the following officers may issue an order for detention and detain the ship:-

- (a) the Registrar of Ships;
- (b) any surveyor of ships authorized by the Registrar for the purpose;
- (c) any Tanzanian consular officer; and
- (d) any person authorized 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 upon conviction shall be liable to a fine not less than the equivalent of forty five thousand Dollars in Shillings.

(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) of this section 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) of this section takes to sea, any officer authorized 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) of this section upon conviction shall be liable to a fine not less than the equivalent of seven thousand Dollars in Shillings.

(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 transpire 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 transpire 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) of this section within that period, are concluded without the master or owner being convicted;
- (c) either:-

- (i) the sum of the equivalent of one hundred thousand Dollars in Shillings is paid to the Minister by way of security; or
 - (ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than the equivalent of one hundred thousand Dollars in Shillings 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 Minister shall repay any sum paid in pursuance of subsection (9) (c) of this section 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) of this section and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows:-

- (a) first in payment of any costs or expenses ordered by the Court to be paid by the master or owner; and
- (b) next in payment of any fine imposed by the Court; and the balance shall be repaid to the person paying the sum, or giving the security.

472.-(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.

Sums ordered to be paid leviable by distress on the ship.

(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

473.-(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 Zanzibar, any deposition that he may have previously made at a place outside Zanzibar in relation to the same subject matter shall, subject to subsection (2) of this section be admissible in evidence in those proceedings.

Depositions of persons abroad admissible.

(2) For a deposition to be admissible under subsection (1) of this section in any proceedings, the deposition:-

- (a) must have been taken on oath;
- (b) must have been taken before a justice or magistrate or a Tanzania 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 (b) above 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
documents.

474.-(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 93 of this Act;
- (b) the official log book of any ship kept under section 155 of this Act and, without prejudice to section 460(2) of this Act, 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, crew list made under section 156 of this Act and notices given under Part VII of additions to or changes in crew agreements and lists of crews;
- (d) returns or reports under section 391 of this Act; and
- (e) documents transmitted to the Director.

(2) A certificate issued under regulations made pursuant to section 123 of this Act shall be admissible in evidence.

Admissibility
of
documents
in
evidence.

475.-(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) of this section 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) of this section 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) of this section 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 upon conviction shall be liable a fine not less than the equivalent of seven thousand Dollars in Shillings; or to imprisonment for a term not exceeding two years, or both.

476.-(1) Where under any enactment a document is open to public inspection when in custody of the Director or registrar:-

Inspection and admissibility in evidence of copies of certain documents.

- (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 Registrar destroys any document which has been sent to him under or by virtue of any enactment and keeps a copy or other reproduction of that document, then:-

- (a) any enactment providing for that document to be admissible in evidence or open to public inspection; and
- (b) in the case of a document falling within subsection (1) of this section 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 472(2) of this Act in its application to documents in the custody of the Registrar, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

Proof, etc
of
exemptions. **477.**-(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 negative in any information or complaint; and, if so specified or negative, 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. **478.**-(1) A notice or document authorized 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 authorized 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 authorized by section 448 or 451 of this Act 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 Zanzibar shall be its principal office in Zanzibar.

(6) Where the person to be served with any notice has, whether in pursuance of registration regulations or otherwise, specified an address in Zanzibar other than his proper address within the meaning of subsection (5) of this section 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 XXVI
MISCELLANEOUS PROVISIONS**

Administration

Returns to Registrar of ships. **479.** All consular officers of Tanzania shall make and send to its Registrar of Ships such reports on any matter relating to Tanzania seafarers as the Registrar of Ships may require.

Forms. **480.**-(1) The Registrar of Ships may prepare and approve forms or any book, instrument or paper required under this Act and may after such forms as he thinks fit.

(2) Every book, instrument or paper provided under subsection shall be made in the form approved by the Registrar of Ships, or as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner master of any ship.

(3) Every book instrument or paper if made in a form purporting to be the proper form and to be marked in accordance with subsection (2) of this section shall be deemed to be in the form required by this Act, unless the contrary is proved.

