

# MERCHANT SHIPPING ACT 2007





# MERCHANT SHIPPING ACT 2007

*A publication of*



**Nigerian Maritime Administration and Safety Agency, NIMASA**

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## **MERCHANT SHIPPING ACT, 2007**

2007 ACT No. 27

### **AN ACT TO PROVIDE FOR MERCHANT SHIPPING; AND FOR RELATED MATTERS**

[28th Day of May, 2007J] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria

#### **PART I ADMINISTRATION OF THE ACT**

1. (1) Subject to the provisions of this Act, the Minister shall have the general superintendence of the matters to which this Act relates.  
(2) The Minister may, by writing under his hand, delegate any of the powers or duties of a routine nature conferred on him under this Act.  
(3) Any power or duty lawfully exercised by an officer, office or organisation to whom it has been delegated under subsection (2) of this section, shall be deemed to have been exercised as fully as if the power or duty was exercised by the Minister himself.  
(4) Nothing in this section shall be construed as allowing the delegation of any power to make regulations or any order for the purposes of this Act.
2. (1) The agency of Government established to be responsible for Maritime Safety Administration and Security shall be the implementing agency for this Act.  
(2) The Minister may, from time to time give to the Agency, such general directions, not inconsistent with the provisions of this Act or any regulations made under this Act on the policy to be pursued in the administration of Maritime Safety, as the Minister may consider necessary, and the Agency shall immediately take such steps as are necessary or expedient to give effect to the directions.
3. All consular officers of Nigeria abroad, the Nigerian Ports Authority, officers of the Nigerian Customs Service and the superintendent of Seafarer Services Office shall make and send to the Minister such returns or reports on any matter relating to merchant shipping and seamen as the Minister may require.
4. There may be appointed for the purpose of giving effect to the provisions of

this Act such persons, in addition to any officers who may be appointed under any other provision of this Act, as may from time to time be necessary .

## PART II RESTRICTION ON TRADING IN NIGERIA

5. (1) No ship shall operate commercially in or from the waters of Nigeria unless the ship is

- (a) a registered Nigerian ship;
- (b) provided with a certificate of foreign registration or other document similar or equivalent to that required by this Act;
- (c) registered by the law of a country other than Nigeria as a ship of that country and is by the law of that country exempted from registration;
- (d) pursuant to subsection (2) of this section, exempted from registration under this Act; or
- (e) a licensed Nigerian ship operating solely within the waters of Nigeria.

(2) The Minister may by notice exempt generally or specifically from registration under this Act, a licensed Nigerian ship or a class of Nigerian ship when operating outside the waters of Nigeria.

(3) Every register, certificate or licence authorised or required by this section may be proved certified under the hand of the Minister, the Registrar of ships or any person duly authorised to deputise for the Registrar, or any other person who has charge of the original and is required to furnish to every person applying at a reasonable time for the same and paying such fee as shall be prescribed.

(4) Every document when proved as required under subsection (3) of this section shall, until the contrary is proved, be received as evidence of all matters recited, stated or appearing in it.

(5) An owner, charterer, agent or master of a ship who contravenes the provisions of subsection (1) of this section commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira and the ship shall be liable to be detained by any officer of customs or other designated officer.

### National Character of Ships

6. (1) A Nigerian ship shall hoist the national colour-

- (a) on a signal being made to the ship by any ship which forms part of the naval forces of Nigeria, or which is commanded by an officer of any such forces on full pay; and
- (b) if the ship is of fifty tons gross tonnage or upwards, on entering or leaving any port in a foreign country .

(2) Where a ship fails to hoist its flag as provided under this section, the master of the ship commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

7. (1) A collector of customs shall not grant a clearance for any ship under this Act unless the master of the ship declares to the collector of customs the name of the country to which the ship belongs.

(2) A collector of customs shall upon the declaration made to him of the

country to which the ship belongs inscribe the name of the country on the clearance.

(3) A ship that attempts to proceed to sea without clearance of a collector of customs may be detained by the collector of customs until the declaration is made by the master of the ship.

8. (1) A foreign ship shall be liable to forfeiture if a person uses the national colours and assumes the national character of Nigeria on board the foreign ship for the purpose of making that ship appear to be a Nigerian ship, unless the assumption made or the distinctive flag, ensign, pendant or marking was used, for the purpose of escaping capture by an enemy or by a ship of war in the exercise of a belligerent right.

(2) In any proceedings for enforcing forfeiture under subsection (1) of this section, the burden of proving a title to use any colours, flag, ensign, pendant or marking referred to in subsection (1) of this section and assuming any character referred to in that subsection, lies on the person using and assuming the same.

9 (1) If the master or owner of a ship which is owned wholly by persons qualified to own a . registered Nigerian ship does anything or permits anything to be done or carries or that the ship is a ship owned wholly by persons qualified to own a registered Nigerian ship; or

(b) assume a foreign character; or

(c) deceive any person so entitled to inquire into the ownership of the ship, the ship shall be liable to forfeiture under this Act.

(2) The master of a ship which is liable to forfeiture under subsection (1) of this section, if he commits or is privy to the commission of the offence, shall on conviction be liable to a fine not less than five hundred thousand Naira or to imprisonment for a term not less than two years or both.

10. (1) If any person who is not qualified to own a registered Nigerian ship acquires as owner, any interest, in a ship legal or beneficial, otherwise than by such transmission as is provided for in this Part of this Act:

(a) which is registered in Nigeria and owned wholly by persons qualified to own a registered Nigerian ship; and

(b) which uses the national colours and assumes the national character of Nigeria, that interest is liable to forfeiture.

(2) Nothing in this section shall be construed as prohibiting a Nigerian ship which is exempted from registration under this Part of this Act, from using on the coasts or inland waters of Nigeria, the national colours of Nigeria, or any other national colours which any ship is for the time being entitled to wear in accordance with any Act or rule of law.

11. (1) Where a ship which is owned wholly by persons qualified to own a registered Nigerian ship is not recognised as a Nigerian ship under this Act, the ship shall not be entitled to:

(a) any benefits, privileges, advantages or protection that are usually enjoyed by Nigerian ships; or

(b) use the national colours or assume the national character of Nigeria.

(2) The payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board the ship or by any person

belonging to the ship, shall be dealt with in the same manner in all respects as if the ship was registered in Nigeria and recognised as a Nigerian ship.

12. (1) If there are hoisted on board:

(a) any Nigerian ship any colours or pendant usually worn by ships of the naval forces of Nigeria or the distinctive national colours of any country except the national colours as the ship is, for the time being, allowed to wear in accordance with any written law or any other lawful authority; and

(b) a foreign ship any colours or pendant other than the proper national colours of the ship or any other pendant or colours which the ship is, under the law of the foreign country in which the ship is registered or belongs and is for the time being allowed to wear, the master of the ship or the owner, if he is on board or every other person hoisting the pendant or colours, commits an offence and is liable on conviction to a fine not less than two hundred thousand Naira.

(2) Any commissioned officer on full pay in any of the armed forces of Nigeria or any collector of customs, or, in the case of any Nigerian ship, any authorised officer, may board any ship on which any pendant or colours are hoisted contrary to this section and seize and take away the pendant or colours and any such pendant or colours shall be forfeited.

Name of Ship

13. (1) Every ship shall be registered by name in the register and accordingly, no two or more ships shall bear the same name.

(2) The Registrar may refuse to register a ship by a name proposed for registration if the name is already the name of a Nigerian ship or a name calculated to deceive or to offend the public interest.

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

(4) Where a foreign ship, not having at any previous time been registered in Nigeria, becomes the property of persons qualified to own a registered Nigerian ship, no person shall apply to register that ship at a port of registry in Nigeria except by the name which the ship bore as a foreign ship immediately before the ship became the property of persons qualified to own a registered Nigerian ship: Provided that no registrar at any port of registry in Nigeria shall knowingly register the ship by any other name without the prior approval in writing of the Agency.

(5) A person who acts or permits any person under his control to act, in contravention of this section or omits to do or permits any person under his control to omit to do, anything required by this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira; and, except in the case of an application being made under this section with respect to a ship which has not at any previous time been registered in Nigeria, the ship may be detained until this section is complied with.

14. (1) If the approval of the Agency is required to enable a ship to be registered in Nigeria in the name by which it is proposed to be registered or if the Agency's approval is required to change the name of any ship registered in Nigeria an application shall be made to the Agency in writing.

(2) Subject to the provisions of this Part of this Act and any rules made or

deemed to have been made pursuant to this Act, the Agency may, in its discretion, give approval to the registration of the ship by the name proposed or as the case may be, to the proposed change of the name by which the ship is registered.

(3) Upon giving an approval under subsection (2) of this section, the Agency may, and shall in any case where any rules made or deemed to have been made pursuant to section 15 so direct, require notice of the approval to be given in such form and manner as he thinks fit or as the rules require, before the name of the ship is marked on the ship or before the name of the ship is entered on the register, or, in the case of a change of name of a ship registered in Nigeria, before the name of the ship is altered in the registers.

(4) The approval of the Agency under this section shall be in writing signed by the Minister or on his behalf by any person authorised by the Minister and if the approval is given under any rules made or deemed to have been made pursuant to this Part shall contain a statement of the conditions, if any, subject to which the approval is given.

(5) On the approval of the Agency under this section being obtained, and upon the giving of such notice, if any, as is required:

(a) if the approval relates to an application to register a ship in Nigeria, the Registrar to whom the application is made, upon delivery to him of the document signifying the Agency's approval and on the other requisites to registration being duly complied with, shall register the ship by the name proposed in accordance with the provisions of this Part; or

(b) if the approval relates to an application to change the name of a ship registered in Nigeria, the Registrar at the ship's port of registry, upon delivery to him of the ship's certificate of registry and the document signifying the Agency's approval, shall alter the name in the register book, and shall endorse and sign a memorandum of the alteration on the ship's certificate of registry.

(6) When the name of a ship registered in Nigeria is changed under this section, the name of the ship upon its bows and stern shall, immediately be altered correspondingly and if default is made in compliance with this subsection, the owner of the ship commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira and the ship may be detained by a customs officer or detaining officer until this subsection is complied with.

(7) Any document purporting to signify the approval of the Agency in respect of an application under this section and to be signed by the Minister or any person authorised by him for the purpose, shall be admissible in evidence.

15. (1) The Minister may make rules prescribing the circumstances in which, and the conditions subject to which the Agency's approval may be given to the registration of a ship in Nigeria by a proposed name and the rules may prescribe the form of notice to be given before the name of the ship is marked on the ship, or before the name of the ship is entered on the register, or, in the case of a change of name of a ship registered in Nigeria, before the name of the ship is altered in the register.

(2) If in respect of any ship, default is made in compliance with any conditions subject to which the approval of the Agency is granted under any

rules made or deemed to have been made pursuant to this section, the owner of the ship commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

### PART III REGISTRATION AND LICENSING OF SHIPS

#### Registries of Ships

16. (1) There shall be maintained a Central Ship Registry for the registration and licensing of Registry of ships.

(2) The Minister may, from time to time, by notice published in the Gazette appoint other places for the registration of ships and at each such place there may be appointed a fit person to be the Registrar of ships.

(3) No Registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him as Registrar, unless the default happened through his neglect or willful default.

(4) For the purposes of this Part of this Act, Registrar includes a Deputy Registrar.

(5) For the purposes of this Part of this Act, "ship" includes any barge, lighter or like vessel used in navigation in Nigeria and however propelled, so however, that no self propelled vessel which is less than 15 gross tons shall be subject to registration.

17. (1) The Registrar of ships shall keep such register or books as may be deemed necessary Register of book. including the following

(a) A register for merchant ships;

(b) A register for fishing vessels;

(c) A register for ships under construction;

(d) A register for ships on bareboat charters and other charters exceeding 12 months duration;

(e) A register for licensed ships below 15 gross tons; and

(f) A register for Floating Production Storage and Offloading (FPSO) and Floating Storage and Offloading (FSO).

(2) Entries in the books referred to in subsection (1) of this section, shall be made in accordance with the following provisions:

(a) An individual may be registered as sole owner of a ship in his own name;

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

(c) Joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share the interest in respect of which they are registered; and

(d) A corporation may be registered as owner by its corporate name.

(3) Notwithstanding the provisions of this Act relating to registration and licensing of ships, any vessel intending to operate within the coastal and inland waters of Nigeria shall obtain operational permits from the relevant agencies of Government.

18. (1) Subject to the provisions of subsection (2) of this section and of any

rules made or deemed to have been made hereunder, a ship shall not be registered in Nigeria under this Act unless the ship is owned wholly by persons of the following descriptions (in this Act referred to as "persons qualified to own a registered Nigerian ship")

(a) Nigerian citizens;

(b) Bodies corporate and partnerships established under and subject to Nigerian laws, having their principal place of business in Nigeria;

(c) Such other persons as the Minister may, by regulations prescribed.

(2) The Minister may make rules with respect to the manner in which Nigerian Government ships, or any class of those ships, may be registered under this Act; and, subject to any modifications which may be made by those rules either generally or in respect of any specified class of ships, this Act shall apply to Nigerian Government ships which are registered in accordance with the rules as if they were ships registered in the manner provided.

(3) Where the Minister has reason to believe that there is some doubt as to the title of any ship registered in Nigeria under this Act to be so registered, the Minister may direct the Registrar at the port of registry of the ship to require that evidence be given to his satisfaction that the ship is entitled to be so registered.

(4) If, within such time as may be determined by the Minister, not being less than thirty days, evidence to the satisfaction of the Registrar of the title of the ship to be registered is not given, the ship shall be liable to forfeiture.

19. (1) Whenever a ship is owned wholly by persons qualified to own a registered Nigerian ship, the ship shall be registered in Nigeria in the manner provided in this part of this Act or in any other country in accordance with the laws of that country, unless the ship is, pursuant to Subsection (2) of this section, exempted from registration under this Act.

(2) The Minister may, if he thinks fit, by notice in the Gazette generally or specially exempt a ship not exceeding fifteen tons employed solely on the coasts or inland waters of Nigeria from registration under this Act.

(3) Any ship, other than a Nigerian licensed ship, which does not comply with the requirements of subsection (1) of this section, shall not be recognised as a Nigerian ship.

(4) If the master of any ship which is owned wholly by persons qualified to own a registered Nigerian ship fails on demand to produce a certificate of registration of the ship or such other evidence to satisfy the Minister that the ship complies with the requirements of subsection (1) of this section, the ship may be detained until that evidence is produced.

(5) Any ship, which is registered at a port in Nigeria immediately before the commencement of this Act, shall be a registered ship under this Act if Nigerian citizens or a body corporate owns it, unless the Minister directs otherwise.

(6) A bareboat chartered ship shall, upon registration fly the Nigerian flag and be regarded as a Nigerian registered vessel whilst the charter persists.

(7) The Registrar shall notify the former port of registry of a Nigerian bareboat chartered ship of the registration of the ship in Nigeria and satisfy him that the registration in that port is suspended.

- (8) The Registrar shall require production of the information and documentation specified in section 21, subsection (4)(a), (c), (f), (g), (h) and section 22 of this Act prior to the registration of a bareboat charter.
- (9) A charter less than 12 months duration other than a bareboat charter, shall be licensed and such a chartered vessel shall not fly the Nigerian flag and not be regarded as a Nigerian registered vessel.
- (10) The registration of a charter shall be renewed annually and the chartered shall furnish the Registrar with information concerning:
- (a) The duration of the charter party;
  - (b) The parties to the charter;
  - (c) The hire cost;
  - (d) The route on which the vessel is expected to ply;
  - (e) the type of goods, which are expected to be carried.
- (11) Every vessel registered in Nigeria and every chartered vessel shall be subject to the payment of such annual fee as the Minister may by order impose.
- (12) An owner, charterer or operator of a vessel who fails to pay the fee shall be liable to a fine not less than one hundred thousand Naira.

#### Procedure for Registration

20. The Minister may make regulations relating to the procedure for the registration of Nigerian ships, which regulation shall not be inconsistent with the provision of this Act.
21. (1) An Application for registration of a ship in Nigeria under this Act shall be made formally in writing to the Registrar at a port of registry in Nigeria in such form as the Minister may, from time to time, approve.
- (2) An application under this section shall:
- (a) in the case of an individual be made by the person requiring to be registered as owner or by one or more of the persons so requiring, if more than one, or by his or their agent; and
  - (b) in the case of a corporation, by its agent.
- (3) The authority of an agent shall be testified by writing, if appointed by an individual, under the hands of the appointors, and if appointed by a corporation, under the common seal of the corporation.
- (4) The Registrar shall be furnished with the following information and documentation before proceeding with the registration of a ship under this Act:
- (a) the full names, addresses and occupations of the purchaser or purchasers of the ship;
  - (b) evidence of ability or experience of the purchasers to operate and maintain the vessel;
  - (c) the ownership of shares in the company applying to register the ship;
  - (e) in the case of a ship with a previous registration, a bill of sale with warranty against liens and encumbrances from the sellers;
  - (f) the log-book of the ship for inspection by the Registrar;
  - (g) evidence of financial resources sufficient for the operation and maintenance of the ship; and
  - (h) the certificate of incorporation and Articles of Association of the company.



22. (1) The owner of a ship or an applicant who is applying for the registration of a ship under section 21 of this Act shall on or before making the application, cause the ship to be surveyed by a surveyor of ships and the tonnage of the ship to be ascertained in accordance with the Tonnage Regulations made under this Act.

(2) The surveyor shall, upon making the survey, deliver to the owner or applicant a tonnage certificate signed by the surveyor and the certificate shall be delivered to the Registrar before the ship is registered.

(3) A surveyor's tonnage certificate shall be in a form approved by the Minister, and shall specify the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as the Minister may, from time to time, require.

23. (1) Every ship in respect of which an application for registration under section 21 of this Act is made shall, before it is registered, be marked permanently and conspicuously to the satisfaction of the Minister as follows:

(a) the name of the ship shall be marked on each of its bows, and the name of the ship and the name of the ship's port of registry shall be marked on the stern of the ship, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches and of a proportionate breadth;

(b) the official number and the number denoting the ship's registered tonnage shall be cut in on the main beam of the ship;

(c) a scale denoting the ship's draught of water shall be marked on each side of the stern and of the stern post of the ship in Roman capital letters or in figures not less than six inches in length, such that the lower line of the letters or figures coincides with the draught line denoted by the scale and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Minister may approve.

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

(3) The owner or master of any ship who-

(a) fails to keep the ship marked as is required by this section in the case of ships of that class registered in Nigeria; or

(b) conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the marks on the ship, except as provided in subsection (2) of this section, or for the purpose of escaping capture by an enemy, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(4) Where a surveyor of ships or an inspector certifies that a ship registered in a foreign country is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy is remedied:

(5) No ship registered in a foreign country shall be detained under this section if the owner or master of the ship shows that the ship is marked, and has been kept marked, in accordance with the law of the country in which the ship is registered.

24. (1) A person shall not be registered as the owner of a ship, or of a share of the ship, until the person or in the case of a corporation, the person authorised by this Part of this Act to make declarations on behalf of the corporation makes and signs a declaration of ownership referring to the ship as described in the surveyor's tonnage certificate and containing the following particulars:

- (a) a statement of the person's qualification to own a registered Nigerian ship, or, in the case of a corporation, of the circumstances of the constitution and business of the corporation as proof of qualification to own a registered Nigerian ship;
- (b) a statement of the time when, and the place where, the ship was built or if the ship was built in a foreign country and the time and place of building are unknown, a statement that the ship was built in a foreign country and that the declarant does not know the time and place of the ship's building; and, in addition, in the case of a foreign ship, a statement of the ship's foreign name or in the case of a ship condemned, a statement of the time, place and court at and by which it was condemned;
- (c) a statement of the name of the master of the ship;
- (d) a statement of the number of shares in the ship of which the owner or the corporation, as the case may be, is entitled to be registered as owner;
- (e) a declaration that, to the best of the knowledge and belief of the owner of a ship, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share in the ship.

(2) Where a declaration is made under this section that a former registration of a ship has been deleted, evidence of the deletion shall be produced.

(3) A declaration of ownership by an individual owner and a declaration of ownership on behalf of a corporation as owner shall each be made in the form approved for the purpose by the Minister.

25. (1) An applicant for the registration of a ship in Nigeria on the first registration of the ship shall produce the following evidence in addition to the declaration of ownership

(a) in the case of a ship built in a foreign country, a certificate signed by the builder of the ship, and containing a true account of:

(i) the proper denomination and tonnage of the ship as estimated by the applicant,

(ii) the time when, and the place where, the ship was built,

(iii) the name of the person, if any, on whose account the ship was built,

(iv) if there has been any sale, the bill of sale under which the ship, or a share in

the ship has become vested in the applicant for registration; and

(b) in the case of a ship that has been sold by any competent court, an official copy of the bill of sale.

(2) Where a declarant under subsection (1) of this section, makes the declaration of ownership of a ship and declares that the time and place of the building of the ship are unknown to him, or that the builder's certificate cannot be procured, the declarant shall be required to produce only the bill of sale under which the ship or a share in the ship, became vested in the applicant for

registration.

(3) The owner or applicant for the registration of a ship built in Nigeria, may request the builder of the ship to deliver to the owner a signed certificate containing the particulars specified in paragraph (a) of subsections CD and (2) of this section and the builder shall, when so requested, deliver the certificate.

(4) A builder who fails to comply with subsection (3) of this section or willfully makes a false statement in a certificate given under that subsection, commits an offence and on conviction is liable to a fine not less than three hundred thousand Naira.

(5) In this section, "builder", in the case of a ship built in Nigeria, includes any person to whom the Minister grants a licence to carry on the business of builder of a ship, and in the case of a ship built in a foreign country, includes any person who is recognised in accordance with the law of that country.

26. (1) The Registrar shall, as soon as the requirements of this Part of this Act preliminary to registration have been complied with, enter in the register, the:

(a) the name of the ship and the previous name and registry if any;

(b) details comprised in the surveyor's tonnage certificate;

(c) particulars of the origin of the ship stated in the declaration of ownership;

(d) name, address and occupation of the registered owner or owners of the ship and where there are more than one, what share in the ship is held by each owner;

(e) name of the builders, the place and year the ship was built;

(f) particulars of any mortgage, liens or similar charges regarding the ship;

(g) international call sign of the ship if a call sign has been assigned to the ship;

(h) the name, address and, as appropriate, the nationality of the bareboat charterer;

(i) the name, address and, as appropriate, the nationality of the operator, when the operator is not the owner or the bareboat charterer.

(2) The Registrar shall, on the registration of a ship, retain in his possession the following documents in addition to the documentation prescribed in section 21 (4) of this Act:

(a) the surveyor's tonnage certificate;

(b) the builder's certificate, if any;

(c) all declarations of ownership;

(d) any bill of sale of the ship previously made; and

(e) the copy of the condemnation, if any.