(4) Where any person prints, sell or uses any document purporting to be a form approved by the Registrar of Ships knowing that the document purporting to be a form approved by the Registrar of Ships knowing that the document is not the form approved or that the document has not been prepared or issued by the Registrar of Ships, that person commits an offence and is liable upon conviction, to a fine not less than the equivalent of five thousand Dollars in Shillings or to imprisonment for a term not exceeding three years.

Financial Provisions

Fees. **481.**-(1) The Minister may make regulations prescribing fees to be charged in respect of:-

- (a) the issue or recording in pursuance of this Act of any certificate, licence or other document of;
- (b) the doing of any thing in pursuance of this Act .

(2) In the case of fees for the measurement of a ships tonnage the fees may be prescribed as maximum fees.

482.-(1) All fines imposed or payable under this Act or regulations made there under shall be paid to the revenue section at the Ministry responsible for Finance of the Zanzibar Revolutionary Government. Destination of fines.

(2) Notwithstanding the provisions of sub regulation (1) of this section, the Minister may make regulation for certain percentage of the summary fines imposed under this Act, be used as revolving fund for the body responsible for the Maritime Administration in Zanzibar.

483. The following expenses and other amount shall be payable of money provided by the Registrar of Ships:- Expenses charge on money provided by the Registrar of Ships

- (a) the expenses incurred by the Minister under this Act;
- (b) the expenses of obtaining deposition, reports and returns respecting wrecks and causalities;
- (c) such sums as the Minister may, in his discretion, thinks 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 Minster directs for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, or rewarding property in cases of shipwreck and distress at sea, or rewarding the preservation of life in such cases, and
- (f) any other amounts which are by virtue of any provision of this Act payable out of money provided by of the Registrar of Ships.

484. There shall be paid to any nautical assessor appointed under this Act such remuneration out of money provided by Treasury. Nautical assessors.

Regulations Relating to Safety and Security

Safety and
security
Regulations.

485.-(1) Without prejudice to any other provisions of this Act, the Minister may make regulations making provision as he considers appropriate for all or any of the following purposes:-

- (a) for securing the safety and security of ships registered in Zanzibar and persons on them and for protecting the health of persons on Tanzania Zanzibar ships;
- (b) for giving effect to any provisions of an international agreement so far as the agreement relates to the safety and security of other ships or persons on them, or to the protection of the health of persons on other ships; and
- (c) for security the safety and security of other ships and persons on them while they are within a port in Zanzibar.

(2) Regulations made under subsection (1) of this section 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 make so as to extend outside Zanzibar;
- (d) contain such incidental and transitional provisions as the Minister considers appropriate;
- (e) rules for the purpose of safety and security of ships while in ports in Zanzibar; and
- (f) rules for safe working conditions of dock workers.

Application of the Act to Certain Description of ships

Application
of the Act
to non
Tanzania
Zanzibar
ships

486.-(1) Without prejudice to the provisions of section 3 of this Act the Minster may make regulations specifying any description of non Tanzania Zanzibar 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 Tanzania Zanzibar ships of that description and to masters and seafarers employed in them or;

- (b) shall so extend in such circumstances as may be so specified with such modifications if any as may be so specified.

(2) In this section, "non Tanzania Zanzibar ships" means ships that are not registered under this Act.

International Conventions and Regional Arrangements

487.-(1) The provisions of sections 485 and 486 of this Act shall apply in respect of ratified or acceded international conventions including amendments thereto and replacements thereof and other internal instruments

Application of International conventions to the Act.

(2) The Minister shall from time to time by Notice in the Gazette publish ratified or acceded international conventions relating ships and merchant shipping including amendments thereto and replacements thereof and other international instruments which apply to the United Republic of Tanzania as well as those international conventions including amendments thereto and replacements thereof and other internal instruments which cease to apply to the United Republic of Tanzania.

(3) The Registrar of Ships shall keep in his office a copy of:-

- (a) all the international conventions and instruments referred to in subsection (2) of this section that are ratified or acceded and have application in the United Republic of Tanzania;
- (b) all regulations and notices made pursuant to this Act and such copies shall be made available for inspection or, upon payment of a prescribed fee, for the taking of copies thereof by members of the public seafarers or persons concerned with or having an interest in ships or merchant shipping.