27. (1) The Registrar shall cause the name and address of the managing owner for the time being of every ship registered in Nigeria to be registered in the register at the ship's port of registry.

(1) Where there is no managing owner of a ship, the name of the ship's agent or other person to whom the management of the ship is entrusted by or on behalf of the owner shall be registered and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and

subject to the same liabilities, as the managing owner.

(2) The owner of a ship who makes a default in complying with the provisions of this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira and to an additional fine not less than fifty thousand Naira for each occasion on which the ship leaves any port in Nigeria while that default continues.

28. The Register shall cancel the registration of a ship registered in Nigeria at any time the ship;

(a) appears to be registered also in a foreign country; or

(b) ceases to comply with the qualifications for the ownership of a Nigerian ship as required by section 18 of this Act; or

(c) appears to have been lost, abandoned or broken up.

29. The Registrar shall not permit the deregistration of a ship registered under this Act without the consent in writing of all the registered holders of mortgages on the ship registered under this Act.

Certificate of Registry

30. (1) The Registrar shall on completion of the registration of a ship, issue a certificate of registration in such form as may be approved by the Agency.

(2) The certificate of registration of a ship, whether or not the ship is a Nigerian ship, 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 which the owner or mortgagee or any other person has or claims to have on or in the ship.

(3) A person who has in his possession or under his control, the certificate of registration of a ship shall not refuse or omit, without reasonable cause, to deliver the certificate on demand to the person entitled to the custody of the certificate for the purposes of the lawful navigation of the ship, or to any Registrar, ship surveyor, collector of customs or other person entitled by law to require its delivery.

(4) Any person who contravenes the provisions of subsection (3) commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

(5) If, in any proceedings in respect of an offence under this section, the court is of the opinion that the certificate of registration is lost, the court shall certify the loss and cause a copy of the certification to be transmitted to the Agency.

31. The owner or master of a ship who uses or attempts to use for the navigation of the ship, a certificate of registration not legally granted in respect of the ship whether or not the ship is a Nigerian ship commits an offence and on conviction is liable to a fine not less than three hundred thousand Naira or to imprisonment for a term not exceeding two years or both, and, in addition, the ship shall be liable to forfeiture.

32. (1) The Registrar at the port of registry of a ship registered in Nigeria may, with the approval of the Agency and on the delivery to him of the certificate of registration of the ship, grant a new certificate in lieu of the old one.

(2) In the event of the certificate of registration of a ship registered in

Nigeria being lost or destroyed, the Registrar at the port of registry of the ship shall upon being satisfied of the loss or destruction grant a new certificate of registration in lieu of the original certificate of the registration.

(3) If, in the case of a ship registered in Nigeria, the event referred to in subsection (2) of this section, occurs while the ship is at a port outside Nigeria, or if, after the occurrence of the event, the ship first arrives at a port outside Nigeria, the master of the ship, or another person having knowledge of the facts of the case, shall furnish the appropriate officer at that port with a declaration stating the facts of the case and the names and registered owners of the Ship and the proper officer may, upon the declaration, grant a provisional certificate of registration, in a form approved by the Agency and the provisional certificate shall contain a statement of the circumstances in which it is granted.

(4) Whenever the appropriate officer grants a provisional certificate under subsection (3) of this section, the officer shall transmit a copy of that certificate to the Registrar at the ship's port of registry.

(5) The master of a ship in respect of which a provisional certificate has been granted under subsection (3) of this section, shall within ten days after the first subsequent arrival of the ship at a port in Nigeria, deliver the provisional certificate:

(a) to the Registrar at that port; or

(b) if there is no Registrar at that port, to the Registrar at the ship's port of registry.

(6) If the master of the ship fails to comply with the provisions of subsection (5), he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(7) If a provisional certificate is delivered under subsection (5) to a Registrar who is not the Registrar at the ship's port of registry, he shall immediately forward the certificate to the Registrar at the ship's port of registry.

(8) Upon receipt of a provisional certificate granted under this section, the Registrar at the Ship's port of registry shall grant a new certificate of registration.

33. (1) Where the master of a ship registered in any foreign country is changed in consequence of the removal of the master by a marine court under this Act, the court shall cause a memorandum of the change to be endorsed on the certificate of registration of the ship and cause a copy of the endorsement to be transmitted to the Agency.

(2) Where the master of a ship registered in Nigeria is changed while the ship is at a port in Nigeria for any cause other than that mentioned in subsection (1) of this section, the Registrar at the port, or, if there is no Registrar at the port, the Registrar at the ship's port of registry, shall endorse and sign a memorandum of the change on the ship's certificate of registry.

(3) Where the master of a ship registered in Nigeria is changed while the ship is at a port out of Nigeria, the appropriate officer at the port shall endorse and sign a memorandum of the change on the ship's certificate of registry but if the change occurs in consequence of the removal of the master of the ship by a competent court in a foreign country, or in consequence of the sentence of a

competent naval court constituted under the law of a foreign country the court shall cause a memorandum of the change to be endorsed on the ship's certificate of registry.

(4) Where any Registrar, not being the Registrar at the ship's port of registry, or any appropriate officer, makes an endorsement under this section, he shall immediately notify the Registrar at the ship's port of registry.

(5) The owner of a power driven craft of not less than 15 gross tons operating solely on inland waters shall, from time to time, keep a continuous record of the persons in charge of that craft and the engines of the craft and the record shall contain the name, address and certificate number of the said person and the dates when he assumed command and left the craft.

(6) The owner shall produce such record at any time on demand by any officer of the Minister, and any owner who fails to comply with this subsection commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

34. (1) Whenever a change occurs in the registered ownership of a ship registered in Nigeria, the change of ownership shall be endorsed on the certificate of registration by the Registrar at the ship's port of registry, or by the Registrar or appropriate officer at any port at which the ship arrives after the registration officer is advised of the change by the Registrar at the ship's port of registry.

(2) The master shall, for the purpose of an endorsement of the certificate of registration of the ship by the Registrar at the ship's port of registry, immediately deliver the certificate to the Registrar after the change, if the change occurs when the ship is at the port of registry but if the change occurs during the absence of the ship from that port and the endorsement under this section is not made before her return, then, upon her first return to that port.

(3) The Registrar at any port of registry, not being the ship's port of registry, or any appropriate officer required by this section to make an endorsement on the certificate of registration of a ship registered in Nigeria, may require the master to deliver the ship's certificate of registration to him, as long as the ship is not detained; and the master shall deliver the certificate accordingly.

(4) Where any Registrar, not being the Registrar at the ship's port of registry, or any proper officer, makes an endorsement under this section in respect of any ship, he shall forthwith notify the Registrar at the ship's port of registry.

(5) The master of a ship who fails to deliver the ship's certificate of registration to a Registrar or the appropriate officer when required under this section to do so, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(6) where the ownership of any ship registered in Nigeria is changed, the Registrar at the ship's port of registry may, on the application of the owner of the ship, register the ship anew, notwithstanding that a new registration is not required under this Part of this Act.

35. (1) If a ship registered in Nigeria

(a) is actually or constructively lost, taken by the enemy, burnt or broken up; or delivery up of certificate when ship is lost or ceases to be a Nigerian ship;

(b) ceases to be entitled to be registered under this Act by reason of a transfer to a person not qualified to own a registered Nigerian ship; or for any other reason except the transfer of its registry to a port in another country, the owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if notice has not already been given, give notice to the Registrar at the port of registry of the ship.

(2) The Registrar upon receiving notice under subsection (1) of this section, shall make an entry of the notice in the register, and the registration of the ship in that register shall be considered as closed except so far as relates to any unsatisfied mortgage or existing certificate of mortgage entered in it.

(3) Whenever an event under subsection (1) of this section occurs, the master of the ship, except where the ship's certificate of registration is lost or destroyed, shall, if the event occurs in Nigeria or at any port, within ten days of the occurrence, or, if the event occurs elsewhere within ten days after the arrival of the master in Nigeria or at any port, deliver the ship's certificate of registration to the Registrar at the port at which the event occurs or at which the master first arrives after the event or if there is no Registrar at that port to the registrar at the ship's port of registry .

(4) If the event in subsection (1) or (2) of this section occurs at any port outside Nigeria, or if after the event, the master first arrives at any port outside, he shall deliver the ship's certificate of registration to the appropriate officer at the port.

(5) Any owner or master of a ship who fails, without reasonable cause, to comply with the provisions of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira

(6) If a ship's certificate of registration is delivered under subsection (3) of this section to a Registrar who is not himself the Registrar at the ship's port of registry, or to an appropriate officer, that Registrar or an appropriate officer shall immediately forward the certificate to the Registrar at the ship's port of registry.

(7) For the purposes of subsection (1) of this section, a ship shall be deemed to be constructively lost if there is, in respect of that ship, a constructive total loss within the meaning of that expression in the Marine Insurance Act.

36. If a ship ceases to be registered in Nigeria by reason of having been

(a) wrecked or abandoned; or

(b) for any other reason except capture by the enemy; or

(c) transferred to a person not qualified to own a registered Nigerian ship or transfer of its registry to a port in a foreign country, the ship shall not be registered in Nigeria until the ship has, at the expense of the applicant for reregistration, been inspected by a surveyor of ships and certified by the surveyor to be seaworthy.

37. (1) If, at a port in a foreign country, a ship becomes the property of persons qualified to own a registered Nigerian ship and one or more of those persons or the master of the ship authorised to do so by him or them declare to the

appropriate officer at the port an intent to apply to have the ship registered in Nigeria, the appropriate officer may grant to the master of the ship, on application by him, a provisional certificate, in a form approved by the Minister, stating the:

- (a) name of the ship;
- (b) time and place of the purchase of the ship and the names and addresses of the purchasers;
- (c) name of the master; and
- (d) best particulars respecting the tonnage, build and description of the ship which he is able to obtain, and shall immediately forward a copy of the certificate to the Minister.

(2) A provisional certificate granted in accordance with subsection (1) of this section, shall be deemed to be a certificate of registration until the expiry of six months from the date on which it was granted, or until the arrival of the ship at a port in Nigeria, whichever is the earlier date and shall after the arrival of the ship in Nigeria have no effect.

(3) The master of a ship in respect of which a provisional certificate is granted under this section shall, within ten days of the ship's first arrival at a port in Nigeria, deliver the certificate to the Registrar at the port or if there is no Registrar at the port, to the Registrar at the ship's intended port of registry .

(4) Any master who fails to comply with subsection (3) of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

38. (1) Where the Minister is by reason of special circumstances, satisfied that permission be granted for a ship to pass from any port in Nigeria to any other port in a foreign country without being previously registered, the Minister may direct the Registrar to grant a pass in respect of that ship specifying:

- (a) the voyage which the ship is thereby authorised to make; and
- (b) the item for which, and any limits within which, the pass remains valid, the Registrar so directed, shall grant the pass accordingly.

(2) A pass granted under this section shall be in form approved by the Minister; the pass granted under the corresponding provisions of the law of any country other than Nigeria, shall, for the time and within the limits mentioned in the pass have the same effect as a certificate of registration.

- (a) in Nigeria, the Registrar at the port at which the alteration is made, or if there is no Registrar at the port, the Registrar at the ship's port of registry;
- (b) elsewhere, on the ship's first arrival at a port in Nigeria after the alteration, the Registrar or appropriate officer, shall, upon application being made to him and on receipt of a certificate from a surveyor of ships stating the particulars of the alteration cause the alteration to be registered in accordance with the provisions of section 47 of this Act or direct that the ship be registered anew in accordance with the provisions of section 49 of this Act.

(3) Whenever a ship registered in Nigeria is altered as provided in subsection (1) of this section, application to register that alteration shall be made in accordance with the provisions of subsection (3) of this section.

(4) If, the owner of a ship that is altered fails to comply with the provisions



of this section, he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira and in addition to a further fine not less than ten thousand Naira for every day during which the offence continues after conviction.

(5) In this section, "surveyor of ships" includes any person who is, under the law of the country in which the ship is surveyed, qualified to survey ships for the purpose of ascertaining the tonnage of the ships in accordance with the tonnage regulations of that country.

39. (1) Where a Registrar or appropriate officer, on an application as to an alteration in a ship registered in Nigeria, causes the alteration to be registered, the certificate of registration of the ship shall be produced to him and the Registrar or proper officer shall, in his discretion, either retain the certificate of registration and grant a new certificate of registration containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration.

(2) Where any Registrar, not being the Registrar at the ship's port of registry or any appropriate officer grants a new certificate or endorses an existing certificate under this section, he shall immediately send a report of the particulars of the case to the Registrar at the ship's port of registry, containing a statement similar to that contained in the certificate or endorsement, and accompanied, where a new certificate of registration has been granted, by the former certificate of registration.

(3) The particulars of the alteration made in a ship and the fact that a new certificate has been granted or an endorsement has been made, shall be entered in the register by the Registrar at the ship's port of registry .

40. (1) Where a Registrar who is not the Registrar at the ship's port of registry, or any appropriate officer, on an application as to an alteration in a ship registered in Nigeria, directs the ship to be registered anew the Registrar or officer shall grant a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Where a Registrar or appropriate officer grants a provisional certificate or provisionally endorses a certificate under this section, the Registrar or officer shall add to the certificate or endorsement a statement that the certificate or endorsement is made provisionally and send a report of the particulars of the case to the Registrar at the ship's port of registry containing a statement similar to that contained in the certificate or endorsement.

(3) The master of every ship in respect of which a provisional certificate is granted or endorsed under this section shall, within ten days of the ship's first arrival after the grant of the provisional certificate or endorsement at a port in Nigeria, deliver that certificate to the Registrar at the port or if there is no Registrar at that port, to the Registrar at the ship's port of registry.

(4) Any master of a ship who fails to comply with subsection (3) of this section commits an offence and on convictions liable to a fine not less than one hundred thousand Naira.

(5) If, under this section, a ship's certificate of registration is delivered to a Registrar who is not himself the Registrar at the ship port of registry he shall

immediately forward the certificate to the Registrar at the ship's port of registry.

(6) When any ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section first arrives after the grant or endorsement at a port in Nigeria, application for registration of that ship anew shall be made to the Registrar at the ship port of registry, and the other requisites for registration shall be complied with.

(7) The owner of a ship under this section who fails to comply with this section, commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira in addition to a further fine not less than ten thousand Naira for every day during which the offence continues after conviction.

41. (I) When a ship registered in Nigeria is to be registered anew, the Registrar at the ship's port of registry shall proceed as in the case of first registration and on the delivery to the Registrar of the existing certificate of registration and on compliance with the other requisites for registration or if the registration anew is to take place in consequence of a change of ownership, such of the requisites as the Registrar thinks material, the Registrar shall make the registration anew and grant a certificate of the registration.

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

#### Transfer of Registry

42. (1) The registration of any ship registered in Nigeria may be transferred from the existing port of registry to another port of registry in Nigeria on the application by declaration in writing, of all persons appearing on the register to be interested in it as owners or mortgages made to the Registrar at the ship's existing port of registry.

(2) When an application is made under subsection (1) of this section the Registrar shall transmit notice of the application to the Registrar at the intended port of registry, with a copy of all particulars relating to the ship and the names of all persons appearing on the register to be interested therein as owners or mortgages.

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

(4) On the receipt of the certificate of registration and all other particulars relating to a ship under this section, the Registrar at the intended port of registry shall enter in the register, all the particulars and names so transmitted and grant a fresh certificate of registration after which the ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of the ship's former port of registry on the ship's stern.

(5) A transfer under this section shall not affect the rights of any person appearing on the register to be interested in the ship as owner or mortgage, and the rights shall, in all respects, continue in the same manner as if the transfer had not been effected.

43. (1) A Nigerian ship not exceeding 15 tons may be licensed under this Part of this Act; and when licensed, the ship shall be known as a Nigerian licensed ship and be subject to such conditions as the Minister may, from time to time, prescribe.

(2) Every licence in respect of a Nigerian licensed ship shall have stated in it:

(a) that the ship is owned by a person at bad body corporate ordinary resident in Nigeria; and

(b) that license shall become void if the ship, or any share in the ship is transferred, mortgaged or charged to any person or body corporate without the written permission of the Minister.

(3) No Nigerian licensed ship shall proceed outside Nigeria unless express provision to the contrary is contained in the licence of the ship or unless it is necessary to do so due to stress of weather or other cause beyond the control of the master.

(4) A master of a ship who contravenes the provisions of subsection (3) of this section and any person who aids or abets the master, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira and in addition the licence of the ship may be revoked by the Minister.

(5) The Minister may make regulations regarding the licensing of ships and boats and the regulations may specify the manning and the safety and fire fighting equipment required to be carried by the ships, and any other provisions which may appear to the Minister to be necessary for the carrying into effect of this section.

(6) The Licence of a ship and boat shall be renewed annually and upon the payment of such licencing fees as the Minister may, from time to time, by order specify.

#### Forfeiture of Ships

44 (1) Where any ship has either wholly or as to any share therein, become liable to forfeiture under this Part of this Act

(a) any commissioned officer on full pay in any of the armed forces of Nigeria, or any collector of customs, or any appropriate officer;

(b) if the ship is a Nigerian ship, any officer on full pay in any of the armed forces, or any appropriate officer may seize and detain the ship and bring her for adjudication before a court of competent jurisdiction.

(2) Where a ship is brought before a court, whether by an officer or a collector of customs as is mentioned in subsection (1) of this section or by any other officer or official acting in accordance with the law, the court subject to subsection (4) of this section shall adjudge the ship and may order that the ship with the ship's tackle, apparel and furniture be forfeited to the Government of Nigeria, and may make such other order as the court deems just.

(3) An officer or a collector of customs mentioned in this section shall not

be held responsible civilly or criminally in respect of any seizure or detention under this section notwithstanding that the ship has not been brought in for adjudication or if so brought in, is declared not liable to forfeiture, if it is shown to the satisfaction of the court before which any trial relating to the ship or seizure or detention is held that there were reasonable grounds for the seizure or detention.

(4) If a court before which a ship seized or detained is brought, finds out that there were no reasonable grounds for the seizure or detention of the ship under this section, the court may award costs and damages to the party aggrieved, and make such other order in the circumstance as the court thinks just.

**Incapacitated Persons.**  
45. (1) If by reason of infancy, mental disorder or defect or any other cause a person interested in a ship or share in a ship is incapable of making any declaration or doing any act required or permitted by this Part of this Act to be made or done in connection with the registration of the ship or any share in the ship:

(a) the legal guardian or representative of the person; or

(b) the committee, manager or administrator or any person appointed by a court of competent jurisdiction on application made on behalf of the incapable person or of any other person interested, may make that declaration or a declaration as nearly corresponding to it as the circumstances permit, and do that act in the name and on behalf of the person.

(2) Any act done by the appropriate representative under subsection (1) of this section shall be as effectual as if done by the person for whom he acted.

#### **Trusts and Equitable Rights**

46. (1) No notice of any trust, express, implied or constructive shall be entered in any register or received by any Registrar at a port of registry in Nigeria.

(2) Subject to the provisions of this part of this Act and subject to any rights and powers appearing by the register to be vested in any other person, the registered owner of a ship registered in Nigeria, or any share in the ship, has power absolutely to dispose of the ship or share in the manner provided in this part of this Act, and to give effectual receipts for any money paid or advanced by way of consideration.

47. (1) An interest arising under a contract or any other equitable interest may be enforced by or against the owner and mortgages of a ship in respect of their interests in the ship, in the same manner as in respect of any other personal property without prejudice to:

(a) the provisions of this Act for preventing notice of trusts from being entered in the register or received by the registrar;

(b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgages;

(c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of ships registered in Nigeria.

(2) Where a person is beneficially interested otherwise than by way of mortgage, in a ship registered in any foreign country or any share in the ship,

and the ship or share is registered in the name of any other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this Act or any other Act on the owner of a ship or share in a ship and proceedings may be taken for the enforcement of any such penalties against both or either of the persons with or without joining the other.

(3) In this Part of this Act:

"beneficial interest" includes interests arising under contract and other equitable interests.

Declarations, etc.

48. Where a person is required to make a declaration under this part of this Act on behalf of himself or any corporation and produce any evidence to the Registrar, and it is shown to the satisfaction of the Registrar that for a reasonable cause the person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Minister, and on the production of any such other evidence and subject to such terms as the Minister thinks fit, dispense with the declaration or evidence.

49. (1.) A. declaration required by this part shall be made before any Notary Public or Commissioner for Oaths

(2) A declaration required by this Part may be made on behalf of a corporation by the Secretary or by any other officer of the corporation authorised by the corporation for the purpose.

50. (1) Any register under this part and any declaration made in pursuance of this Part in respect of a ship shall be admissible in evidence.

(2) A copy or transcript of the register of ships kept by the registrar of ships at any port of registry in any foreign country, or a copy or transcript of any master register of ships kept under the authority of the Government of the foreign country shall be admissible in evidence and have the same effect to all intents as the original register of which it is a copy or transcript.

51. (1) A Registrar shall not be compelled without the special direction of the Minister, to receive and enter in the register any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or share or interest in the ship made in any form other than that for the time being required under this Part of this Act or which contains any particulars other than those contained in that form.

(2) The Minister may, for the carrying into effect of this Part of this Act, give such instructions as he thinks fit to the Registrar 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 referring to him of any question involving doubt or difficulty; and
- (e) generally, any act or thing to be done in pursuance of this part of this Act.

52. (1) Every person who:

- (a) forges or fraudulently alters or assists in forging or fraudulently altering; or
- (b) procures to be forged or fraudulently altered, any register, builder's

certificate surveyors tonnage certificate, certificate of registry, declaration, bill of sale, instrument of mortgage or certificate of sale or mortgage under this Part of this Act, or any document signifying the Minister's consent to any transaction under this Part, or any entry or endorsement required by this Part to be made in or on any of those documents, commits an offence.

(2) A person who, in the case of any declaration made in the presence of, or produced to, a Registrar or an appropriate officer under this Part of this Act, or in any document or other evidence produced to a Registrar or an appropriate officer:

(a) willfully makes or assists in making or procures to be made, any false statement concerning the title to or ownership of or the interest existing in any ship or any share in the ship; or

(b) utters, produces or makes use of any declaration or document containing any false statement, knowing the same to be false, commits an offence.

(3) A person who willfully makes a false declaration touching the qualification of himself or of any other person or of any corporation to own a registered Nigerian ship or any share in the ship, commits an offence and the ship or share shall be liable to forfeiture under this Act to the extent of the interest of the declarant in the ship unless it is proved that the declaration was made without authority of that other person or corporation on behalf of whom the declaration is made.

(4) Any person who commits an offence under this section is on conviction liable to a fine of not exceeding two hundred thousand Naira or to imprisonment for a term not less than two years or to both.

#### PART IV MORTGAGES

53. (1) A ship registered in Nigeria, or a share in the ship may be made a security for a loan or other valuable consideration, and there shall be a proper written instrument creating the security (in this Part of this Act referred to as "a mortgage").

(2) Where a mortgage on a ship is produced to the Registrar at the ship port of registry, the Registrar shall record the mortgage in the register.

(3) Mortgages shall be recorded by the Registrar in the order in which they are produced to the Registrar for that purpose and the Registrar shall endorse and sign a memorandum on each mortgage, stating the date and time of the record.

54. (1) the mortgagor shall before executing any mortgage disclose in writing to the mortgages the existence of any maritime lien, prior mortgage, or other liability in respect of the ship to be mortgaged and of which the mortgagor is aware.

(2) If a mortgagor under subsection (1) of this section fails to comply with this section, the mortgage debt shall, at the election of the mortgage holder, become immediately due and payable, notwithstanding anything to the contrary in the mortgage.

55. If a mortgage is discharged, the Registrar shall, on the production of the mortgage and a receipt for the money endorsed on the mortgage duly signed and

attested, make an entry in the register to the effect that the mortgage has been discharged and on the entry being made, the estate if any, which passed to the mortgage 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.

56. (1) If there are more mortgages than one registered in respect of a ship or share, the Priority of mortgages shall, notwithstanding any express, implied or constructive notice, be entitled mortgages in priority one over the other, according to the date on which each mortgage is recorded in the register and not according to the date of each mortgage itself.

(2) A registered mortgage of a ship or share in the ship shall not be affected by any act of "bankruptcy committed by the mortgagor after the date of the record 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 the reputed owner of the ship and the mortgage shall be preferred to any right, claim or interest in the ship of the other creditors of the bankruptcy, or of any trustee or assignee in their behalf.

57. (1) Except as may be necessary for making a mortgaged ship or share in the ship available as powers or a security for the mortgage debt, the mortgages shall not, by reason of the mortgage, be mortgages deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner of the ship.

(2) Every registered mortgagee has power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but, where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the consent of every prior mortgagee.

58. (1) A registered mortgage of a ship registered in Nigeria or a share in the ship may be transferred to any person.

(2) On the production of an instrument effecting a transfer of mortgage and of the mortgage to which it relates, the Registrar shall record the transfer by entering in the register, the name of the transferee as the mortgagee of the ship or share, and shall endorse and sign on the mortgage and on the instrument effecting the transfer, a memorandum stating that the transfer has been recorded by the Registrar and the date and time of the record.

59. (1) If the interest of a mortgagee in a ship registered in Nigeria, or any share in the ship is transmitted to any person on the death or bankruptcy of the mortgagee, or by any lawful means, other than by a transfer under this Part of this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

(2) A declaration made under this section shall:

(a) be in a form approved by the Minister;

(b) contain a statement of the manner in which, and the person to whom, the property has been transmitted; and

(c) be accompanied by such evidence as is required by this Part of this

Act in the case of a corresponding transmission of the ownership of a ship or share in a ship.

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

#### Mortgages and Transfer of Nigerian Ships out of Nigeria

60. (1) If a registered owner of a ship registered in Nigeria or a share in the ship is desirous of disposing by way of sale or mortgage of the ship or share in it at any place out of Nigeria, he may make application, by declaration in writing, to the Registrar at the ship's port of registry.

(2) In an application under subsection (1) of this section, the registered owner shall set out:

(a) the name and address of the person in whose favour the application for sale or mortgage is made, together with;

(i) in the case of a sale, the minimum price at which the sale is to be made, if it is intended to fix any such minimum, or

(ii) in the case of a mortgage, the maximum amount of the mortgage, if it is intended to fix any such maximum;

(b) the place where the power is to be exercised, or if no place is specified, a declaration that the power may be exercised anywhere subject to the provisions of this Act;

(c) the limit of time within which the power may be exercised.

(3) In the case of an application to dispose of a ship by way of sale, under subsection (1) of section 62 of this Act, the Registrar shall enable the applicant to dispose of the ship or share in the manner desired in accordance with subsection (4) of this section.

(4) The Registrar shall enter in the register, a statement of the particulars set out 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 a form approved by the Minister for the purpose;

(b) not authorise any sale or mortgage to be made in Nigeria, or by any person not named in the certificate; and

(c) contain a statement of the particulars set out in the application, and a statement of any registered mortgages and certificates of sale or mortgage affecting the ship or share in respect of which the certificate is given. \_

(6) Any document purporting to signify the consent of the Minister to the grant certificate of sale and purporting to be signed by the Minister or any person authorized by him for the purpose, shall be admissible in evidence.

61. (1) The power conferred in a certificate of mortgage shall be exercised in conformity with the directions contained in the certificate.

(2) Every mortgage made under a certificate of mortgage shall be registered by the endorsement of a record of the mortgage on the certificate by the appropriate officer at the place at which the mortgage is made.



(3) A mortgage made in good faith under a certificate of mortgage shall not be impeached by reason of the death of the person by whom the power was given before the making of the mortgage.

(4) Whenever a certificate of mortgage contains a specification of the place at which a limit of time not exceeding twelve months within which the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given

(5) Every mortgage which is registered as prescribed in subsection (2) of this section 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 and if there more mortgages than one registered, the respective mortgages claiming under certificate shall, notwithstanding any express, implied or constructive notice be entitled one before the other according to the date at which each mortgage, is registered on the certificate and according to the date of the mortgage.

(6) Subject to the rules set out in this section, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as the mortgagee would have had and been subject to if his mortgage had been registered in the register instead of on the certificate:

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

(8) On the delivery of any certificate of mortgage to the Registrar by whom it was granted, the Registrar shall, after recording in the register in such manner as to preserve its priority, any unsatisfied mortgage registered on the certificate cancel the certificate and enter the fact of the cancellation in the register and every certificate so cancelled shall be void.

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

63. (1) The registered owner of a ship registered in Nigeria, or a share in the ship in respect of which a certificate of sale or mortgage has been granted, specifying the places where the power given by the certificate is to be exercised,

may, by an instrument under his hand, authorized the Registrar by whom the certificate was granted to give notice to the appropriate officer at every such place that the certificate is revoked.

(2) The Registrar shall, upon being authorised in subsection (1) of this section, give the required notice and the appropriate officer shall record the notice upon receiving it and after it is recorded, the certificate shall be deemed to be revoked in respect of any sale or mortgage which may be made after that in the place.

#### PART V CERTIFICATES OF SALE

64. (1) A certificate of sale of a ship shall not be granted under this Act except

(a) for the sale of an entire ship; and

(b) upon an application, made by declaration in writing by all persons appearing on the register to be interested in the ship, as owners or mortgagees of the ship.

(2) The power conferred by a certificate issued under this Act shall be exercised in conformity with the directions contained in the certificate.

(3) A sale made in good faith in exercise of the power conferred by a certificate issued under this Act to a purchaser for valuable consideration shall not be impeached by reason of the death of the person who gave the power before 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 of the person by whom the power was given.

65. (1) If a ship registered in Nigeria is sold in exercise of a power conferred by a certificate of sale granted under this Part of this Act to persons qualified to own a registered Nigerian ship

(a) a transfer of the ship shall be made by a 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 the appropriate officer at the place at which the ship is sold, and that officer shall, upon the production, endorse and sign on the certificate of sale a memorandum of the fact of the sale of the ship and shall immediately notify the Registrar at the ship's port of registry;

(b) the ship shall be registered anew in Nigeria in the manner provided by this Part of this Act or in any other country in the manner provided by the law of that country; and .

(c) the Registrar at the ship's former port of registry in Nigeria, upon receipt from the Registrar at the port at which the ship is registered a new certificate of sale and the ship's former certificate of registration on each of which is endorsed an entry of the fact of the sale, shall enter the sale of the ship in the register and the registration of the ship in that Register shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered in the register.

(2) If a ship registered in Nigeria is sold in exercise of a power conferred by a certificate of sale, granted under this Part of this Act, to persons not qualified

to own a registered Nigerian ship:

(a) the certificate of sale and the certificate of registration shall be produced to the appropriate officer at the place at which the ship is sold and the officer shall retain those certificates and endorse and sign on each of the certificate a memorandum of the fact that the ship had been sold to persons not qualified to own a registered Nigerian ship;

(b) the appropriate officer making the endorsements required by paragraph (a) of this subsection shall forward the certificates of sale and registration, each being duly endorsed, to the Registrar at the ship's port of registry;

(c) the Registrar at the ship's port of registry, upon receipt of the certificates of sale and registration each being endorsed in accordance with paragraphs (a) and (b) of this subsection, shall make an entry of the sale in his register and the registration of the ship shall be considered as closed, except as far as it relates to any unsatisfied mortgages or existing certificate of mortgage entered in the register; and

(d) if default is made in the production of the certificates mentioned in this subsection, the persons to whom a 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 thereby, commits an offence under this Act and on conviction is liable to a fine not less than one hundred thousand Naira.

(3) If no sale is made in exercise of the powers conferred by a certificate of sale granted under this part of this Act, that certificate shall be delivered to the Registrar by whom it was granted, and that Registrar shall upon the delivery to him of the certificate cancel the certificate and enter the fact of the cancellation in the register and every certificate so cancelled shall be void.

#### PART VI MARITIME LIENS

66. The following claims shall be secured by maritime liens on the ship

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

(b) disbursements of the master on account of the ship;

(c) claims in respect of loss of life or personal injury occurring whether on land or on water in direct connection with the operation of the ship;

(d) claims for salvage, wreck removal and contribution in general average;

(e) claims for ports, canal and other waterways, dues and pilotage dues.

67. The maritime liens listed in section 67 have priority over mortgages and preferential rights registered under this Act or which arise under the law relating to bankruptcy or any other law and no other claim shall have priority over the maritime liens listed except as provided in this Act.

68. (1) The maritime liens listed in section 67 of this Act, shall rank in the order in which they appear in that section except that the liens contained in section 67

(1) (d) take priority over all others if the others were registered prior to the time when the operations giving rise to the liens contained in the said section 67 (1)

(d) were performed.

(2) Claims for contribution on general average shall be deemed to have accrued on the date on which the general average act was performed and claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

69. (1) Notwithstanding any other law relating to the priority of liens, the liens or right of retention which-

(a) a shipbuilder may have to secure claims for the building of the ship;

(b) a ship repairer may have to secure claims for the repairs of the ship, shall be postponed to all maritime liens set out in section 67 of this Act, but may be preferred to registered mortgages or preferential rights as long as the ship remains in his possession.

(2) For the purpose of this Act the liens or right of retention referred to in subsection (1) of this section is extinguished where the ship builder or ship repairer ceases to be in possession of the ship.

70. (1) The maritime liens set out in section 67 of this Act arise whether then claims secure by the liens are against the owner or against the demise or other charterer, manager or operator of the ship.

(2) Subject to the provisions of section 75 of this Act, the maritime liens securing the claims set out in section 67 of this Act, remain attached to the ship notwithstanding any change of ownership or of registration of the ship.

71. No maritime lien which arises out of or results from oil pollution or the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive product or waste shall attach to a ship for the purpose of securing any claims set out in section 67 (1) (c) of this Act.

72. The maritime liens set out in section 67 of this Act, shall be extinguished after a period of one year from the time when the claims secured by the liens arose, unless prior to the expiry of the period the ship was arrested and the arrest led to proceedings for a forced sale.

73. Prior to the forced sale of a ship, the court shall cause at least thirty days written notice of the time and place of the sale to be given to-

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

(b) the holders of registered mortgages and right issued to the bearer and to the holder of the maritime liens set out in section 67 of this Act, whose claims have been notified to the officers;

(c) the Registrar of ships.

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

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

75. The costs awarded by a court and arising out of the arrest and subsequent sale of a ship proceeds of sale and the distribution of the proceeds shall first be paid out of the proceeds of the sale and the balance shall be distributed among

the holders of:

- (a) maritime liens under section 67 of this Act;
- (b) preferential rights under section 70 of this Act; and
- (c) mortgages and other preferential rights registered under this part of this Act, in accordance with the provisions of this part of this Act and to the extent necessary to satisfy the claims of the holders.

76. (1) Where a ship registered in any foreign country has been the subject of a forced sale in Nigeria and the proceeds of the forced sale have been distributed in accordance with section 76 of this Act, the court shall, at the request of the purchaser, having ascertained that the provisions of this Part of this Act have been complied with, cause to be issued, a certificate to the effect that the ship is sold free of all mortgages and all liens and other encumbrances, except those assumed by the purchaser.

(2) upon production by the purchaser of a ship under subsection (1) of this section, of a certificate described in that subsection relating to any ship registered under this Act, the Registrar shall delete all registered mortgages and other preferential rights except those assumed by the purchaser and register the ship in the name of the purchaser or issue a certificate of de-regulation as the case may be.

#### PART VII TRANSFERS AND TRANSMISSIONS

77. (1) Where a ship or any share in the ship registered in Nigeria is disposed of to persons qualified to own a registered Nigerian ship, they shall be transferred by a bill of sale.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's tonnage certificate or other description sufficient to identify the ship to the satisfaction of the Registrar, and shall be in such form as may be approved by the Minister and executed by the transfer or in presence of one witness shall add his occupation and address after his signature.

78. (1) Where a ship registered in Nigeria or any share in the ship, is transferred, the transferee shall not be registered as owner of his ship or share until he or in the case of a corporation, the person authorized by this Act to make declarations on behalf of the corporation, makes and signs a declaration referring to the ship, (in this Part referred to as a "declaration of transfer").

(2) A declaration of transfer shall be in the form approved by Minister.

(3) Every bill of sale for the transfer of a ship registered in Nigeria, or a share in the ship shall, when duly executed, be produced to the Registrar at the ship port's of registry, with the declaration of transfer ; and the Registrar shall upon the production, enter in the register the name of the transferee as the owner of that ship or share, and shall endorse on the bill of sale the fact that the entry has been made, with the date and time of the entry.

(4) Bills of sale of ship, or of a share in the ship shall be entered in the register in the order of their production to the Registrar.

79. (1) When the property in a ship registered in Nigeria, or any share in the ship, is transmitted to a person qualified to own a registered Nigerian ship on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act:

(a) the person shall authenticate the transmission by making in a form approved by the Minister and by signing a declaration (in this part referred to as a “declaration of transmission”) statement for the share required to be contained in the declaration of transfer or as near to it as circumstances permits and also a statement of the manner in which, and the person to whom, the property has been transmitted;

(b) the declaration of transmission shall, if the transmission is consequent on death be accompanied by a grant of probate or letters of administration in the estate of the deceased owner, proof of survivorship to the satisfaction of the Registrar; and

(c) the declaration of transmission shall, if the transmission is consequent on bankruptcy, be accompanied by such evidence as is for the time being receivable in court in Nigeria as proof of the title of persons claimed under a bankruptcy.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall:

(a) enter in the register the name of the person entitled under the transmission as owner of the share in the ship the property in which has been transmitted; and

(b) where there is more than one person entitled, enter the names of all those persons, but those persons however numerous shall, for the purpose of ownership in the register be considered as one person.

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

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

(3) Every application for sale under this section, shall be made within thirty days after the occurrence of the event on which the transmission took place, or within such further time, not exceeding one year from the date of the occurrence, as the court may allow.

81. When court of competent jurisdiction, whether under this Act or otherwise, orders the sale of any ship or share in the ship, the order shall contain a declaration vesting in a person named in the order, the right to transfer that ship or share; and the person so named shall upon receiving the right to be entitled to transfer the ship or share in the same manner and to the same extent as if the person were the registered owner of the ship or share and every Registrar shall obey the requisition of a person so named as if that person were the registered owner.

**PART VIII CERTIFICATE OF COMPETENCE OF MASTERS AND**

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82. (1) The Minister may make such regulations as he considers necessary or expedient for the manning requirements for Nigerian ships, qualifications of officers and seamen of the ships and for matters connected with the manning and qualification and without prejudice to the generality of such powers, the Minister may make regulations:

- (a) determining the categories of Nigerian ships by reference to their tonnage capacity, the nature of their cargo and the trading areas or voyages in which they are engaged;
- (b) with respect to the manning requirements in relation to such classes or description of ships as may be prescribed, trading in such areas as may be prescribed; and in particular requiring ships to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations;
- (c) prescribing conditions as to the nationality of a person for service on board a Nigeria ship or any ship engaged in local trade in Nigeria waters;
- (d) requiring that in any case a ship shall be under the charge of a properly certificated master and that watches at sea and in port shall always be kept by appropriately qualified officers;
- (e) requiring officers and seamen and other person performing prescribed functions in relation to the operation and maintenance of ships to be holders of certificates of competency, proficiency, qualification, authorization or otherwise and to satisfy such other conditions as may be prescribed, including conditions as nationality and providing for the grant, revocation, extension, validation, suspension, endorsement or variation and the form and recording of the certificates.
- (f) relating to the holding and conduct of examinations for the certificates, the qualifications of candidates for such examinations and the qualifications of the examiners and the appointment, removal, re-appointment and the remuneration of the examiners, the fees for the examinations, and all such matters as the Minister may think necessary or expedient for the purpose of such examinations;
- (g) providing for the exemption of a persons with prescribed qualifications or experience from the whole or parts of examinations for the certificates;
- (h) providing for the programmes of training and the curricula of study to be followed in the training of seafarers;
- (i) providing for the establishment, maintenance and operation of schools for the training of persons for certification as seafarers, and designating, from time to time, of institutions recognized or affiliated places of training;
- (j) prescribing the manner in which enquiries may be instituted before a tribunal appointed under this Act, the procedure to be followed in the conduct of such proceedings and matters incidental to or consequential on the proceedings;
- (k) prescribing medical examinations, hours of work, safe working conditions and any other matters which may be, or is required by this Act to be

prescribed.

(2) Regulations made pursuant to subsection (1) of this section may, in respect of the breach of any provisions of the Regulations provide penalties not less than one hundred thousand Naira or imprisonment for term not exceeding two year or both.

83. The Minister may exempt any ship or class of ships from the requirements of any regulation made under Section 83 of this Act and the exemption shall be confined to a particular period or to one or more particular voyages.

84. (1) The Minister may approve in writing, a certificate of competency issued in accordance with any law in force in such country as may be prescribed, and any certificate so approved shall remain approved as long as it remains valid in that country .

(2) Where a person holding a certificate referred to in subsection (1)of this Section is desirous of serving on a Nigerian Ship as Master, Deck Officer or Engineer, the Minister may direct that the person:

(a) where he is a citizen of Nigeria, be granted a certificate of equivalent grade under this Act;

(b) where he is not a citizen of Nigeria, be issued with a licence, authorising that person to serve on a Nigerian ship in the same capacity as if the certificate had been granted under this Act, subject to such conditions as the Minister may impose.

(3) A licence issued under subsection (2) of this Section, shall:

(a) during the currency of the licence have the same force as a certificate of competency granted under this Act and may be cancelled or suspended for like reason;

(b) be valid for a period of five years from the date of issue, and may be renewed upon such conditions as may be prescribed by the Minister.

85. The Minister may from time to time appoint a Tribunal of Inquiry of not less than three or more than five persons at least one of whom shall be a Ship I S Senior Officer, to enquire in accordance with such provisions as may be prescribed, into any question whether a seafarer:

(a) is suffering from any habit or any mental or physical condition which renders him unfit to be a seafarer;

(b) is guilty of dishonesty; incompetence or misconduct in the performance of his functions as a seafarer;

(c) procured his certificate of competency as a result of any misleading, false or fraudulent misrepresentation and the Tribunal appointed pursuant to this Section shall, in respect of the matter enquired into, make such recommendations as it thinks fit to the Minister.

86. Where a Tribunal holding a formal investigation under this Act, into a shipping casualty [finds that loss of life or loss or abandonment of, or serious damage to, any ship has been caused by the wrongful act or default of a seafarer who holds a certificate issued or approved under this Act, the Tribunal may recommend to the Minister that the certificate be cancelled or suspended, or that the approval be withdrawn, as the case may be.

87. The Minister, acting on a recommendation made by a Tribunal under this



Act, and consequent on conviction of a seafarer for such offence as may be prescribed by instrument in writing may:

- (a) cancel or suspend a certificate and order that it be surrendered at such place and within such time as the Minister may direct; or
- (b) withdraw the approval indefinitely or for such temporary period as the Minister may specify in the instrument.

88. (1) Any person who is aggrieved by an order of the Minister under Section 88 of this Act, cancelling or suspending a certificate, or withdrawing an approval under this Act, may, subject to subsection (3) of this Section, appeal to the court against the order within such time and in such manner as may be prescribed.

(2) The court may:

- (a) dismiss the appeal and confirm the order; (b) allow the appeal and set aside the order;
- (c) vary the order as it thinks fit; and
- (d) where the matter had been enquired into by a Tribunal, allow the appeal and direct that the matter be re-heard by the same Tribunal or by another tribunal appointed under Section 86 of this Act.

89. (1) A person who:

(a) serves as a seafarer on board a Nigerian ship without being the holder of a valid certificate appropriate to the category in which he is engaged to serve; or

(b) on his own account or acting in the capacity of an agent, engages any person as a seafarer without taking all necessary steps to ascertain whether the person is the holder of a valid certificate appropriate to that category, commits an offence under this Act and on summary conviction is liable to a fine not exceeding twenty-five thousand Naira or to imprisonment for a term not less than two years or to both.

(2) For the purpose of paragraph (b) of subsection (1) of this Section, where it is established that a seafarer is engaged to serve in any category without being the holder of a valid certificate appropriate to that category, the onus shall be on the person who engaged that seafarer to prove that he has taken all necessary steps to ascertain that the seafarer was at the time when he was engaged, the holder of a valid certificate appropriate to the capacity in which he is engaged to serve.

(3) A person who:

(a) makes or procures or assists in making any false representation for the purpose of obtaining for himself, or for any other person any certificate or any certified copy of the certificate; or

(b) forges, assists in forging or procures the forging of the certificate or copy of the certificate;

(c) fraudulently alters or assists in the fraudulent alteration of the certificate or copy, or procures it to be fraudulently altered; or

(d) fraudulently makes use of any certificate or copy of the certificate

that is forged, altered, cancelled, or suspended or to which he is not entitled; or

(e) fraudulently lends his certificate to, or allows it to be used by any

other person; or

(f) makes or has in his possession any document so closely resembling the certificates as to be calculated to deceive, commits an offence and is liable on summary conviction to a fine not less than twenty-five thousand Naira or to imprisonment for a term not exceeding two years, or to both.

(4) A person who:

(a) not being the holder of a valid certificate; or

(b) during a period when his certificate is suspended or approval of his certificate is withdrawn, as the case may be, takes or uses any title, addition or description implying or calculated to lead persons to believe that he is entitled to serve as a seafarer on a Nigerian Ship commits an offence and on conviction, is liable to a fine not less than twenty thousand Naira or to imprisonment not exceeding one year or to both.