488. For purpose of giving effect to any international agreement or other international treaty or instrument relating to shipping or the prevention of pollution of the marine environment, to which Tanzania is a party, the Minister may make such regulations as appear to him to be necessary.

Implementation of treaties.

489. Where an international convention or other international instrument applies to Tanzania and a provision of that convention or instrument conflicts with a provision of this Act in any manner, the provision of the convention or instrument shall prevail unless the Minister otherwise provides.

Conventions to prevail.

Contravention of international conventions. **490.** Where in respect of any Tanzania Zanzibar ship there is any contravention of a requirement of any international convention or other international instrument that applies to Tanzania the Registrar of Ships contravention is rectified.

Ministers general powers to make rules and regulations

491. The Minister may make regulations for:-

- (a) prescribing the forms to be used for the purposes of this Act
- (b) prescribing any thing which under this Act maybe prescribed and
- (c) generally for carrying out the purposes and provisions of this Act.

Final Provisions

Repeal and saving of enactments.

492.-(1) The following Act and Regulation are hereby repealed:-

- (a) the Port Rules, Cap. 130;
- (b) the Merchant Shipping Act, 1894;
- (c) Costal Seamen Engagement Decree; Cap 131;
- (d) Seamen Deserters Decree, Cap. 133;
- (e) Zanzibar Government Shipping Decree, Cap. 132.

(2) All rules and directions, licences, certificates and all administrative orders made under repealed laws which are in force shall be deemed to be rules, directions, licences, certificates and administrative orders or regulations given or made under this Act by the relevant authority and shall remain in force until revoked by directions, order or regulations made under this Act.

FIRST SCHEDULE
(Under Section 135 (2))

COMPOSITION, MEETINGS, PROCEDURES, ETC OF
SEAFARERS DISCIPLINARY BOARD

1.-(1) The Disciplinary Board shall consist of the following members:- Composition of Board.

- (a) Chairman of the Board who shall be appointed by the Minister;
- (b) Registrar of Seafarer who shall be a Secretary of the Board;
- (c) Registrar of Ships;
- (d) Zanzibar Harbour Master;
- (e) Principal of Dar es salaam Maritime Institute;
- (f) One member from seafarer's trade union;
- (g) One member from shipping representatives.

(2) The Board shall elect one of their member to be a Vice Chairman for a term of one year from the date of his election and shall be eligible for re-election

2. The Chairman and all other members of the Board shall continue to be as members of Board so long they hold their posts as indicated in subsection (1) of the preceding section. Tenure of the members to the Board.

3.-(1) The Board shall ordinarily meet for the transactions of its business at any time and place decided upon by the Board, but shall meet at least once every six months in a year. Meeting of the board.

(2) The Chairman or, in his absence, the Vice Chairman, may at any time call a special meeting of the Board, and shall call a special meeting of the board upon a written request by a majority of the members of the Board in office.

(3) The Chairman or, in his absence, the Vice Chairman shall preside at all meetings of the Board and in the absence of both the Chairman and Vice Chairman the members present shall appoint a member from among themselves to preside such a meeting.

(4) More than half of members of the Board shall constitute a quorum at any meeting of the Board.

(5) The Board may invite any person who is not a member to participate in the deliberation of the board but any person so invited shall have no vote at the meeting.

(6) All the decisions of the Board shall be made by resolution of the majority of the members present at the meeting and in the event of an equality of votes the chairperson shall have a second or casting vote.

(7) The validity of an act or proceeding of the Board shall not be affected by any vacancy among its members.

Minutes. **4.** The Board shall cause to be recorded and kept minutes of the all proceedings of its meetings, and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting and a copy shall be presented to the Minister.

Proceedings. **5.** Subject to the provision of this Schedule the Board shall have power to regulate its own proceedings.

Fee and allowance. **6.** The Chairman and the members of the Board shall be paid sitting allowance as the Minister may determine from time to time.

Passed in the House of Representatives on the 6th day of April, 2006.

{KHAMIS JUMA CHANDE}
CLERK OF THE HOUSE OF REPRESENTATIVES