(5) Any seafarer who, without reasonable cause, fails to comply with a direction of the Minister to surrender his certificate commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

#### PART IX EMPLOYMENT OF SEAMEN

90. (1) There shall be established an office to be known as Seafarer Services Office which shall have in other places Seafarer Services Sub-Offices at which shall be conducted all the business as within Nigeria, connected with the engagement and discharge of seamen on board Nigerian ships.

(2) There shall be appointed an officer of Seamen and such other officers as may be necessary for service in the Office or sub-Offices.

(3) Any act done by or to or before, any other officer pursuant to subsection (2), within the powers conferred upon him by the superintendent of Seafarer Services Office shall have the same effect as if done by, to or before the superintendent.

(4) No seaman shall:

(a) except with the approval of the Seafarer Services Office, be engaged to do duty on board a Nigerian or foreign ship provided that in the case of a foreign ship seamen may be engaged before a Consular Officer resident in Nigeria representing the flag of the foreign ship;

(b) be engaged to do duty on board any Nigerian ship unless the Seaman has produced to the superintendent a certificate of discharge from the seaman's last ship or failing production of the certificate the seaman has given a satisfactory explanation to the superintendent of the cause of the nonproduction.

(5) Any person who without reasonable cause engages a seaman in contravention of this section commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

91. The functions of the superintendent are to:

(a) conduct any business connected with the engagement and discharge of all persons who serve on board Nigerian ships and all seamen who are citizens of Nigeria and serve on foreign ships;

(b) afford facilities for engaging and discharging seamen by keeping registers of the names and conduct of:

(i) seamen who apply to him for engagement;

- (ii) seamen shipped or discharged by him;
- (iii) seamen who produce continuous discharge certificates in proof of service in foreign or Nigerian Ships;
- (iv) seamen who serve in Nigerian Ships;
- (c) cause copies of the certificates referred to in paragraph (b) (iii) to be kept at his office;
- (d) perform such other duties relating to seamen, apprentices and ships as are by or in pursuance of this or any other enactment relating to shipping entrusted to him.

#### Agreements for Sea Service

92. (1) The Minister may make regulations relating to the making of agreements between the master and crew of a Nigerian ship.

(2) The master of every Nigerian ship, except a ship of less than 80 tons exclusively employed in trading within such limits as may be prescribed, shall enter into an agreement, in accordance with this part of this Act, with every seaman whom he carries to sea from any port in Nigeria.

(3) The master in the case of a foreign ship, and the owner and master in the case of any other ship or a Nigerian ship, who carries any seaman to sea without entering into an agreement with the seamen in accordance with this part, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

93. (1) An agreement made by the Master of a ship with a crew member shall be in the prescribed form and shall be dated at the time of the signature of the agreement and signed by the master before the crew member signs same.

(2) The agreement made under subsection (1) of this Section, may be for a definite period or for a voyage or for an indefinite period and shall state clearly the respective rights and obligations of each of the parties.

(3) An agreement under this section shall contain the:

- (a) surname and other names of the seaman, the date of his birth or his age and his birth place;
- (b) place at which and date on which the agreement was completed;
- (c) name of the vessel or vessels on board which the seaman undertakes to serve;
- (d) nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (e) number and description of the crew, specifying how many are engaged as sailors;
- (f) the capacity in which the seaman is to serve;
- (g) time at which the seaman is to be on board or to begin work;
- (h) welfare and necessities of life for good health provided for each seaman;
- (i) wages which the seaman is to receive;
- (j) termination of the agreement and the conditions for the termination of the agreement such as:

- (i) if the agreement was made for a definite period, the date fixed for its expiration;
- (ii) if the agreement was made for a voyage, the port of destination and the time which has to expire after arrival of the ship before the seaman is discharged;
- (iii) if the agreement was made for an indefinite period, the conditions which entitle the parties to rescind the agreement as well as the required period of notice for rescission; so however that the period shall not be less for the ship owner than for the seaman;
- (k) the annual leave with pay granted to the seaman after one year's service with the same shipping company;
- (1) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishment for misconduct which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt.

94. An agreement entered into for a voyage, for a definite period, or for an indefinite period shall be duly terminated by:

- (a) the mutual consent of the parties;
- (b) the death of the seaman;
- (c) the loss or total unseaworthiness of the vessel;
- (d) any other circumstance that may be provided by law.

95. (1) The special provisions in this section shall have effect with respect to the agreements made in Nigeria with the crew of sea-going ships.

(2) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of the superintendent.

(3) The superintendent shall cause an agreement under this section to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the agreement before the seaman signs it and the superintendent shall attest to each signature of the seamen.

(4) When the crew is first engaged, an agreement under this section shall be signed in duplicate, and one part retained by the superintendent, and the other shall be delivered to the master and shall contain a special place for the descriptions and signatures of substitutes or persons engaged subsequent to the first departure of the ship.

(5) When a substitute is engaged in the place of a seaman who duly signed the agreement made before the superintendent and whose services are, within twenty-four hours before the ship puts to sea, lost by death desertion or other unforeseen cause, the master shall before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall upon the agreement being read to him sign the agreement in the presence of a witness, and the witness shall attest to the signature of the substitutes.

(6) The agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages and any agreement so extended shall be referred to as a "running agreement".

(7) A running agreement shall not be for a period longer than six months, or the first arrival of the ship at the ship's port of destination in Nigeria after the expiration of that period, or the discharge of cargo consequent on the arrival.

(8) on every return to a port in Nigeria before the final termination of a running, agreement, the master shall make an endorsement on the agreement as to the engagements or discharges made or intended to be made before the ship leaves port or that all those made were made as required by law.

(9) A master who willfully makes a false statement in an endorsement referred to in subsection (8) of this Section commits an offence and on conviction is liable to a penalty not less than one hundred thousand Naira.

(10) The master of the ship shall deliver the running agreement endorsed to the superintendent, who shall, if the provisions of this part relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

96. (1) The provisions of this section shall have effect with respect to an agreement made with the crew of a ship in Nigeria other than a sea-going ship, for which an agreement with the crew is required in this part of this Act.

(2) An agreement under this section may be made for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the nature of the service shall be specified in the agreement.

(3) The crew or individual seamen shall be engaged before the superintendent in the same manner as they are required to be engaged for seagoing ships.

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

(5) An agreement shall not be for a longer period than six months, or the first arrival of the ship at her final port of destination in Nigeria after the expiration of the period, or the discharge of cargo consequent on the arrival.

(6) The owner of a ship or his agent may enter into a time agreement in the prescribed form with a seamen to serve in anyone or more ships belonging to the owner and the agreements may not necessarily expire at the time of the ship's agreement with the crew.

97. (1) The fees payable upon an engagement and a discharge shall be as prescribed by the appropriate authority.

(2) The superintendent shall cause a scale of the fees, together with a copy of this section to be conspicuously exhibited in the Seafarer Services Office and may require the payment of the fees before proceeding with any engagement or discharge.

(3) The master of a ship who engages or discharges any seaman at the Seafarer Services Office shall pay to the superintendent the whole of the prescribed fees.

98. (1) The master of every sea-going ship whose crew was engaged before the superintendent shall, before finally leaving Nigeria, sign and send to the nearest superintendent, a full and accurate statement in the prescribed form, of every

change which takes place in his crew before finally leaving Nigeria, and that statement shall be admissible in evidence.

(2) A master who fails without reasonable cause to comply with the provisions of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

99. (1) In the case of a sea-going Nigerian ship, on the due execution of an agreement with the crew in accordance with this part of this Act, and where the agreement is a running agreement, in compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement with the provisions of this part respecting that agreement, the superintendent shall grant the master of the ship a certificate to that effect.

(2) The master of every sea-going Nigerian ship shall, before proceeding to sea, produce to the superintendent the certificate granted him under subsection (1) of this Section and any such ship may be detained until the conditions precedent to the grant of the certificate exist.

(3) The master of every sea-going Nigerian ship shall, within forty-eight hours after the ship's arrival at the ship's final port of destination in Nigeria or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the superintendent and the superintendent shall give the master a certificate of the delivery.

(4) A master of a ship who fails, without reasonable cause to deliver the agreement with the crew to the superintendent commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

100.(1) The owner or master of a Nigerian ship, which is not a sea-going ship shall, within twenty-one days after expiration of an agreement with the crew or within forty-eight hours of the ship's next arrival in Nigeria, whichever first happens, deliver or transmit the agreement to the superintendent in Nigeria.

(2) The superintendent, on receiving an agreement under subsection (1) of this Section, shall give the owner or master of the ship a certificate to that effect, and the ship may be detained until the conditions precedent to the grant of the certificate exist.

(3) Any such owner or master who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not less than twenty thousand Naira.

101.(1) The master of every Nigerian ship to which the provisions of section 93 of this Act apply, shall at the commencement of any voyage or engagement, cause a legible copy of the agreement with the crew without the signatures of the crew to be posted up in a part of the ship which is accessible to the crew.

(2) Any master who fails, without reasonable cause, to comply with this section commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

102.(1) A person who fraudulently alters, makes any false entry in or delivers a false copy of any agreement with the crew to the superintendent commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira, or to imprisonment for a term not less than two years or both.

(2) A person who assists in committing, or procures to have committed any offence under this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira or to imprisonment for a term not less than two years, or both.

103. Every erasure, interlineation or alteration in any agreement with the crew, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or the alteration by the written attestation of the superintendent or appropriate officer.

104. In any legal or other proceedings, a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case without producing, or giving notice to produce, the agreement or any copy of the agreement.

#### Agreement with Local Seamen

105. (1) Where in the case of seamen engaged in Nigeria who are nationals of or are domiciled in Nigeria it is agreed that the engagement of the seamen shall end at any port not in Nigeria, the agreement shall contain such stipulations as may be prescribed by the Minister from time to time.

(2) Every stipulation under subsection (1) of this section shall be signed by the owner of the vessel or by the master on his behalf.

106. (1) Where the master of a foreign ship at any port in Nigeria engages seamen who are nationals of or are domiciled in Nigeria to proceed to any port not in Nigeria, he shall, save in any case provided for in subsection (3) of section 94 of this Act, enter into an agreement with the seamen and the agreement shall be made before the superintendent in the manner provided for the making of agreements in the case of sea-going ships.

(2) The provisions of section 106 of this Act respecting the stipulations to be contained in agreements under this section, and the making and signing of the same shall be applicable to the engagement of the seaman.

(3) The master of any foreign ship shall, if so required by the superintendent, give to the superintendent a bond with the security of a person resident in Nigeria and approved by the superintendent for every such seaman and conditioned for the due performance of the agreement and any prescribed stipulations and for the repayment to the Government of Nigeria of all expenses which it may incur in respect of any such seaman who is discharged or left behind at any port out of Nigeria, and becomes distressed, and is relieved under the provisions of this Act.

107. Any master of foreign ships who engages any seaman who is domiciled in Nigeria otherwise than in accordance with this part of this Act commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira for every such seaman so engaged.

108. The superintendent may enter on board any foreign ship for the purpose of ascertaining that the requirements of section 107 of this Act have been complied with in respect of any seaman domiciled in Nigeria and engaged in Nigeria to proceed in the ship to any port not in Nigeria; and for these purposes, the

superintendent shall have all the powers of an inspector under this Act.

#### Discharge of Seamen

109. (1) The master of a ship shall not discharge any seaman from any foreign ship in Nigeria without the approval of the superintendent or of the consular officer, if any, representing the nation to which the ship belongs, and unless due provision is made for the subsistence and maintenance of the seaman to the satisfaction of the consular officer.

(2) A master of a ship who discharges a seaman in contravention of this subsection (1) of this section commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira.

(3) The provisions of subsection (1) of this section shall not apply in respect of any seaman who was engaged in Nigeria or any seaman who, being a Nigerian citizen or a foreign citizen domiciled in Nigeria, is discharged in accordance with the terms of his agreement.

(4) The master of a ship or seaman shall not, except with the approval of the superintendent, discharge a seaman from any Nigerian ship, in any place other than at the Seafarer Services Office.

(5) Whenever any seaman is discharged at the Seafarer Services Office from any ship within Nigeria, the master of the ship shall give to the seaman at the time of the discharge, a written certificate specifying the time and nature of service and the time and place of discharge of the seaman, signed by the master and if the master fails to do so, he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(6) The master of a ship shall upon the discharge of a certificated officer whose certificate of competency was delivered to and retained by the master return the certificate to the officer and if the master, without reasonable cause, fails to return the certificate, he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(7) The master of a foreign ship or other person belonging to a foreign ship who wrongfully forces on shore and leaves behind, or otherwise wilfully leaves behind in Nigeria, any seaman or cadet belonging to the ship before the completion of the voyage for which the seaman or cadet was engaged, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira or to imprisonment for a term not less than one year or to both.

110. (1) When a seaman is discharged before the superintendent, the master shall make and sign, in the prescribed form, a report of the conduct, character and qualifications of the seaman discharged, or may state in the form that he declines to give any opinion upon any or all of the particulars.

(2) The superintendent before whom a discharge under this section is made shall, if the seaman desires; give to the seaman or endorse on his discharge, a copy of the report.

111. A person who:

(a) makes a false report of character under this Part of this Act, knowing the same to be false; or

(b) forges or fraudulently alters any certificate of discharge or report of character or a copy of a report of character or assists in committing or procuring



the commission of any such offence; or

(c) fraudulently uses any certificate of discharge or report of character, or copy of a report of character, which is forged or altered or does not belong to him, commits an offence and on conviction is liable to a fine not less than hundred thousand Naira or to imprisonment for a term not less than two years or to both.

#### Special Provisions as to Seamen Left Behind Abroad

112. (1) The master of a Nigerian ship shall not leave a seaman or cadet behind at any place out of Nigeria on shore or at sea except where:

(a) a seaman is discharged in accordance with this part of this Act; or

(b) the service of a cadet is terminated in accordance with his training agreement;

(c) the master previously obtains, endorsed on the agreement with the crew, the certificate of the appropriate officer at the port at which the seaman or cadet is left behind, stating the cause of his being so left behind, whether the cause be unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

(2) An appropriate officer shall, when an application is made for his certificate under subsection (1) of this section, inquire into the grounds on which the seaman or cadet is to be left behind, and may for that purpose, if he thinks fit, administer oaths or affirmations, and grant or refuse the certificate as he thinks just; but the appropriate officer shall not unreasonably withhold the certificate.

(3) Where a seaman or cadet from a Nigerian ship is left behind at any place outside Nigeria on shore or at sea by reason of his desertion, absence without leave or failure to join the ship, the provisions of this part of this Act and or the provisions of the First Schedule shall apply in respect of the seaman or cadet.

(4) The master of a ship who fails to comply with the requirements of this Part, commits an offence in addition to any other liability under this Act, and on conviction is liable to a fine not less than one hundred thousand Naira or to imprisonment for a term not less than two years, or to both.

(5) For the purposes of any proceedings under this section the burden of proving that the certificate was obtained, or could not be obtained without unreasonable delay to the ship, or was unreasonably withheld, shall lie on the master of a ship.

113. (1) Where the master of a Nigerian ship leaves a seaman behind onshore at any port out of Nigeria on the ground of the seaman's unfitness or inability to proceed to sea, the master shall deliver to the appropriate officer at the port, a full and true account of the wages due to the seaman and if the port is a port in a foreign country, the master shall deliver the account in duplicate.

(2) A master of a ship who fails to comply with the requirements of this section commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

114. (1) Where a seaman is left behind at any port in a foreign country, on shore or at sea, the master shall pay the wages due to the seaman to the appropriate

officer.

(2) Where payment is made to an appropriate officer in a foreign country, the officer shall retain one duplicate of the account delivered to him and if satisfied with the account, endorse on the other duplicate a receipt for the payment and return the duplicate account to the master of the ship.

(3) The master of the ship shall:

(a) if the voyage of the ship is to terminate in Nigeria within forty-eight hours after the arrival of the ship at the ship's port of destination in Nigeria;

(b) if in the course of the voyage the ship touches and remains for fortyeight hours at any port in Nigeria; or

(c) in any other case, within forty-eight hours after the ship's arrival at the ship's port of destination, deliver the duplicate account to the superintendent or appropriate officer at the port.

(4) Payment under this section shall be made, whenever it is practicable, in cash and when not so practicable, by bills drawn on the owner of the ship.

(5) Where payment is made by bills under this section:

(a) the appropriate officer shall certify by endorsing:

(i) on the bill that the bill is drawn for seamen's wages,

(ii) on the agreement with the crew the amount for which the bill is drawn, and

(iii) such further particulars as the Minister may require;

(b) if the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or endorse the amount on the bill and it is not necessary, in any proceedings against the owner upon the bill, to prove that the master had authority to draw the bill;

(c) a bill purporting to be drawn and endorsed under this section shall, if produced out of the custody of the Minister or the superintendent, be admissible in evidence; and any endorsement on any bill purporting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the endorsement.

(6) A master of a ship who fails, without reasonable cause, to make the payment of wages provided for under this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

115. Where the amount of wages due to a seaman left behind is, pursuant to section 115 of this Act, paid to an appropriate officer in a foreign country, the officer shall deal with the sum paid to him in the following manner:

(a) if the seaman subsequently obtains employment at or quits the port at which the payment has been made, deduct out of the sum any expenses incurred by the appropriate officer in respect of the maintenance of the seaman pursuant to this Part of this Act except such expenses as the owner or master is by this part of this Act required to defray, pay the remainder to the seaman and deliver to the seaman an account of the sums so received and expended on his behalf;

(b) if the seaman dies before his ship quits the port, the appropriate officer shall deal with the sum as part of the property of a deceased seaman;

(c) if the seaman is sent to a proper return port at the public expense in accordance with this Act or any regulations made under this Act, the appropriate

officer shall account for the sum to the Minister and the sum, after any expense duly incurred in respect of the seaman have been deducted except such expenses as the owner or master is by this part required to defray, shall be dealt with as wages of the seaman.

116. (1) Where the service of a seaman or cadet belonging to a Nigerian ship terminates during the currency of the agreement at any port out of Nigeria, otherwise than by the consent of the seaman to be discharged, or otherwise than in accordance with the training agreement:

(a) the master of the ship shall, apart from complying with the other applicable provisions of this part, make adequate provision in accordance with this part for the maintenance of the seaman or cadet and for his return to a proper return port; and

(b) the appropriate officer shall endorse upon the agreement with the crew of the ship which the seaman or cadet is leaving the particulars of any provision so made.

(2) If the master fails, without reasonable cause, to comply with the requirements of subsection (1) of this section, the expenses of maintenance and of return to the proper return port shall:

(a) if defrayed by the seaman or cadet, be recoverable as wages due to the seaman; and

(b) if defrayed by the appropriate officer or by any other person unless the seaman or cadet has been guilty of barrating, be a charge upon the ship to which the seaman or cadet belonged, and may also be recovered in the same manner as seamen's wages are recoverable from:

(i) the owner of the ship for the time being; or

(ii) where the ship has been lost, the person who was the owner of the ship at the time of the loss; or

(iii) where the ship has been transferred to persons not qualified to own a registered Nigerian ship, the owners for the time being or the person who was the owner of the ship at the time of the transfer, at the suit of the person defraying the expenses or if the expenses have been repaid to that person out of moneys allowed by the Minister as a debt due to the Federal Government.

(3) When the master of a ship is required under subsection (1) of this section, to provide for the return of seaman or cadet to a proper return port, the master may instead of providing the seaman or cadet with:

(a) a passage or the expenses of his journey; or

(b) means to pay his passage or the expenses for his journey, deposit with the appropriate officer such sum as that officer considers sufficient to defray the expenses of the return of the seaman or cadet to a proper return port.

#### Distressed Seamen

117. (1) The Minister may make rules with respect to the relief, maintenance and return to a proper return port of masters of ships, seamen and cadets who are shipwrecked or found otherwise in distress at any place beyond the limits of Nigeria in this Act referred to as distressed seamen.

(2) Without prejudice to the generality of subsection (1) of this section,

rules made pursuant to this section may make provisions:

(a) for such conditions as are deemed expedient with regard to the relief and maintenance of a distressed seaman and his return to a proper return port; and

(b) enabling the appropriate officer and in the case of expenses required to be incurred in Nigeria, the Minister or the superintendent, to defray any expenses properly incurred by or on behalf of any foreign country or by any person, in making arrangements for the return of a distressed seaman to a proper return port and any expenses so incurred shall, for the purposes of this Part, be deemed to be expenses incurred on behalf of the distressed seaman.

(3) Save as provided by this Act or any other written law, a master, seaman or cadet shall not be relieved, maintained or sent to a proper return port except in the cases and to the extent and on the conditions provided by rules made or deemed to have been made pursuant to this section.

(4) All expenses paid under this Act by or on behalf of the Federal Government for the relief of a distressed seaman shall be charged upon the Consolidated Revenue Fund without further appropriation than this section, and all sums received or recovered towards those expenses shall be paid into the Fund.

118. (1) Where a distressed seaman:

(a) Whether or not he is a Nigeria citizen, is found at any place out of Nigeria discharged or left behind from any Nigeria ship or any Nigeria Government ship, or by reason of having been discharged or left behind from any such ship in any place out of Nigeria in distress in that place; or

(b) who is a Nigerian citizen who was engaged by any person acting as principal or agent to serve on a ship belonging to the Government or a subject or citizen of a foreign country, is in distress in any place out of Nigeria, an appropriate officer shall, in accordance with and on the conditions prescribed by rules made or deemed to have been made pursuant to section 118 of this Act, provide in accordance with this Act, for the return of the distressed seaman to a proper return port.

(2) The appropriate officer shall provide for the seaman the necessary clothing and maintenance he would require until his departure to a proper port and in addition, in the case of a shipwrecked seaman, for the repayment of any expenses incurred in the conveyance of the distressed seaman to port after the shipwreck and his maintenance while being so conveyed.

119. (1) Where any expenses, other than excepted expenses as defined by this section, are incurred by or on behalf of the Federal Government or are incurred by the Government of any foreign country and repaid to that Government by or on behalf of the Federal Government on account of any distressed seaman:

(a) for the maintenance, medical expenses, necessary clothing and conveyance of the distressed seaman to a proper return port; or

(b) in case of death of the distressed seaman for his burial, or otherwise in accordance with this Act, the expenses, together with the wages, if any, due to the distressed seaman, shall be charged upon the ship to which the distressed seaman belonged and shall be a debt due to the Federal Government from the

master of the ship.

(2) For the purposes of subsection (1) of this section, the master of the ship includes: (a) the owner of the ship for the time being; or

(b) where the ship has been lost, the person who was the owner of the ship at the time of the loss; or

(c) where the ship has been transferred to persons not qualified to own a registered Nigerian ship, the owners for the time being or the person who was the owner of the ship at the time of the transfer;

(d) in the case of a seaman or cadet who belonged to any foreign ship, the person, whether principal or agent, who engaged the seaman or cadet for service on the ship.

(3) The debt, in addition to any penalties which may have been incurred, may be recovered by the Minister on behalf of the Federal Government in the court and in the manner in which wages may be recovered by seamen.

(4) In any proceedings for the recovery of debt under this section, the production of the account, if any, of the expenses furnished in accordance with this Act and proof of payment of the expenses by or on behalf of the Minister or by Minister's direction, shall be sufficient evidence that the expenses were incurred or repaid under this Act by or on behalf of the Federal Government.

(5) For the purpose of this section, "excepted expenses" means:

(a) expenses incurred in cases where the certificate of the appropriate officer obtained on leaving a seaman or cadet behind states, or the Minister is otherwise satisfied, that the cause of the seaman or cadet being left behind is desertion, disappearance, imprisonment for misconduct or discharge from his ship by a naval court on the ground of misconduct; and

(b) expenses incurred on account of the return to a proper return port of a distressed seaman who has been discharged at the port at which he was shipped, or at some neighbouring port.

120. (1) A distressed seaman may be sent to a proper return port by any reasonable route by land, sea or air or by any two or more of these modes of travel, in accordance with subsection (2) of this section.

(2) Provisions shall, where practicable, be made for the return of the distressed seaman by sea as to the whole or any part of the route by:

(a) placing the seaman on board any ship which is in want of seaman to make up its complements;

(b) providing the seaman with a passage on any ship or with the money for his passage on any such ship; and

(c) as to any part of the route which is by land or by air, paying the expenses of the journey of the seaman and of his maintenance during the journey or providing him with means to pay those expenses.

121. (1) If any question arises as to what return port a distressed seaman is to be sent, in any case or as to the route by which the seaman should be sent, that question shall be decided by the appropriate officer.

(2) In deciding a question in subsection (2) of this section, the appropriate officer shall:

(a) have regard to the provisions of this Act relating to the proper return

port; and

(b) subject to the provisions of this Act, have regard to the convenience of the distressed seaman, the expense involved, and where that is the case, the fact that a ship, which is in want of seamen to make up its complement, is about to proceed to the proper return port.

122. (1) Where a distressed seaman, is for the purpose of his return to a proper return port, placed on board any ship, the appropriate officer of the country in which the ship is, shall endorse on the agreement with the crew, the name of the distressed seaman so placed on board together with any particulars directed to be endorsed on the agreement by the law of that country.

(2) Where a distressed seaman is provided with a passage on a ship and is not signed on as a member of the crew of the ship, on the production of:

(a) a certificate signed by the appropriate officer by whose arrangements a distressed seaman to whom any rules made or deemed to have been made pursuant to section 118 of this Act apply received on board any Nigerian ship, specifying the number and the names of the distressed seamen and the time when each of them was received on board; and

(b) a declaration in writing made by the master of the ship, before the superintendent or appropriate officer stating the number of days during which each distressed seaman has received maintenance, that the master of the ship shall be paid, in respect of the maintenance and passage of each distressed seaman so conveyed, maintained and provided for by him and shall be paid such sum for each day or part of a day as is allowed by any rules made or deemed to have been made pursuant to section 118 of this Act.

123. (1) The appropriate officer may, in the case of any distressed seaman to whom any rules made or deemed to have been made pursuant to section 118 apply, require the master of any Nigerian ship:

(a) to receive on board the distressed seamen or as the case may be the seamen or cadets to whom the request relates (in this section included in the expression "distressed seaman"); and

(b) to afford a distressed seaman passage and maintenance so however that a master shall not be required to receive more than one distressed seaman for every five hundred tons of his ship's tonnage.

(2) Where an appropriate officer requires the master of a ship to receive and afford a passage and maintenance to a distressed seaman the master of the ship shall endorse upon the agreement of the ship such particulars as are required by any rules made or deemed to have been made pursuant to section 118 of this Act or by the Minister.

(3) The master of a Nigerian ship who, pursuant to subsection (1) of this section; is required to receive and afford a passage and maintenance to any distressed seaman shall comply with the requirement and shall during the passage provide the distressed seaman with a proper berth or sleeping place, effectually protected against sea and weather.

(4) A master of a ship who fails, without reasonable cause, to comply with the provisions of subsection (3) of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

## Payment of Wages

124. (1) Where a seaman is discharged before the superintendent, the seaman shall receive his wages which shall be paid by the owner or master of the ship to the superintendent through or in the presence of the superintendent unless otherwise directed by a court of competent jurisdiction.

(2) The owner or master of a ship who pays the wages of a seaman within Nigeria in any other manner than as provided under subsection (1) of this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

125. (1) The master of every ship shall, before paying off or discharging a seaman in Nigeria, deliver at the time and in the manner provided by this Act a full and true account, in the prescribed form, of the seaman's wages and of all deductions to be made from the seaman's wages on any account whatever.

(2) The account to be delivered by the master of a ship under subsection (1) of this section, shall be delivered:

(a) where the seaman is not to be discharged before the superintendent, to the seaman himself not less than twenty-four hours before the seaman is discharged or paid off; and

(b) where the seaman is to be discharged before the superintendent, to the seaman himself at or before the time of the seaman leaving the ship but not less than twenty-four hours before the discharge or payoff.

(3) A master of a ship who fails, without reasonable cause, to comply with the provisions of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

126. (1) The master of a ship shall not deduct from the wages of a seaman who is paid off or discharged in Nigeria unless the deduction is included in the account delivered in pursuance of section 126 of this Act or in respect of a matter happening after the delivery.

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

127. (1) Where the master of a Nigerian ship disrates a seaman, he shall immediately enter or cause to be entered in the official log-book, a statement of the disrating and furnish the seaman with a copy of the entry .

(2) Any reduction of wages, consequent on the disrating of a seaman shall not take effect until the entry required under subsection (1) of this section has been made and the copy so furnished.

(3) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 126 and 127 of this Act.

128.(1) The owner or master of a sea-going Nigerian ship, other than a ship employed on a voyage for which a seaman by the terms of his agreement is wholly compensated, by a share in the profits of the adventure shall:

(a) pay to each seaman on account, at the time when the seaman lawfully leaves the ship at the end of his engagement, one-fourth of the balance of wages due to him, and shall pay to the seaman the remainder of his wages within two clear days, exclusive of any Sunday or public holiday, after he so leaves the ship;

(b) if the seaman consents, leave the final settlement of the seaman's wages to the superintendent, and the receipt of that officer shall, in that case, operate as if it were a release given by the seaman in accordance with this Part of this Act.

(2) In the event of the seaman's wages or any part of the wages not being paid or settled in accordance with this section, and the delay is due to the act or default of the seaman or to any reasonable dispute as to liability or to any other cause which is not the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement of the wages.

129. (1) the owner or master of every Nigerian ship, other than a foreign-going ship, shall pay to each seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first occurs.

(2) If the owner or master of a ship fails, without reasonable cause, to make payment at the time prescribed under subsection (1) of this section, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

130. (1) Where a seaman is discharged from a Nigerian ship and the settlement of his wages is completed before the superintendent, the seaman shall sign in the presence of the superintendent, a release in the prescribed form, of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested to by the superintendent.

(2) A release signed and attested to under subsection (1) of this section, shall operate as a mutual discharge and settlement of all demands between the parties to the release in respect of the past voyage or engagement.

(3) A release under this section shall be retained by the superintendent and, on production from his custody, shall be admissible in evidence.

(4) Where the settlement of a seaman's wages is, by this part of this Act, required to be completed through, or in the presence of the superintendent, no payment, receipt or settlement made otherwise than in accordance with this part shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) When payment is made by a master before the superintendent, the superintendent shall, if required, sign and give to the master a statement of the whole amount paid and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments mentioned in the statement.

(6) A seaman may except from the release signed by him under this section,



any specified claim or demand against the owner or master of the ship, and a note to any claim or demand so excepted shall be entered upon the release.

(7) A release upon which an exception is entered shall not operate as a discharge or settlement of any claim or demand so noted, nor shall subsection (4) of this section apply to any payment, receipt or settlement made with respect to any such claim or demand.

131. (1) Where a question as to wages is raised between the master or owner of a ship and a seaman or cadet before the superintendent, and the amount does not exceed ten thousand Naira, the superintendent may on the application of any party involved, decide the question and the decision of the superintendent shall be final but if the superintendent is of opinion that the question is one which ought to be decided by a court, he may refuse to make a decision on it.

(2) Where any question of whatever nature and whatever amount in dispute, between a master or owner and any of the crew is raised before a superintendent and both parties agree in writing to submit the same to the superintendent, he shall hear and decide the question so submitted to him.

(3) An award made by the superintendent upon the submission shall be conclusive as the rights of the parties and the submission or award shall not require a stamp; and document purporting to be the submission or award shall be admissible as evidence of award or submission.

132. (1) The superintendent in any proceedings before him relating to the wages, claims or discharge of a seaman, may require the owner or his agent, the master or any mate or other member of the ship's crew, to produce any logbook, paper or other document

in his possession or power relating to a matter in question in the proceedings and may require the attendance of and examination of any of those persons, being then at or near the place, on the matter.

(2) Any person required under subsection (1) to do anything who fails, without reasonable cause, to comply with the requisition commits an offence and a conviction is liable to a fine not less than twenty-five thousand Naira.

133. Where a seaman agrees with the master of a Nigerian ship for payment of his wages in local currency or any other currency, any payment of, or on account of, his wages made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the time being current at the place where the payment is made.

#### Annual Leave With Pay for Seamen

134. Every seaman is entitled to annual leave, for minimum of 30 days with pay, for each year of service.

135. A seaman whose length of service in any one year is less than that required for the full entitlement prescribed in section 135 of this Act shall be entitled in respect of that year to annual leave with pay proportionate to his length of service during that year.

136. Absence from work to attend an approved maritime vocational training course or for reasons beyond the control of the seaman concerned such as illness

or injury shall be counted as part of the period of service.

137. The minimum annual leave with pay shall not include:

- (a) public holidays;
- (b) periods of incapacity for work resulting from injury;
- (c) temporary shore leave granted to a seaman whilst on cadetship;
- (d) compensatory leave of any kind.

138. Every seaman who takes his annual leave shall receive in respect of the full period of the leave at least his normal monthly remuneration in advance of the leave.

139. A seaman who leaves or is discharged from the service of his employer before he takes the annual leave due to him shall receive his normal remuneration for the period of the leave.

140. The division of the annual leave with pay into parts or the accumulation of the annual leave due in respect of one year together with a subsequent period of leave shall be permissible provided that the seaman so requests.

141(1) No seaman shall be required without his consent to take annual leave due to him at a place other than the place where he was engaged or recruited.

(2) Where the seaman is required to take his annual leave in a place other than the place of his recruitment, he shall be entitled to:

(a) free transportation to the place where he was engaged or recruited;  
and

(b) subsistence and other costs directly involved in his return to the State where he was engaged or recruited from the employer.

(3) Travel time involved in subsection (2) of this section shall not be deducted from the annual leave with pay due to the seaman.

142. Any agreement to relinquish the right to the minimum annual leave with pay or to forgo the leave shall be null and void and the superintendent shall ensure proper compliance with the right to minimum annual leave.

143. A seaman who is on annual leave shall be recalled only in cases of extreme emergency after due notice has been given to him.

#### Advance and Allotment of Wages

144. (1) where an agreement with the crew is required to be made in a prescribed form, the agreement shall contain:

- (a) a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement; and
- (b) stipulations for the allotment of a seaman's wages in accordance with this part of this Act.

(2) Except as stated in subsection (1) of this section, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in Nigeria shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages and no person has any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purported to have been so paid.

145.(1) Any stipulation made under section 145 of this Act by a seaman at the

commencement of a voyage for the allotment of any part of his wages during his absence, shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) Where the agreement with the crew is required to be made in a prescribed form, the seaman may require a stipulation to be inserted in the agreement for the allotment, by means of an allotment note, of any part, not exceeding one-half, of his wages in favour of a near relative or a prescribed bank.

(3) An allotment note may by agreement with the master be granted to a seaman providing for payment of a greater sum than one-half of the wages.

(4) Allotment notes shall be in the prescribed form.

(5) When a seaman has signed the agreement, the superintendent before whom the seaman is engaged shall enquire if the seaman requires a stipulation for allotment of wages by an allotment note and if the seaman requires it, the superintendent shall insert the stipulation in the agreement with the crew, and it shall be deemed to have been agreed to by the master.

(6) Save with the agreement of the master, nothing in subsection (5) shall apply to any stipulation within subsection (3) of this section or subsection (2) of section 150 of this Act.

(7) For the purposes of this Act and with respect to allotment notes, "near relative" means the spouse, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.

146. An allotment in favour of a prescribed bank shall be made in favour of such persons, and carried into effect in such manner as may be prescribed.

147.(1) Where the balance of wages due to a seaman belonging to a Nigerian ship is more than two thousand Naira, and the seaman expresses to the master of the ship, while the ship is in Nigeria, his desire to have facilities afforded to him for remitting all or part of the balance to a prescribed bank, or to a near relative in whose favour an allotment note is made, the master shall give to the seaman all reasonable facilities for so doing (so far as regards so much of the balance as is in excess of two thousand Naira) but the master shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port, or otherwise than conditionally on the seaman going to sea in the ship.

(2) A master of a ship who fails to comply with the provisions of subsection (1) of this section commits an offence and on conviction is liable to a fine not less than twenty five thousand Naira.

148.(1) A person in whose favour an allotment note under this Part of this Act is made may, unless the seaman is shown, in the manner specified in this Act, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted, when and as the same are made payable, with costs from:

(a) the owner of the ship with respect to which the engagement was made; or

(b) from any agent of the owner who has authorised the allotment, in the

same court and manner in which wages of seaman not exceeding twenty thousand Naira may be recovered under this Act.

(2) The spouse of a seaman who deserts the children or misconducts himself or herself in such a way as to be undeserving of support from his or her spouse, shall forfeit all rights to further payments under any allotment made in his or her favour.

(3) In any proceedings for recovery under subsection (1) of this section, it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorised agent.

(4) A seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court by:

(a) the official statement of any change in the crew caused by the seaman's absence, made and signed by the master, as required by this Act;

(b) a certified copy of an entry in the official log-book to the effect that the seaman has left the ship;

(c) a credible letter from the master of the ship to the effect that the seaman has left the ship; or

(d) such other evidence as the court, in its absolute discretion, may consider sufficient to show satisfactorily that the seaman has ceased to be entitled to the

wages out of which the allotment is to be paid.

149.(1) A payment under an allotment note shall begin at the expiration of one month from the date of the note agreement with the crew and shall be paid at the expiration of every subsequent month after the first month and paid only in respect of wages earned before the date of payment.

(2) An allotment note may, by agreement with the master, be granted to a seaman providing for payment at a period earlier than one month from the date of the agreement with the crew and at intervals more frequent than one month.

150. The right of a seaman belonging to a Nigerian ship to wages and provisions shall be taken to begin at the time at which the seaman commences work or at the time specified in the agreement for the seaman's commencement of work or presence on board, whichever first occurs.

151.(1) A seaman belonging to a Nigerian ship shall not by any agreement:

(a) forfeit his lien on the ship; or

(b) be deprived of any remedy for the recovery of his wages, to which, in the absence of the agreement, he would be entitled;

(c) abandon his right to wages in case of the loss of the ship; or

(d) abandon any right that he has or obtains in the nature of salvage.

(2) Every stipulation in any agreement which is inconsistent with any provision of this act shall be void.

(3) Nothing in this section shall apply to a stipulation made by a seaman who belongs to any Nigeria ship which, according to the terms of the agreement is to be employed on salvage services with respect to the remuneration to be paid to him for salvage services to be rendered by that ship to any other ship.

152.(1) The right of a seaman who belongs to a Nigerian ship to wages shall not depend on the earning of freight.

(2) Every seaman and cadet who is entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, demand and recover the same notwithstanding that freight has not been earned.

(3) In all cases of wreck or loss of a ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(4) Where a seaman or cadet who is entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, the wages shall be paid and applied in the manner provided for by this part of this Act with respect to the wages of a seaman who dies during a voyage.

153.(1) Where by reason of the wreck or loss of a ship, the services of a seaman employed in a Nigerian ship is terminated before the date contemplated in the agreement the seaman is entitled to receive wages at the rate to which he was entitled at the date of termination of his service in respect or each day on which he is in fact unemployed for a period of two months from date of termination.

(2) A seaman shall not be entitled to receive wages under this section if the owner shows that:

(a) the unemployment was not due to the wreck or loss of the ship; and

(b) the seaman was able to obtain suitable employment on any day during the period of two - months from the date of termination of his service.

(3) In this section, "seaman" includes any person employed or engaged in any capacity on board a ship, but in the case of a ship which is a fishing vessel, does not include any person who is entitled to be remunerated only by a share in the profits or the gross earnings of the working of the vessel.

154. Where the services of a seaman who belongs to a Nigerian ship terminates before the date contemplated in his agreement by reason of the seaman being left onshore at any place outside Nigeria under a certificate granted under section 113 of this Act, or his unfitness or inability to proceed on the voyage, the seaman shall be entitled to wages up to the time of the termination, but not for any longer period.

155. A seaman or cadet who belongs to a Nigerian ship shall not be entitled to wages for any time during which he:

(a) unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his commencement of such work;

(b) is lawfully imprisoned for an offence committed by him unless a court hearing the case otherwise directs.

156. Where a seaman who belongs to a Nigerian ship is, by reason of illness, incapable of performing his duty and it is proved that the illness has been caused by his own willful act or default, the seaman shall not be entitled to wages for the time during which he is, by reason of the illness, incapable of performing his duty.

157. Whenever, in any proceedings relating to a seaman's wages, it is shown that a seaman or cadet who belongs to a Nigerian ship has, in the course of the

voyage, been convicted of an offence by a competent tribunal and rightfully punished for that offence by imprisonment or otherwise, the court hearing the case may direct any part of the wages due to the seaman, not exceeding one month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

158. If a seaman who signed an agreement to serve in a Nigerian ship is discharged otherwise than in accordance with the terms of the agreement before the commencement of the voyage, or before one month's wages are earned:

(a) without fault on his part justifying the discharge; and  
(b) without his consent, the seaman shall receive from the master or owner, in addition to any wages which he has earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned by him.

159. (1) As respect the wages due or accruing to a seaman or cadet belonging to a Nigerian ship:

(a) the wages shall not be subject to attachment or arrest from any court;  
(b) an assignment or sale made prior to the accruing of the wages shall not bind the person making the same;  
(c) a power of attorney or authority for the receipt of the wages shall not be irrevocable; and

(d) a payment of wages to the seaman or cadet shall be valid in law notwithstanding any previous sale or assignment of those wages, or any attachment, encumbrance or arrest of the wages;

(2) Nothing in this section shall:

(a) affect the provisions of this part of this Act with respect to allotment notes; or  
(b) restrict or limit the requirements of the National Social Insurance Trust Fund Act as to contributions by a seaman or apprentice belonging to a Nigerian ship.

#### Mode of Recovering Wages

160. A seaman or cadet or a person duly authorised on his behalf, may as soon as any wages due to him become payable, sue for the same in a summary manner in any court of competent jurisdiction in or near the place at which his service was terminated, or at which he was discharged or at which any person, on whom the claim is made, is or resides, and the order made by the court in the matter shall be final.

161. Nothing in this part of this Act shall be construed as limiting the jurisdiction of a court to refuse to entertain an action for wages by the master or a member of the crew of a ship if the ship is not a Nigerian ship.

162.(1) The master of a ship as far as the case permits, has the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or any law or custom.

(2) The master of a ship, and every person lawfully acting as master of a ship by reason of disease or incapacity from illness of the master of the ship, shall so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on

account of the ship as a master has for the recovery of his wages.

(3) If, in any proceedings in a court of competent jurisdiction dealing with the claim of a master in respect of wages, or of such disbursements or liabilities as are mentioned in subsections (1) and (2) of this section, any right of set-off or counter-claim is set up, the court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled, between the parties to the proceedings and may direct payment of any balance found to be due.

163. In any action or other legal proceedings by the master of a ship for the recovery of any sum due to him on account of wages, the court may, if it appears to it that the payment of the sum due has been delayed otherwise than by:

(a) the actor default of the master; or

(b) any reasonable dispute as to liability; or

(c) any other cause not being the wrongful act or default of the person

liable to make the payment, order the person to pay, in addition to any sum due on account of wages, such sum as the court thinks just as damages in respect of the delay, without prejudice to any claim which may be made by the master on that account.

#### Powers of Court to Rescind Contracts

164.(1) Where proceedings are instituted in or before any court of competent jurisdiction in relation to any dispute between an owner or master of a ship and a seaman or cadet, arising out of or incidental to their relation as such, the court may, having regard to all the circumstances of the case, rescind any contract between the owner or master and the seaman or cadet, or any contract of cadetship, upon such terms as the court thinks just.

(2) The power to rescind a contract between the owner or master of a ship and a seaman or a cadet under subsection (1) of this section shall be in addition to any other power which the court has under this Act.

#### Property of Deceased Seamen

165.(1) If any seaman or cadet who belongs to a Nigerian ship, the crew of which is to be discharged in or the final port of destination of which is in Nigeria, dies during a voyage, the master of the ship shall take charge of the money or effects belonging to the seaman or cadet on board the ship.

(2) The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particular:

(a) a statement of the amount of the money and a description of the effects;

(b) in the case of a sale under subsection (2), a description of each article sold, and the sum received for each; and

(c) a statement of the sum due to the deceased as wages, and of the amount of deductions, if any, to be made from the wages.

(4) The entry in the official log-book shall be signed by the master and attested to by a mate and any other member of the crew.

(5) The money, effects and balance of wages mentioned in subsections (1)

to (4) of this section are in this part of this Act, referred to as the "property of the seaman or cadet".

166.(1) Where a seaman or cadet dies during a voyage as provided in section 166 of this Act, the master of the ship shall, within forty-eight hours after his arrival at his port of destination in Nigeria, deliver and pay the property of the seaman or cadet to the superintendent at the port.

(2) In all cases where a seaman or cadet dies during the progress of a voyage or engagement, the master shall give to the superintendent such account, and in such form as, the superintendent may require, of the property of the seaman or cadet.

(3) A deduction claimed by the master in the account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book made and attested as required by this Act, and by such vouchers, if any, as are reasonably required by the superintendent.

(4) The superintendent may, if he thinks fit, sell any of the property of the seaman or cadet delivered to him, or of which he takes charge, under this part of this Act and the proceeds of the sale shall form part of the property of the seaman or cadet.

(5) The superintendent shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect.

167.(1) A master of a ship to whom section 167 of this Act refers who fails to comply with the provisions of this part of this Act with respect to :

(a) taking charge of the property of the seaman; or

(b) making in the official log-book the proper entries relating to the properties of the seaman or cadet;

(c) procuring the proper attestation of those entries as required by this part of this Act; or

(d) the payment or delivery of the property of the seaman or cadet, shall be accountable for the property to the superintendent and shall pay and deliver the same accordingly.

(2) The master of a ship who contravenes the provisions of subsection (1) of this section commits an offence, and in addition to paying and delivering the property, is liable on conviction to a fine not less than triple the value of the property not accounted for or if the value is not ascertained, to a fine not less than one hundred thousand Naira.

(3) If the property of a seaman or cadet is not duly paid for, delivered or accounted for by the master as provided under this section, the owner of the ship shall pay, deliver and account for the same and the property shall be recoverable from the owner.

(4) The owner of a ship who fails to account for and deliver or pay for the property of the seaman or cadet, commits an offence and is liable on conviction to a fine not less than triple the value of the property not accounted for, delivered or paid over or if the value is not ascertained to a fine not exceeding one hundred thousand Naira.

(5) The property of the seaman or cadet may be recovered in the same court



and in the same manner in which the wages of a seaman may be recovered under this Act.

168.(1) Where a seaman or cadet who belongs to a ship to which section 166 of this Act refers, is lost with the ship, the superintendent may recover the wages due to the seaman or cadet from the owner of the ship in the same court and in the same manner in which the seaman's wages are recoverable and shall deal with the wages in the same manner as the wages of a deceased seaman and cadet are dealt with under this Part of this Act.

(2) In any proceedings for the recovery of the wages of a seaman under this section, if it is shown by an official return produced out of the custody of the superintendent, or by other evidence, that a ship left the port of departure twelve months or more before the institution of the proceedings, the ship shall unless it is shown that it was heard of within twelve months after that departure, be deemed to have been lost with all hands on board immediately after the time at which the ship was last heard of or at such later time as the court hearing the case thinks probable.

(3) Any duplicate agreement made out, or statement of change of the crew delivered, under this Part of this Act at the time of the last departure of the ship from Nigeria, or a certificate purporting to be a certificate from a consular or other public officer at any port outside Nigeria, stating that certain seamen and cadets were shipped in the ship from that port, shall, if produced out of the custody of the superintendent, be, in the absence of proof to the contrary, sufficient proof that the seamen and cadets named in the certificate as belonging to the ship were on board at the time of the loss.

169. If a seaman or cadet who belongs to a ship to which section 166 of this Act refers, dies in Nigeria and at the time of his death was entitled to claim any effect from the master or owner of a ship in which he served, any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the superintendent at the port where the seaman or cadet was discharged, or was to have been discharged.

170.(1) Where any property of a deceased seaman or cadet who belong to a ship to which section 166 of this Act refers comes into the hands of the superintendent, the superintendent shall, after deducting the expenses incurred in respect of the seaman or cadet or of his property, such sum as he thinks proper to allow, subject to the provisions of this Part of this Act, deal with the residue as follows:

(a) if the property exceeds twenty thousand Naira in value, the superintendent shall pay and deliver the residue to the legal personal representative of the deceased;

(b) if the property does not exceed twenty thousand Naira in value, the superintendent may, as he thinks fit:

(i) pay or deliver the residue to any claimant who is proved to the satisfaction of the superintendent to be the spouse or a child of the deceased seaman or cadet, or to be entitled to the property of the deceased, under his will, if any, or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and

shall be discharged from all further liability in respect of the residue so paid or delivered, or

(ii) require representation to be taken out and pay and deliver the residue to the legal personal representative of the deceased.

(2) Every person to whom any residue is paid or delivered under subsection (1) of this section shall apply the same in due course of administration.

171.(1) Where a deceased seaman or cadet who belonged to a ship to which section 168 of this Act refers left a Will, the superintendent may refuse to pay or deliver any residue under section 174 of this Act:

(a) if the Will was made on board the ship, to any person claiming under the Will, unless the Will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested by, the master or first mate of the ship; and

(b) if the Will was not made on board the ship, to any person claiming under the Will, who is not related to the testator by blood or marriage, unless the Will is in writing and is signed or acknowledged by the testator in the presence of, and is attested to by two witnesses, one of whom shall be the superintendent or a person holding a similar office or a minister of religion officiating in the place in which the Will is made or where there are no such persons, a magistrate, notary public or consular officer of a foreign country or an officer of customs.

(2) Whenever the superintendent refuses under this section to pay or deliver the residue to a person claiming under a Will, the residue shall be dealt with as if no Will had been made.

172.(1) A creditor is not entitled to claim from the superintendent, the property of a deceased claims by the seaman or cadet received by the superintendent under this Act, or any Part of this Act, by virtue of any representation obtained as creditor.

(2) A creditor is not entitled by any means whatsoever to obtain payment of his debt out of the property of a deceased seaman or cadet, if the debt accrued more than three years before the death of the deceased or if the demand is not made within two years after the death of the seaman or cadet.

(3) A demand under subsection (2) of this section shall be made to the superintendent by the creditor delivering an account in writing signed by him and verified by a statutory declaration, stating the particulars of the creditor's demand and the place of his abode.

(4) If before the demand under subsection (2) of this section is made under this section, any claim to the property of the deceased seaman or cadet made by any other person has been allowed, the superintendent shall give notice to the creditor of the allowance of the claim.

(5) If no claim to the property of the deceased seaman or cadet has been allowed, the superintendent shall investigate the creditor's account, and may for that purpose require the creditor to prove same and produce all books, accounts, vouchers and papers relating to the debt and, if by means of the documents produced the creditor satisfies the superintendent of the justice of the demand in whole or in part. the demand shall be allowed and paid accordingly, as far as the

property of the deceased seaman or cadet in the hands of the superintendent extends for that purpose, and the superintendent shall be discharged from all further liability in respect of money paid.

(6) If the superintendent is not satisfied as to the claim or if the books, account vouchers or papers required to be produced in subsection (5) of this section are not produced, and sufficient reason is not given for the nonproduction, the demand shall be disallowed. .

(7) In any case whatsoever, the superintendent may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand.

(8) If, in the course of the period of one year, a claim to the property of the deceased is made by any person as widow, next of kin or legatee, and allowed by the superintendent under this part of this Act, the superintendent, may pay and deliver the same to that person.

(9) Where the property of a deceased seaman or cadet has been paid and delivered by the superintendent to any person as widow, next of kin or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

173.(1) Where no claim to the property of a deceased seaman or cadet received by the superintendent under this part of this Act is substantiated within one year after the receipt of the claim, the superintendent shall pay the same or the proceeds of the property committed into cash, into the Consolidated Revenue Fund.

(2) If any subsequent claim is made to the property or the proceeds of a deceased seaman or cadet and the claim is established to the satisfaction of the superintendent, the amount or so much as appears to be due to the claimant, shall be paid to the claimant out of the Consolidated Revenue Fund.

(3) If any claim is not established to the satisfaction of the superintendent, the claimant may apply by summons to a Court of competent jurisdiction and the court, after taking evidence orally or on affidavit, shall make such order on the summons as the court deems just.

(4) No claim on the property of a deceased seaman or cadet shall be entertained by the superintendent after the expiration of six years from the receipt of the property or proceeds by the superintendent without the approval of the Minister.

174. A person who, for the purpose of obtaining any property of a deceased seaman or cadet for himself or any other person

(a) forges or fraudulently alters, or assists in forging or fraudulently altering, or produces to be forged or fraudulently altered, any document purporting to show or assist in showing any right to the property; or

(b) makes use of any document which has been so forged or fraudulently altered as mentioned in paragraph (a) of this section;

(c) gives or assists in giving, or produces to be given, any false evidence, knowing the same to be false;

(d) makes or assists in making, or produces to be made, any false

representation, knowing the same to be false; or

(e) assists in producing any false evidence or representation or causes any such evidence or representation to be given or made, knowing the same to be false, commits an offence and on conviction is liable to a fine of not less than two hundred thousand Naira or to imprisonment for a term not less than two years or to both.

## PART X WELFARE OF SEAMEN

### Provisions, Health and Accommodation

175. In this part of this Act, "crew accommodation" includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation recreation accommodation, store rooms and catering accommodation provided for the use of seamen, but does not include any accommodation which is used by or provided for the use of passengers.

176. (1) The Minister may make regulations with respect to crew accommodation which shall be provided on board a Nigerian ship.

(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 man which shall be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of the sleeping accommodation may be used;

(b) regulate the positions in the ship in which the crew accommodation or any part of the accommodation may be located and the standards to be observed in the construction, equipment and furnishing of the 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 accommodation under this section and authorise the surveyor to inspect any such works; and

(d) provide for the maintenance and repair of any accommodation under this section and prohibit or restrict the use of any accommodation for purposes other than those for which the accommodation is designed.

(3) Regulations made under this section may

(a) make different provisions with respect to different descriptions of ships or with respect to ships which were registered in Nigeria at different dates and with respect to crew accommodation provided for seamen of different descriptions;

(b) exempt ships of any description from any requirements of the regulations made under the Act and the Minister may grant other exemptions from the requirements with respect to any ship; and

(c) require the master of a ship or any officer authorised by him for that purpose to carry out such inspection of the crew accommodation as may be prescribed by the regulations.

(4) A person who contravenes any of the provisions of the regulations made under this section commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

(5) Regulations under this section may exempt ships of any description from any requirements of the regulations made under this Act and the Minister

may grant other exemptions from the requirement with respect to any ship.

177.(1) If three or more of the crew of a Nigerian ship within Nigeria, consider that the provisions or water for the use of the crew are at any time

(a) of bad quality;

(b) unfit for use; or

(c) below such scale as may be prescribed, the crew shall complain of their findings to the superintendent or a Port Health Officer and the superintendent or Port Health Officer shall examine the provisions or water complained of or cause them to be examined.

(2) Where, upon examination as prescribed under subsection (1) of this section it is found that the provisions or water are of bad quality and unfit for use, or below the scale or quantity prescribed, the superintendent or the officer shall in writing to the master of the ship, report on the condition of the provisions or water and the master of the ship shall upon receiving the report, provide other appropriate provisions or water in lieu of any so reported to be of bad quality and unfit for use.

(3) Where the master of a ship to whom a report is made-

(a) does not provide the appropriate provisions or water in lieu of those reported to be bad;

(b) does not procure the requisite quantity of the provisions or water so reported to be deficient in quantity; or

(c) uses any provisions or water so reported to be of bad quality and unfit for use, he commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

(4) The superintendent, officer or other person making an examination under this section shall enter a statement of the result of the examination in the official logbook of the ship and send a report of the examination to the superintendent and the report shall be admissible in evidence.

(5) Where the superintendent, officer or person making an examination under this section, certifies in the statement entered in the official log-book that there were no reasonable grounds for the complaint under subsection (1) of this section, each of the complainants shall be liable to forfeit to the owner of the ship out of his wages, a sum not exceeding one week wages.

(6) Where provisions or water are examined under this section, the owner, master or agent shall pay, in respect of the examination, such fees as may be prescribed.

(7) If, in accordance with subsection (5) of this section, it is certified that there are no reasonable grounds for the complaint, the owner, master or agent are entitled to recover such fee as may be prescribed, from the complainants in addition to any penalty to which the complainants may be liable under that subsection.

178.(1) An inspecting officer may inspect, before shipment or on board the ship, any provisions, other than provisions made by the crew themselves or water intended for the use of the crew of any Nigerian ship which is going from any port in Nigeria and for which an agreement with the crew is required under this Act.

- (2) If an inspecting officer finds that the provisions or water are in any respect deficient in quality, the ship shall be detained by the inspecting officer until the defects are remedied to his satisfaction.
- (3) An inspection of provisions or water under this section shall, whenever practicable, be made before shipment.
- (4) The owner, agent or master of a ship may give notice to an inspecting officer that any provisions or water for the ship are ready for inspection and the inspecting officer shall inspect the provisions or water under this subsection, if the provisions or water are at a convenient place for inspection, within fortyeight hours after the notice is given.
- (5) The inspecting officer may inspect any provisions or water not specified in the notice given under subsection (3) of this section without necessarily delaying the ship and may proceed on board a ship in order to satisfy himself that there has been no evasion of the requirements of this section by the substitution of other provisions or water for those which have been inspected on shore or specified in a notice as being the provisions or water for the ship, or otherwise.
- (6) Where an inspecting officer finds the provisions or water deficient in quality, the master of the ship shall be deemed to have committed an offence under this section and on conviction be liable to a fine not less than fifty thousand Naira, unless
- (a) the court before which the case is tried thinks that the finding of the inspecting officer was not justified; or
- (b) the master of the ship shows to the satisfaction of the court that the responsibility for the defects in the provisions or water rests on the owner of the ship or any agent of the owner of the ship or with the person who supplied the provisions or water in which case the owner, agent or person other than the master, shall be deemed to have committed the offence and liable to payment of the fine.
- (7) The master of the ship and any other person who has charge of any provisions or water liable to inspection under this section shall give the inspecting officer every reasonable facility for the purpose of the inspection under this section and any master or person who refuses to provide the necessary facility commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.
- (8) Where provisions are inspected under this section before shipment or on board a ship, the owner, agent or master of the ship shall in respect of such inspection, pay such fees as may be prescribed but where the provisions which have been inspected and sealed by an inspecting officer are found on board any ship within such time as may be prescribed as the time for which the seals are to hold good, no fee shall be charged for the verification of the seals.
- (9) The Minister may appoint officers for the purposes of any inspection under this section, and the expression "inspecting officer" wherever used in this section, means an officer appointed to inspect provisions or water under this section.

179.(1) Where, during the voyage of a Nigerian ship

(a) the allowance of any of the provisions for a seaman as stipulated by his agreement is reduced except

(i) in accordance with the regulations for reduction by way of punishment contained in the agreement with the crew; and

(ii) for any time during which the seaman willfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct on board or on shore; or

(b) it is shown that some of the provisions are or have been bad in quality and unfit for use, the seaman shall receive, by way of compensation for that reduction or bad quality, such sums as may be prescribed.

(2) The court before which a case is tried under this section shall, if satisfied that the allowance of any provision was reduced due to inability to procure or supply the provisions in proper quantities, and that proper and equivalent substitutes were supplied in lieu of the provisions, take those circumstances into consideration and modify or refuse to make an order for compensation as the justice of the case may require.

180.(1) The master of a Nigerian ship shall keep on board the ship, proper weights and measures for determining the board quantities of the different provisions and articles served out, and ensure that the weights and measures are used at the time of serving out the provisions and article, in the presence of a witness, whenever any dispute arises in respect of the quantities.

(2) The master of a Nigerian ship who fails, without reasonable cause, to comply with the provisions of this section, commits an offence and on conviction is liable to a fine not less than ten thousand Naira.

181.(1) The owner, agent and master of a Nigerian ship of a tonnage exceeding fifteen tons shall cause to be kept on board the ship

(a) a supply of medicines and medical stores in accordance with the scale; and

(b) a copy of the instructions for dispensing the medicines and medical stores as prescribed.

(2) A ship owner, agent and master to which subsection (1) of this section applies, who willfully refuses or neglects to provide and keep on board such medicines, medical stores and instructions as are required by this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira. .

182.(1) A Port Health Officer may inspect any medicines, medical stores or appliances with which any ship is, under the provisions of this part of this Act required to be provided and for the purposes of the inspection have all the powers of an inspector under this Act.

(2) Where a Port Health Officer is of the opinion that the articles inspected are deficient in quantity or quality, or are placed in improper receptacles, the officer shall give notice in writing to the superintendent and the owner, agent or master of the ship.

(3) The master of the ship who is given notice under subsection (2) of this section shall before proceeding to sea, produce to the superintendent a certificate under the hand of the Port Health Officer showing that the default

found by the Port Health Officer has been remedied and if he fails to produce the certificate, the ship shall be detained by the superintendent until the certificate is produced.

(4) Where a ship proceeds to sea without the production of the certificate by the master as provided in subsection (3) of this section, the owner, agent and master of the ship shall be deemed to have committed an offence and on conviction shall each be liable to a fine not exceeding one hundred thousand Naira.

183.(1) Where a master, seaman or cadet belonging to a Nigerian ship is hurt or injured in the course of his service in the ship or suffers from any illness, not being an illness due to his own wilful act or default or to his own, misbehaviour the expenses of:

(a) providing the necessary surgical and medical advice and attendance and medicine; and

(b) the maintenance of the master, seaman or cadet until he is cured, or he dies or is returned to his proper return port and of his conveyance to the port; and

(c) in the case of death, his burial, shall be defrayed by the owner of the ship without any deduction on that account from the wages of the master, seaman or cadet.

(2) Nothing in this section shall prejudice the rights of any master, seaman or cadet under the Workmen's Compensation Act or the National Social Insurance Trust Fund Act, so however, that no person shall be entitled to periodical payments under any of these Acts in respect of the period during which the owner of the ship is liable to defray the expenses of the maintenance of the person under this part of this Act.

(3) Where a master, seaman or cadet referred to in subsection (1) of this section, on account of any illness is temporarily removed from his ship for the purpose of preventing infection or otherwise for the convenience of the ship and subsequently returns to his duty, the expenses of the removal and of providing the necessary advice, attendance and medicine and of his maintenance while away from the ship, shall be defrayed in the manner provided in subsections (1) and (2) of this section.

(4) The expenses of all medicines, surgical and medical advice and attendance given to a master, seaman or cadet whilst on board his ship shall be defrayed in the manner provided in subsections (1) and (2) of this section.

(5) In all other cases, any reasonable expenses duly incurred by the owner of a ship for any seaman or cadet in respect of illness and the burial of any seaman or cadet who dies whilst on service shall, if duly proved, be deducted from the wages of the seaman or cadet.

184.( 1) If any of the expenses attendant on the illness, hurt or injury of a seaman or cadet to be paid under this part by the owner or master of the ship to which the seaman or cadet belongs are paid by any authority on behalf of the Federal Government or if other expenses in respect of the illness, hurt or injury of a seaman or cadet who belongs to a Nigerian ship and whose wages are not accounted for under this part to that authority, are so paid, those expenses shall



be repaid to the authority by the owner or master of the ship.

(2) Where expenses are not repaid as required by subsection (1) of this section, the amount of the expenses with costs, shall be a charge upon the ship and shall be recoverable from

(a) the master or owner of the ship for the time being;

(b) where the ship is lost, from the person who was the owner of the ship at the time of the loss; or

(c) where a registered Nigerian ship has been transferred to a person not qualified to own such a ship, from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, as a debt due to the Federal Government by ordinary process of law or in the court and in the manner in which wages may be recovered under this part by a seaman or cadet.

(3) In any proceedings for recovery under this section, a certificate of the facts, signed by the authority which paid for expenses referred to in this section, together with such vouchers, if any as the case require, shall be sufficient proof that the expenses in respect of which the proceedings instituted were duly paid for by that authority.

185. The accommodation for seamen and cadets in Nigerian ships shall be such as may be prescribed and provisions shall be made in the same manner for the inspection of the accommodation and for fees to be paid in respect of the inspection.

186.(1) The owner or master of any sea-going ship which proceeds from Nigeria, having fifty persons or upwards on board, shall carry on board as part of the complement of the ship a duly qualified medical practitioner.

(2) Where a ship to which this section applies proceeds for a voyage from Nigeria without a duly qualified medical practitioner, the owner shall, for every voyage of the ship made without a duly qualified medical practitioner, be deemed to have committed an offence under this section and on conviction is liable to a fine not less than two hundred thousand Naira.

(3) For the purposes of subsection (1) of this section, "duly qualified medical practitioner" means a medical practitioner who is authorised by law to practise as a legally qualified medical practitioner in the country to which the ship belongs.

187.(1) Where any passenger carrying ship is found on arrival in Nigeria to be in a filthy and insanitary condition, the master of the ship shall be deemed to have committed an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(2) The Port Health Officer may inspect a passenger carrying ship on arrival in order to ascertain the sanitary condition of the ship and the officer shall, for that purpose, have all the powers of an inspector under this Act.

188. The Port Health Officer shall, on application by the owner or master of any ship and on payment of the prescribed fees by the owner or master, examine a seaman applying for employment in that ship and give to the superintendent a report under his hand stating whether the seaman is in a fit state for sea, and a copy of the report shall be given to the owner or master of the ship.

Prevention of Accidents to Seamen

189. The master of a Nigerian ship shall ensure that any accident involving a seaman on board his ship is adequately investigated and reported to the superintendent.

190. The superintendent shall investigate the causes of and circumstances surrounding occupational accidents which result in the loss of life or serious personal injury to a seaman on board a Nigerian ship and shall cause research to be undertaken into the general trends and hazards as the statistics reveals.

191.(1) The Minister may make regulations for the prevention of accidents, the protection of health in employment and may by regulations specify measures for the prevention of accidents which are peculiar to Maritime employment.

(2) The regulations made under this section shall include provisions dealing with-

- (a) general and basic issues;
- (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; and
- (i) personal protective equipment for seamen.

(3) The Regulations made under this section shall clearly specify the obligations of the shipowners, seamen and others concerned, to comply with them and for the use of the equipment and safeguards by seamen and a requirement that they comply with the relevant accident prevention measures.

192. The Minister shall ensure that instructions in the prevention of accidents and in measures for the protection of health in employment are included as part of the instructions in professional duties in curricula for all categories and grades of seamen of vocational training institutions.

#### Facilities for Making Complaints

193.(1) Where a Nigerian ship is within Nigeria and a seaman or cadet on board the ship states to the master of the ship his desire to make a complaint to the superintendent against the master or any of the crew, the master shall, as soon as the service of the ship permits

- (a) if the ship is at a port in Nigeria; or
- (b) if the ship is not at any port in Nigeria, soon after her first arrival at any such port, allow the complainant to go ashore or send him ashore in proper custody, to enable the seaman or cadet to make his complaint.

(2) A master of a ship who fails without reasonable cause to comply with this section, commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

#### Provisions as to Discipline

194. Where a master, seaman or cadet belonging to a Nigerian ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness

- (a) does any act tending to the immediate loss destruction or serious damage of the ship, or tending immediately to endanger the life or limb of a

person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act, proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to, or on board the ship from immediate danger to life or limb, the master, seaman or cadet commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira or to imprisonment for a term not exceeding two years or both.

195.(1) A seaman or cadet who in Nigeria intends to absent himself from his ship or his duty, may give notice of his intention, to the owner or to the master of the ship, not less than forty-eight hours before the time at which he ought to be on board his ship.

(2) Where a seaman or cadet gives notice as provided in subsection (1) of this section, the court shall not exercise any of the powers conferred by paragraph (a) of subsection (2) of section 197 of this Act.

196.(1) A seaman lawfully engaged in or a cadet belonging to a Nigerian ship who commits any of the offences under this section (in this Part of this Act, referred to as "offences against discipline") shall on conviction be liable to such penalty as is provided for the offence under this section.

(2) A seaman or cadet who

(a) quits the ship without leave after the arrival of the ship at its port of delivery and before the ship is placed in security, commits an offence under this section and on conviction is liable to forfeit out of his wages, a sum not exceeding one month's pay;

(b) willfully disobeys any lawful command commits an offence under this section and on conviction is liable to imprisonment for a term not exceeding four weeks;

(c) continues to willfully disobey lawful commands or continues willfully to neglect his duties, commits an offence under this section and on conviction is liable to imprisonment for a term not less than twelve weeks;

(d) assaults any officer of the ship, commits an offence under this section and on conviction is liable to imprisonment for a term not less than twelve weeks;

(e) conspires with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, commits an offence under this section and on conviction is liable to imprisonment for a term not less than twelve weeks;

(f) willfully damages the ship in which he is engaged or dishonestly misappropriates or converts any of its stores or cargo to his own use or commits a criminal breach of trust in respect of or willfully damages any of its stores or cargo, commits an offence under this section and is liable on conviction to forfeit out of his wages, a sum equal to the loss sustained by the ship and at the discretion of the court, to imprisonment for a term not less than twelve weeks;

(g) involved in any act of smuggling whereby loss or damage is occasioned to the owner or master of the ship commits an offence under this section and is liable on conviction to pay to the owner or master, a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part

of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

197. Nothing in section 197 of this Act takes away or limits any remedy, by suit or otherwise, which an owner or master would, but for the provisions of that section, have had for a breach of contract in respect of the matters constituting an offence under section 197 of this Act, but an owner or master shall not be compensated more than once in respect of the same damage.

198.(1) A seaman who, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

(2) Where a seaman is liable to payment of the fine under subsection (1) of this section, the fine may be deducted from any wages which the seaman may earn by virtue of his engagement and the fine shall be paid into the Consolidated Revenue Fund.

199.(1) Where the agreement of a seaman belonging to a Nigerian ship imposes a fine for any act of misconduct the fine shall be deducted as provided in this subsection

(a) If the seaman is discharged in Nigeria and the offence and the entry in the log book required by this Act in respect of the offence, are proved to the satisfaction of the superintendent before whom the seaman is discharged, the master or owner shall deduct the fine from the wages of the offender and pay it to the superintendent;

(b) If the seaman is discharged abroad, and the offence and the entry referred to in paragraph (a) of this subsection are proved to the satisfaction of the appropriate officer by whose sanction the seaman is discharged, the fine shall be deducted as specified in paragraph (a) and shall be paid to the appropriate officer and an entry of that deduction and payment shall be made in the official log-book of the ship which shall be signed by the appropriate officer.

(2) Every fine paid to the superintendent or appropriate officer, as the case may be, under this section shall be paid by him into the Consolidated Revenue Fund.

(3) Any master or owner of a ship who fails, without reasonable cause, to pay any fine required to be paid under this section, commits an offence and on conviction is liable to a fine not exceeding six times the amount of the fine not so paid.

(4) An act of misconduct for which a fine has been imposed and paid by or deducted from the wages of the seaman shall not be otherwise punishable under this Act.

200. A person who hides himself in any ship intending to go to sea in the ship without the consent of the owner, agent or master or a mate or of the person in charge of the ship or of any other person entitled to give that consent, commits an offence and on conviction is liable to imprisonment for a term of two years.

201. The master of a ship registered in Nigeria may cause any person on board the ship to be put under restraint if and for as 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.

## PART XI REGISTERS

202.(1) An official log book shall be kept in every Nigerian ship, in the appropriate form for that ship approved by the Minister.

(2) The official log books to be kept, may be for different classes of ships and shall contain proper spaces for the entries required by this Act.

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

(4) An entry required by this Act in an official log book shall be made as soon as possible after the occurrence to which it relates and if the entry is not made on the same day as the occurrence, it shall be made and dated so as to show the date of the occurrence and of the entry respecting it.

(5) Any entry made in respect of an occurrence happening before the arrival of a ship at the ship's final port of discharge, shall not be made more than twenty-four hours after its arrival.

(6) Every entry in the official log book shall be signed by the master and by the mate or any other member of the crew, but if the entry is that of:

(a) illness, injury or death, it shall be signed by the surgeon or medical practitioner on board, if any; and

(b) wages due to a seaman or cadet who dies, it shall be signed by the mate and by a member of the crew in addition to the master.

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

203. The master of a Nigerian ship shall enter or cause to be entered in the official log book:

(a) any conviction by a legal tribunal of a member of his crew, and the penalty imposed;

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

(c) every offence for which punishment is provided and imposed on board;

(d) a statement of the conduct, character and qualifications of each of his crew, or a statement that the master declines to give an opinion of these particulars;

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

(j) every marriage which takes place on board, with the names and ages of the parties;

(g) the name of every seaman or cadet who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and reason for his ceasing to be a member;

- (h) the wages due to any seaman or cadet who dies during the voyage, and the gross amount of all deductions to be made from the wages;
- (i) every collision with any other ship, and the circumstances under which the collision occurred;
- (j) every accident sustained or caused by the ship which has occasioned any loss of life or any serious injury to any person or any material damage to the ship affecting the seaworthiness of the ship or the efficiency in its hull, equipment or machinery including every grounding of the ship; and
- (k) any other matter directed by this Act to be entered in the log book.

204.(1) A master of a ship who fails to keep an official log book or make an entry in an official log book in the manner required by this Act and at the time and in the manner provided under this Act, commits an offence and except as is otherwise expressly provided in this Act, is on conviction liable to a fine not less than one hundred thousand Naira.

(2) Any person who makes or procures to be made or assists in making an entry in an official log book in respect of any occurrence which took place before the arrival of the ship at its final Port of discharge, more than twenty-four hours after the arrival, commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

(3) A person who willfully destroys, mutilates or renders illegible any entry in an official log book or willfully makes or procures to be made or assists in making a false or fraudulent entry in, or omission from the official log book, commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira, or to imprisonment for a term not less than two years, or to both.

205.(1) The master of every sea-going Nigerian ship other than a ship whose crew is engaged on a running agreement shall, within forty-eight hours after the arrival of the ship at its final Port of destination in Nigeria or upon the discharge of the Crew, whichever first happens, deliver or transmit the official log book of the voyage to the superintendent.

(2) The owner or master of every Nigerian ship, other than a ship to which subsection (1) of this section applies shall, upon the discharge of the crew, deliver the official log book to the superintendent before whom the Crew is discharged.

(3) Upon the delivery or transmission of an official log book to the superintendent, under the provisions of this section, the superintendent shall give to the owner or master of the ship a certificate of the delivery or transmission and may detain any ship to which this section applies until the condition precedent to the giving of the certificate is fulfilled.

(4) The owner or master of a ship who fails, without reasonable cause, to deliver or transmit an official log book as required by this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

206.(1) Where, by reason of transfer of ownership or change of employment of a Nigerian ship, the official log book ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the

ship is in Nigeria, within one month and if it is elsewhere, within six months after the cessation, deliver or transmit to the Registrar of ships the official log book duly made out at the time of the cessation.

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

(3) The master or owner of the ship referred to in subsections (1) and (2) of this Section shall inform the Seafarer Services Office of the transfer or change of employment or loss or abandonment of the ship.

(4) The owner or master of a ship who fails, without reasonable cause, to comply with any requirement of this section, commits an offence and on conviction is liable to a fine not exceeding one hundred thousand Naira.

#### Registration and Returns

207. The Minister shall, by means of the documents transmitted to him in pursuance of this Act and by any other means in his power, keep a register of all persons who serve in Nigerian ships.

208.(1) The master of every Nigerian ship, shall, as soon as may be after the birth of a child or the death of a person on board his ship, record in his official log book or otherwise the fact of the birth or death and other particulars as may be prescribed concerning the birth or death or as may be known to the master.

(2) The master of every Nigerian ship shall, upon the arrival of the ship at a Port in Nigeria, deliver or transmit to the superintendent, in such form as may be prescribed, a return of the facts recorded by the master in respect of the birth of a child or the death of a person on board the ship.

(3) The superintendent shall send a certified copy of the returns relating to the births and deaths to the Principal Registrar of Births and Deaths who shall cause same to be filed.

(4) The master of any ship who fails to comply with any requirement under the provisions of this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

209.(1) The superintendent shall take charge of all documents which are delivered or transmitted to or retained by him under this Act, and shall keep them for such period as may be necessary for the purpose of settling any business arising at his Port or for any other proper purpose.

(2) The superintendent shall if required produce the documents for any of the purposes in subsection (1) of this Section and shall transmit the documents to the Minister who shall record and preserve them.

(3) The documents transmitted under this section, shall be admissible in evidence and shall, on payment of the prescribed fee or without payment, if the Minister so directs, be open to inspection by any person.

210.(1) If, during the progress of a voyage of a Nigerian ship, the master is removed, superseded or for any other reason, the master quits the ship and is succeeded in the command by any other person, the master shall deliver to his successor the various documents, relating to the navigation of the ship and to the crew of the ship, which are in his custody.

(2) Any master of a ship who contravenes the provisions of subsection (1) of this section, commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira.

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

#### Miscellaneous

211. The Minister may from time to time dispense with the transaction before the superintendent, of any matters required by this Part of this Act to be so transacted, and upon dispensing with the transaction, those matters, if otherwise transacted, shall be as valid as if they were transacted before the superintendent.

212.(1) Whenever a Nigerian ship, (other than a ship whose business for the time being is to carry passengers), whether cabin or deck passengers, arrives at a port in a country outside Nigeria, at which there is an appropriate officer and remains there for forty-eight hours, the master of the ship shall, within fortyeight hours of the arrival of the ship, deliver to the appropriate officer the agreement with the crew, and also all indentures and assignments of cadetships, or such of those documents as the ship is provided with.

(2) The appropriate officer shall keep the documents during the ship's stay in the port, and, in cases where any endorsements upon the agreement are required by this Act, shall make the endorsement and return the documents to the master within a reasonable time before his departure, with a certificate endorsed on the agreement stating the time when the documents were respectively delivered and returned.

(3) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, the appropriate officer shall make an endorsement to that effect on the agreement and immediately transmit to the Minister a copy of the endorsement, with the full information the appropriate officer is able to gather regarding the neglect or transgression.

(4) The master of a ship who fails, without reasonable cause, to deliver any document in pursuance of this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(5) In any prosecution for an offence under this Section, if the master of a ship fails to produce the certificate issued under subsection (2) of this Section, it shall be presumed, until the contrary is proved, that the master failed to deliver the document concerned, in pursuance of this section.

213. Where, in any matter relating to a ship or to a person belonging to a ship, there appears to be a conflict of laws and if there is in this part of this Act, any provision on the subject which is hereby made to extend to that ship, the case shall be governed by the provision but if there is no such provision, the case shall be governed by the law of the country in which the ship is registered or to which the ship belongs.

214. This part of this Act shall apply in the case of any unregistered ship which is by Part III of this Act required to be licenced in Nigeria or in any foreign country, as it applies in the case of Nigeria ships.



## PART XII SAFETY OF LIFE AT SEA

### General Provisions

215. As from the commencement of this Act, the following Conventions, Protocols and their amendments relating to Maritime Safety shall apply, that is

- (a) International Convention for the Safety of Life at Sea, 1974 (SOLAS);
- (b) Protocol Relating to the International Convention for the Safety of Life at Sea, 1988 and Annexes I to V thereto;
- (c) International Convention on Standards of Training Certification and Watch Keeping of Seafarers, 1978 (STCW) as amended;
- (d) International Convention on Maritime Search and Rescue, 1979 (SAR);
- (e) International Labour Organisation Convention (No. 32 of 1932) on Protection Against Accident of Workers Employed in Loading or Unloading Ships (Dockers Convention Revised 1932);
- (f) International Convention on Maritime Satellite Organisation, 1976 (INMARSAT) and the Protocol thereto;
- (g) The Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 and its Protocol of 1990;
- (h) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 and the Protocol thereto;
- (i) International Convention on Salvage, 1989;
- (j) Placing of Seamen Convention, 1920;
- (k) International Ship and Ports Facility Security (ISPS) Code; and
- (l) International Convention for Safe Containers, 1972.

216.(1) The Minister may make such regulations as he deems necessary or expedient for the purpose of carrying out the provisions of this Part of this Act.

(2) Without prejudice to the generality of subsection (1) of this section and the provisions contained in this section, the Minister may by regulations provide for

- (a) the survey of ships and the issue of certificates;
- (b) the types and forms of certificates;
- (c) the construction and equipment of ships including the provision of lifesaving and fire-fighting appliances;
- (d) radio communications in ships;
- (e) the safety of navigation;
- (f) the carriage of grain by ships;
- (g) the carriage of dangerous goods by ships;
- (h) the safety of containers;
- (i) the design, construction, surveys and marking of nuclear ships;
- (j) the management and safe operation of ships;
- (k) the construction, surveys and marking of high speed crafts; and
- (l) special measures to enhance the memorandum on port state control.

(3) The regulations made under this section shall, in the case of ships to which the Safety Convention applies, include such requirements as appear to the Minister necessary for the implementation of the provisions of the Safety Convention or any International Convention on Safety.

217. Any person who fails to comply with and does or attempts to do any act contrary to the provisions of any safety regulations made under Section 217 of this Act commits an offence and is liable on conviction to a fine not less than three hundred thousand Naira.

#### Survey of ships

218.(1) The Minister may appoint such number of qualified persons as Surveyors of ships, as he deems necessary for the purposes of this part of this Act.

(2) The Minister may, from time to time, recognize any qualified person as a Surveyor of ships for the purposes of this Act, whether generally or for any specific purpose, or occasion.

(3) Every Surveyor of ships and every Radio Surveyor shall have and perform the powers, functions and duties conferred on him by this Act and such other powers, functions and duties as may be necessary to carry into effect the provisions of this part of this Act.

(4) Without prejudice to the generality of subsection (3) of this Section, a Surveyor of ships or a Radio Surveyor may

(a) in the execution of his duties, at all reasonable times, go on board any Nigerian ship, wherever the ship may be and any other ship while the ship is in Nigeria, and without unnecessarily detaining or delaying the ship from proceeding on any voyage or excursion, survey inspect the ship or any part of the ship, or any of the machinery, boats and equipments, cargo and other property or articles on board the ship, and any certificates or other documents which relate to the ship, or to any Officer of the ship, and to which this Act applies; and

(b) in consequence of an accident in a ship or for any other reason he considers necessary, require the ship to be taken into dock for the purpose of surveying or inspecting the hull of the ship.

(5) The Minister may make rules as to the powers, functions and duties of Surveyors under this Act.

219.(1) The owner of a Nigerian ship or coastal trade and inland water ship, shall, except this Act otherwise provides, cause the ship to be surveyed in the manner provided in this part of this Act, at least once every year.

(2) If the ship referred to in subsection (1) of this section is, during the whole of the last month of any annual period prescribed, absent from Nigeria, the owner shall cause the ship to be surveyed within one month from the date on which the ship next returns to a Nigerian port.

220. A Surveyor shall keep a record of the inspections he makes and certificates he issues in such form and with such particulars respecting the inspection and certificates as the Minister may direct.

221.(1) No ship to which this section applies shall, except where this Act otherwise provides, ply or proceed to sea or on any voyage or excursion unless there is a valid certificate of survey in force in respect of that ship under this part, which certificate is applicable to the voyage or excursion on which the ship is about to proceed. (2) This section applies to:

(a) a Nigerian registered ship;

(b) any coastal trade and inland waters ship; and

(c) any other passenger ship, while it is within any port in Nigeria.

(3) A ship to which this section applies that attempts to ply or go to sea without producing a valid certificate of survey may be detained until the certificate is produced.

222.(1) The declaration of a Surveyor shall, subject to the provisions of this section as to surveys and partial surveys, state

(a) the number of passengers which the ship is, in the judgment of the surveyor, fit to carry and distinguish, if necessary between the respective numbers to be carried on the deck, in the cabins, and in different parts of the deck and cabins;

(b) the number of persons comprising the Crew (including the master) for whom accommodation is provided in accordance with this Act; and, where the case requires, any conditions and variations according to the time of year, the nature of the voyage, the cargo carried or other circumstances to which the number is subject;

(c) such other matters as the Minister may direct from time to time.

(2) If, in the judgment of a surveyor, a ship is fit to ply on international voyages only while engaged in a special passenger trade, the surveyor shall state that fact in the declaration of survey.

(3) If, in the judgment of any surveyor, a ship is fit to ply or proceed within certain limits only, the surveyor shall state that fact in the declaration of survey,

(4) If, in the judgment of a surveyor, a ship is fit to ply within certain limits subject to compliance with certain conditions, the surveyor shall specify those conditions in the declaration of survey; and, if those conditions need to, in the judgment of the surveyor, be varied according to different intended uses of the ship, the surveyor shall, in his declaration of survey, specify the conditions appropriate to each of the uses.

(5) If, under subsection (1) of this section, a ship is partially surveyed, the surveyor shall state in the declaration of survey the extent to which he has surveyed the ship.

(6) Subject to the provisions of subsections (1) to (7) of this section and to the other provisions of this Act, the declaration of survey shall contain such statements of particulars as, having regard to the applicable requirements of this Act, the Minister may from time to time or in a particular case direct.

(7) The owner of a ship surveyed, or his agent shall within seven days after the receipt of a declaration of survey, deliver the declaration of survey to the Minister or to such person as the Minister may direct.

(8) An owner or agent who fails, without reasonable cause to deliver the declaration of survey received by him to the Minister, commits an offence and on conviction is liable to a fine not less than twenty thousand Naira for each day the offence continues.

223.(1) Subject to the provisions of this section, if the owner of a ship is aggrieved by the declaration of survey of a surveyor, or by the refusal of the surveyor to give the declaration, the owner may appeal in the prescribed manner to the Minister.

(2) On receipt of an appeal under subsection (1) of this section the Minister shall convene a Board of Survey, or refer the appeal to a scientific Referee under this Act at the port at which or nearest to the place, where the ship is, for the time being.

(3) The Board of surveyor the scientific Referee as the case may be, shall investigate and make a report to the Minister and the Minister may, if satisfied that the requirements of the reports and of the provisions of this part of the Act have been complied with, issue Certificate of survey.

(4) Where a surveyor (making a survey for the purposes of a declaration of survey) is required by the owner of a ship to make the survey for the purposes of this Part of this Act in his presence or in the presence of a person appointed by the owner, and the surveyor and the owner or person appointed by the owner agree on the declaration of survey, no appeal shall lie under this section to the Minister.

224.(1) Every surveyor appointed under this Act shall, from time to time, make such returns to the Minister as the Minister may require with respect to the build, dimensions, draught, position of the load lines or other markings, tonnage, rate of sailing, room for fuel and the nature and particulars of machinery and equipments of any ship surveyed by the surveyor pursuant to this part of this Act.

(2) The owner, master and engineer of any ship surveyed shall, on demand, give to the surveyor all the information and assistance within the power of the owner, master or engineer required for the purpose of returns under subsection (1) of this section.

(3) Any owner, master or engineer who fails to furnish the surveyor with any information required for the purposes of returns under subsection (2) of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

225.(1) Where a foreign ship, which is not a Safety Convention passenger ship, has a foreign certificate of survey attested by an appropriate Officer at a port in a foreign country, and the Minister is, by the production of that certificate, satisfied that

(a) the ship has been officially surveyed at the port;

(b) the certificate remains in force; and

(c) as to the matters covered by the survey made for the purposes of the certificate, it appears to meet substantially the requirements of this Act, the Minister may, subject to compliance by the owner with any condition which the Minister may specify, direct that, the certificate shall be deemed to be a certificate of survey issued under this Act, and the certificate shall have effect accordingly.

(2) The Minister may, by order declare that the provisions of this subsection shall not apply in the case of a foreign ship whose certificate of survey complies with the requirements of this section, if it appears to the Minister that corresponding advantages are not extended to Nigerian ships at the port at which the foreign ship was surveyed.

(3) Without limiting the discretion of the Minister to require compliance

with any condition pursuant to subsections (1) and (2) of this section, the conditions may provide for:

- (a) the survey annually of the hull, machinery and equipment or any part of the hull, machinery or equipment, of the ship by a surveyor of ships under this Act, and compliance with any requirements of the surveyor;
- (b) the survey by a surveyor of ships under this Act in respect of any requirement of this Act or of any subsidiary Legislation made or deemed to have been made under this Act relating to any matter which, in the judgment of the surveyor of ships, has not (or may not have) been surveyed in the manner under this Act.

(4) Where the Minister directs that a certificate of survey, to which the provisions of subsections (1), (2) and (3) of this section apply is deemed to be a certificate of survey issued under this Act, except as may be required by the Minister pursuant to those subsections, the ship in respect of which the certificate was issued shall, while the certificate remains in force, be exempt from survey under section 220 of this Act.

(5) The period of an exemption under subsection (4) of this section shall in no case exceed one year from the date of the survey in respect of which the certificate was granted.

(6) Where a ship which has been issued with a certificate of survey to which, if in force, subsection (1) of this section applies, calls at a port in Nigeria before the termination of its voyage and the term of its certificate expires during the course of that voyage, the Minister may, upon the report of a surveyor that he is satisfied as to the seaworthiness of the ship, grant a permit for the ship to clear from Nigeria in continuation of its voyage.

(7) Where a permit under subsection (4) of this section has been granted in respect of any ship, the ship shall for the purpose of continuing its voyage, be exempt from section 220, and section 222 shall apply to that ship as if it had not made that call at a port in Nigeria.

#### Certificates

226.(1) The Minister on the receipt of a declaration of survey shall, if satisfied that this part of this Act has been complied with, issue in duplicate a certificate of survey stating the compliance, and stating:

- (a) the limits, if any, beyond which the ship is not fit to ply or proceed;
- (b) the number of persons, including the master, comprising the crew of the ship for whom accommodation is provided; .
- (c) the number of passengers, if any, that the ship is fit to carry, distinguishing if necessary, the number of passengers to be carried in each part of the ship, and conditions and variations to which the number is subject; and
- (d) any other particular as may be prescribed.

(2) A certificate of survey issued in respect of a ship under this section shall bear as its date of issue a day not later than fourteen days after the day on which the Minister received the declaration of survey relating to the ship.

227. (1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian passenger ship, is satisfied that the ship:

(a) complies with the construction rules, rules for life saving appliances, radio rules applicable to the ship and to such international voyages as the ship is to be engaged on; and

(b) is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship a certificate, in this Act referred to as a "general safety certificate", showing that the ship complies with the requirements of the Safety Convention applicable.

(2) If the voyages on which the ship is to be engaged are short international voyages and the ship complies only with such of those rules as are applicable to the voyages, the certificate (in this Act referred to as a "Short Voyage Safety Certificate") shall show that the ship complied with the requirements of the Safety Convention applicable to it as a ship plying on short international voyages.

(3) If the Minister, on receipt of a declaration of survey in respect of any passenger ship, is satisfied that the ship is exempt, by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the construction rules, rules for lifesaving appliances, radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, whether short voyages or otherwise, that the ship complies with the rest of these requirements, and is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship

(A) an exemption certificate stating which of the requirements of the Safety Convention applicable to the ship, the ship is exempt from, and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(4) A certificate issued under paragraph (b) of subsection (2) of this section shall in this Act be referred to as a "qualified safety certificate" or a "qualified short voyage safety", as the case may be.

228.(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship

(a) complies with the rules for life saving appliances applicable to the ship and to such international voyages as the ship is to be engaged on; and

(b) is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship, a certificate showing that the ship complies with the requirements of the Safety Convention relating to the matters applicable to the ship and a certificate issued under this subsection shall be referred to as a "safety equipment certificate".

(2) If the Minister, on receipt of a declaration of survey in respect of any ship as

referred to in subsection (1) of this section, is satisfied that the ship is exempt,

by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules for lifesaving appliances, from any of the requirements of those rules applicable to the ship and to the international voyages the ship is engaged on, and that the ship complies with the rest of the requirements and is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship

(a) an exemption certificate stating which of the requirements of the Safety Convention, relating to the rules for lifesaving appliances and applicable to the ship, the ship is exempt from and that the exemption is conditional on the ship plying only on the voyages and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(3) A certificate issued under paragraph (b) of subsection (2) of this section shall in this Act be referred to as a "qualified safety equipment certificate".

229.(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship complies with the radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, the Minister shall, on the application of the owner, issue in respect of the ship, a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radio communications as are applicable and any certificate issued under this subsection shall in this Act be referred to as a "radio certificate" .

(2) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship is exempt by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, and that it complies with the rest of the requirements of the radio rules, the Minister shall, on the application of the owner, issue in respect of the ship-

(a) an exemption certificate stating which of the requirements of the Safety Convention relating to radio communications, are requirements applicable to the ship and from which the ship is exempt and that the exemption is conditional on the ship plying only on the voyages and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(3). A certificate issued under paragraph (b) of subsection (2) of this section shall in Act be referred to as a "qualified radio certificate".

(4). Where any Nigerian ship is wholly exempt from the requirements of the radio rules, the Minister shall, on the application of the owner, issue an exemption certificate stating that the ship is wholly exempted from the requirements of the Safety Convention relating to radio communications, and specifying the voyages from which, and conditions, if any, on which, the ship is so exempt and any certificate issued under this subsection shall in this Act be

referred to as a “radio exemption certificate”.

230. Where a ship complies with all the requirements of the construction rules, rules for lifesaving appliances, radio rules applicable to the ship and to the voyages on which it is to be engaged, so far as those requirements are requirement of the Safety Convention applicable to the ship, the Minister may issue in respect of the ship-

- (a) a general safety certificate;
- (b) short voyage safety certificate;
- (c) a safety equipment certificate; or
- (d) a radio certificate, as the case may be, notwithstanding that the ship is exempted from, or for some other reason does not comply with, any requirements of the rules that are not applicable requirements of the Safety Convention.

231. (1) The Minister shall cause every certificate issued under this Part of this Act to be transmitted to the Registrar of ship or a Surveyor of ships at the port mentioned by the owner for the purpose, or at the port where the owner or agent of the ship resides, or where the ship has been surveyed or is at the time lying.

(2) The Minister shall cause a notice of the transmission made pursuant to subsection (1) of this section to be given to the owner, agent or master of the ship and the Registrar of ships or surveyor of ships to whom the certificate was transmitted shall, on the owner, agent or master applying and paying the proper fee and other sums, if any, mentioned in this Act as payable in that behalf, deliver the certificate to the owner, agent or master of the ship.

(3) In proving the issue of certificate, it is sufficient to show that the certificate was duly received by the Registrar ships or surveyor of ship and that the due notice of the transmission was given to the owner, agent or master of the ship.

(4) In any case where is no time for the certificate of survey to be delivered to the owner, agent or master as provided in subsection (2) of this section, before the ship sail from the port of survey, the surveyor may grant an interim certificate in such form as the Minister may approve.

(5) Every interim certificate issued under subsection (4) of this section shall have effect as if it were a certificate of survey issued under the provision of this part of this Act, and shall be in force for the period specified in the certificate not exceeding two months from the date of its issue.

232. The Provision of subsection (1) of section 245 of this Act and any order made or deemed to have been made under that section shall not apply to Safety Convention ships plying on certain international voyages in respect of the exemption of the ship from any of the provisions of this Part Act except section 256 of this Act.

233. (1) The owner or master of a ship in respect of which certificate issued under this part is in force shall, as soon as possible after any alteration is made in the ship’s name, ownership, hull, equipment or machinery affecting the efficiency or the seaworthiness of the ship or the terms of the certificate, give notice in writing containing full particulars of the alteration, to the Minister. .



(2) The Minister may where he has reason to believe that

- (a) a certificate issued in respect of any ship under this part of this Act was obtained fraudulently or on wrong information; or
- (b) since the making of the last declaration of survey, an alteration, as is mentioned in subsection (1) of this section, has been made to any ship; or
- (c) since the making of the last declaration of survey, the hull, equipment or machinery of a ship had sustained any injury or had otherwise become insufficient, immediately cancel any certificate issued. in respect of the ship under this part of this Act; or require the owner of the ship to have the hull, equipment and machinery of the ship surveyed again to such extent as the Minister thinks fit; and, if the requirement is not complied with, may cancel any certificate issued in respect of the ship under this part of this Act.

(3) Whenever the Minister cancels any certificate under subsection (3) of this section, he shall give notice to the owner, agent or master of the ship of the cancellation and of the reasons for the cancellation.

(4) In any such case, the Minister may if satisfied that the ship complies with the requirements of this part of this Act as to survey, and that the justice of the case so requires, re-issue any cancelled certificate or issue a new certificate in its place, without requiring that the ship be re-surveyed or that a further declaration of survey be transmitted.

(5) For the purposes of this section, "alteration", in relation to anything, includes the renewal of any part of the thing.

(6) The owner or master of a ship who fails to give notice of an alteration under this section commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

234.(1) The owner or master of every ship shall, immediately on the receipt by him or his agent of a certificate under this part, cause the certificate to be put up in some conspicuous place on board the ship, such that the certificate is legible to all persons on board, and is so kept and legible while the certificate remains in force and the ship is in use.

(2) The owner or master who fails to put up the certificate as provided in subsection (1) of this section commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

(3) If a ship plies or goes to sea or on any voyage or excursion with or without passengers on board, without complying with the provisions of this section, the owner and the master of the ship shall each be deemed to have committed an offence and on conviction be liable to a fine not less than fifty thousand Naira.

235.(1) No Nigerian ship shall proceed to sea on an international voyage from a port in Nigeria unless there is in force in respect of the ship

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

(b) if the ship is a cargo ship, both

(i) a safety equipment certificate or a qualified safety equipment

certificate, and

(ii) a radio certificate, a qualified radio certificate or a radio exemption Certificate.

(2) The provisions of subsection (1) of this section shall not prohibit a cargo ship from proceeding to sea if there is in force in respect of the ship such certificate or certificates as would be required if the ship were a passenger ship.

(3) The master and owner of a ship which proceeds to sea without a certificate in accordance with this section shall be deemed to have committed an offence and on conviction shall be liable to a fine less than five hundred thousand Naira or to imprisonment for three years or to both.

(4) For the purposes of this section, a qualified safety equipment certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship, the corresponding exemption certificate and an exemption certificate shall be of no effect unless the certificate is, by its terms, applicable to the voyage on which the ship is about to proceed.

(5) The master of every Nigerian ship shall produce to the collector of customs from whom a clearance for the ship is demanded for an international voyage, any certificate required by subsections (1), (2) and (3) of this section to be in force when the ship proceeds to sea, and the collector of customs shall not grant clearance to and may detain the ship until the required certificate is produced.

(6) Where the Minister permits a passenger ship in respect of which a short voyage safety certificate is in force, whether qualified or not to proceed to sea on an international voyage from a port in Nigeria not exceeding twelve hundred nautical miles in length between the last port of call in Nigeria and the final port of destination, the certificate shall, for the purposes of this section, be deemed to be applicable to the voyage on which the ship is about to proceed, notwithstanding that the voyage exceeds six hundred nautical miles between those ports.

(7) Where an exemption certificate, including a valid exemption certificate issued under this part of this Act in respect of a Nigerian ship specifies conditions on which the certificate is issued and those conditions are not complied with, the owner and master of the ship shall each be deemed to have committed an offence and on conviction be liable to a fine not less than five hundred thousand Naira.

236.(1) If, on any international voyage, a Nigerian passenger ship in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the lifesaving appliances on the ship provide, the Minister may, at the request of the master of the ship, issue a memorandum stating the total number of persons carried on the ship on that voyage, and the consequent modification which may be made for the purpose of that voyage in the particulars with respect to live saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

(2) The master of the ship in respect of which any memorandum is issued shall return the memorandum to the Minister at the end of the voyage to which

it relates and if it is not so returned, the master of the ship commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira.

237.(1) A certificate of survey, a safety certificate, a radio certificate or a radio exemption certificate shall be in force for a period of one year, and a safety equipment certificate shall be in force for two years, from the date of the issue of the certificate or for such shorter period as may be specified in the certificate. modification of Safety Convention certificates in respect of lifesaving appliances.

(2) No certificate under subsection (1) of this section shall remain in force after notice is given by the Minister to the owner, agent or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(3) An exemption certificate, other than a radio exemption certificate, shall be in force for the same period as the corresponding qualified certificate. .

238.(1) A certificate issued under this part of this Act, which certificate has expired or has been cancelled, shall be delivered by the owner, agent or master of the ship to the minister or a person nominated by the Minister..

(2) Where, under this Act, two or more certificates are combined in one document, and one of the certificates has expired or been cancelled and the other certificate remains in force, the document shall be delivered by the owner, agent or master of the ship to the Minister or his nominee for the purpose of endorsement; and any document so delivered shall, when endorsed, be returned to the master, owner or agent in the manner provided for the transmission of certificates by section 232 of this Act.

(3) If a certificate or document is required to be delivered under this section, the Minister may cause the ship to be detained until the certificate is delivered.

239.(1) The Minister may, in his discretion, if satisfied that the condition of the hull, machinery and equipment of a ship is such as to justify the Minister in doing so, grant an extension of any certificate issued under this part

(a) in the case of any certificate of survey issued under section 227 of this Act; and

(b) in the case of a Safety Convention certificate issued in respect of a Nigerian ship,

for a period not exceeding one month from the date when the certificate would have, but for the extension, expired.

(2) If any Nigerian ship in respect of which any safety certificate, or any safety equipment certificate or radio certificate, whether qualified or not, or any radio exemption certificate is issued under this part of this Act is absent from Nigeria on the date when the certificate is due to expire, the Minister or any person authorised by him in that behalf may grant an extension of that certificate for a period not exceeding five months from that date.

(3) Any extension of a certificate under the provisions of this section may be granted, notwithstanding that the certificate has expired, as long as the application for the extension is received before the date the certificate expired.

(4) On any extension being granted under subsection (3) of this section, the

certificate shall be deemed always to have been in force but nothing in that subsection shall be deemed to authorize the granting of any extension beyond the period specified in subsections (1) and (2) of this section.

240.(1) A Safety Convention Certificate shall be in such form as may be approved by the minister, and the construction rules, rules for life saving appliances and radio rules as the case may be, shall make such provisions with respect to Safety Convention Certificates, as appear to the Minister to be necessary, having regard to the Annexure to the Safety Convention.

(2) Any safety certificate or any radio certificate, whether qualified or not, or any radio exemption certificate, issued under this part of this Act in respect of any ship may be combined in one document with any certificate of survey issued under this part of this Act in respect of the ship.

(3) A certificate issued by the Minister under this part of this Act, and any document in which two or more certificates are, under the provisions of subsections (1) and (2) of this section combined, may be signed on behalf of the Minister by any person authorized by the Minister for this purpose and the certificate or document purporting to be so signed shall be admissible in evidence.

214. This part of this Act shall apply in the case of any unregistered ship which is by Part Application to III of this Act required to be licenced in Nigeria or in any foreign country, as it unregistered ships. Applies in the case of Nigerian ships.

## PART XII SAFETY OF LIFE AT SEA

### General Provisions

215. As from the commencement of this Act, the following Conventions, Protocols and their amendments relating to Maritime Safety shall apply, that is

- (a) International Convention for the Safety of Life at Sea, 1974 (SOLAS);
- (b) Protocol Relating to the International Convention for the Safety of Life at Sea, 1988 and Annexes I to V thereto;
- (c) International Convention on Standards of Training Certification and Watch Keeping of Seafarers, 1978 (STCW) as amended;
- (d) International Convention on Maritime Search and Rescue, 1979 (SAR);
- (e) International Labour Organisation Convention (No. 32 of 1932) on Protection Against Accident of Workers Employed in Loading or Unloading Ships (Dockers Convention Revised 1932);
- (f) International Convention on Maritime Satellite Organisation, 1976 (INMARSAT) and the Protocol thereto;
- (g) The Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 and its Protocol of 1990;
- (h) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 and the Protocol thereto;
- (i) International Convention on Salvage, 1989;
- (j) Placing of Seamen Convention, 1920;
- (k) International Ship and Ports Facility Security (ISPS) Code; and (1) International Convention for Safe Containers, 1972.

216.(1) The Minister may make such regulations as he deems necessary or

expedient for the Regulations. purpose of carrying out the provisions of this Part of this Act.

(2) Without prejudice to the generality of subsection (1) of this section and the provisions contained in this section, the Minister may by regulations provide for

- (a) the survey of ships and the issue of certificates;
- (b) the types and forms of certificates;
- (c) the construction and equipment of ships including the provision of life-saving and fire-fighting appliances;
- (d) radio communications in ships;
- (e) the safety of navigation;
- (f) the carriage of grain by ships;
- (g) the carriage of dangerous goods by ships;
- (h) the safety of containers;
- (i) the design, construction, surveys and marking of nuclear ships;
- (j) the management and safe operation of ships;
- (k) the construction, surveys and marking of high speed crafts; and (l) special measures to enhance the memorandum on port state control.

(3) The regulations made under this section shall, in the case of ships to which the Safety Convention applies, include such requirements as appear to the Minister necessary for the implementation of the provisions of the Safety Convention or any International Convention on Safety.

217. Any person who fails to comply with and does or attempts to do any act contrary to the provisions of any safety regulations made under Section 217 of this Act commits an offence and is liable on conviction to a fine not less than three hundred thousand Naira.

Survey of ships Surveyors of ships.

218.( 1) The Minister may appoint such number of qualified persons as Surveyors of ships, as

he deems necessary for the purposes of this part of this Act.

(2) The Minister may, from time to time, recognise any qualified person as a Surveyor of ships for the purposes of this Act, whether generally or for any specific purpose, or occasion.

(3) Every Surveyor of ships and every Radio Surveyor shall have and perform the powers, functions and duties conferred on him by this Act and such other powers, functions and duties as may be necessary to carry into effect the provisions of this part of this Act.

(4) Without prejudice to the generality of subsection (3) of this Section, a Surveyor of ships or a Radio Surveyor may

- (a) in the execution of his duties, at all reasonable times, go on board any Nigerian ship, wherever the ship may be and any other ship while the ship is in Nigeria, and without unnecessarily detaining or delaying the ship from proceeding on any voyage or excursion, surveyor inspect the ship or any part of the ship, or any of the machinery, boats and equipments, cargo and other property or articles on board the ship, and any certificates or other documents which relate to the ship, or to any Officer of the ship, and to which this Act

applies; and

(b) in consequence of an accident in a ship or for any other reason he considers necessary, require the ship to be taken into dock for the purpose of surveying or inspecting the hull of the ship.

(5) The Minister may make rules as to the powers, functions and duties of Surveyors under this Act.

219.(1) The owner of a Nigerian ship or coastal trade and inland water ship, shall, except this Act otherwise provides, cause the ship to be surveyed in the manner provided in this part of this Act, at least once every year.

(2) If the ship referred to in subsection (1) of this section is, during the whole of the last month of any annual period prescribed, absent from Nigeria, the owner shall cause the ship to be surveyed within one month from the date on which the ship next returns to a Nigerian port.

220. A Surveyor shall keep a record of the inspections he makes and certificates he issues in such form and with such particulars respecting the inspection and certificates as the Minister may direct.

221.(1) No ship to which this section applies shall, except where this Act otherwise provides, ply or proceed to sea or on any voyage or excursion unless there is a valid certificate of survey in force in respect of that ship under this part, which certificate is applicable to the voyage or excursion on which the ship is about to proceed.

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(2) This section applies to:

(a) a Nigerian registered ship;

(b) any coastal trade and inland waters ship; and

(c) any other passenger ship, while it is within any port in Nigeria.

(3) A ship to which this section applies that attempts to ply or go to sea without producing a valid certificate of survey may be detained until the certificate is produced.

222.(1) The declaration of a Surveyor shall, subject to the provisions of this section as to surveys and partial surveys, state

(a) the number of passengers which the ship is, in the judgment of the surveyor, fit to carry and distinguish, if necessary between the respective numbers to be carried on the deck, in the cabins, and in different parts of the deck and cabins;

(b) the number of persons comprising the Crew (including the master) for whom accommodation is provided in accordance with this Act; and, where the case requires, any conditions and variations according to the time of year, the nature of the voyage, the cargo carried or other circumstances to which the number is subject;

(c) such other matters as the Minister may direct from time to time.

(2) If, in the judgment of a surveyor, a ship is fit to ply on international voyages only while engaged in a special passenger trade, the surveyor shall state that fact in the declaration of survey.

(3) If, in the judgment of any surveyor, a ship is fit to ply or proceed within certain limits only, the surveyor shall state that fact in the declaration of survey,

(4) If, in the judgment of a surveyor, a ship is fit to ply within certain limits subject to compliance with certain conditions, the surveyor shall specify those conditions in the declaration of survey; and, if those conditions need to, in the judgment of the surveyor, be varied according to different intended uses of the ship, the surveyor shall, in his declaration of survey, specify the conditions appropriate to each of the uses.

(5) If, under subsection (1) of this section, a ship is partially surveyed, the surveyor shall state in the declaration of survey the extent to which he has surveyed the ship.

(6) Subject to the provisions of subsections (1) to (7) of this section and to the other provisions of this Act, the declaration of survey shall contain such statements of particulars as, having regard to the applicable requirements of this Act, the Minister may from time to time or in a particular case direct.

(7) The owner of a ship surveyed, or his agent shall within seven days after the receipt of a declaration of survey, deliver the declaration of survey to the Minister or to such person as the Minister may direct.

(8) An owner or agent who fails, without reasonable cause to deliver the declaration of survey received by him to the Minister, commits an offence and on conviction is liable to a fine not less than twenty thousand Naira for each day the offence continues.

223.(1) Subject to the provisions of this section, if the owner of a ship is aggrieved by the declaration of survey of a surveyor, or by the refusal of the surveyor to give the declaration, the owner may appeal in the prescribed manner to the Minister.

(2) On receipt of an appeal under subsection (1) of this section the Minister shall convene a Board of Survey, or refer the appeal to a scientific Referee under this Act at the port at which or nearest to the place, where the ship is, for the time being.

(3) The Board of surveyor the scientific Referee as the case may be, shall investigate and make a report to the Minister and the Minister may, if satisfied that the requirements of the report and of the provisions of this part of this Act have been complied with, issue a Certificate of Survey.

(4) Where a surveyor (making a survey for the purposes of a declaration of survey) is required by the owner of a ship to make the survey for the purposes of this Part of this Act in his presence or in the presence of a person appointed by the owner, and the surveyor and the owner or person appointed by the owner agree on the declaration of survey, no appeal shall lie under this section to the Minister.

224.(1) Every surveyor appointed under this Act shall, from time to time, make such returns

to the Minister as the Minister may require with respect to the build, dimensions, draught, position of the load lines or other markings, tonnage, rate of sailing, room for fuel and the nature and particulars of machinery and equipments of any ship surveyed by the surveyor pursuant to this part of this Act.

(2) The owner, master and engineer of any ship surveyed shall, on demand,

give to the surveyor all the information and assistance within the power of the owner, master or engineer required for the purpose of returns under subsection (1) of this section.

(3) Any owner, master or engineer who fails to furnish the surveyor with any information required for the purposes of returns under subsection (2) of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

225.(1) Where a foreign ship, which is not a Safety Convention passenger ship, has a foreign certificate of survey attested by an appropriate Officer at a port in a foreign country, and the Minister is, by the production of that certificate, satisfied that

(a) the ship has been officially surveyed at the port;

(b) the certificate remains in force; and

(c) as to the matters covered by the survey made for the purposes of the certificate, it appears to meet substantially the requirements of this Act, the Minister may, subject to compliance by the owner with any condition which the Minister may specify, direct that, the certificate shall be deemed to be a certificate of survey issued under this Act, and the certificate shall have effect accordingly.

(2) The Minister may, by order declare that the provisions of this subsection shall not apply in the case of a foreign ship whose certificate of survey complies with the requirements of this section, if it appears to the Minister that corresponding advantages are not extended to Nigerian ships at the port at which the foreign ship was surveyed.

(3) Without limiting the discretion of the Minister to require compliance with any condition pursuant to subsections (1) and (2) of this section, the conditions may provide for:

(a) the survey annually of the hull, machinery and equipment or any part of the hull, machinery or equipment, of the ship by a surveyor of ships under this Act, and compliance with any requirements of the surveyor;

(b) the survey by a surveyor of ships under this Act in respect of any requirement of this Act or of any subsidiary Legislation made or deemed to have been made under this Act relating to any matter which, in the judgment of the surveyor of ships, has not (or may not have) been surveyed in the manner under this Act.

(4) Where the Minister directs that a certificate of survey, to which the provisions of subsections (1), (2) and (3) of this section apply is deemed to be a certificate of survey issued under this Act, except as may be required by the Minister pursuant

to those subsections, the ship in respect of which the certificate was issued shall, while the certificate remains in force, be exempt from survey under section 220 of this Act.

(5) The period of an exemption under subsection (4) of this section shall in no case exceed one year from the date of the survey in respect of which the certificate was granted.

(6) Where a ship which has been issued with a certificate of survey to



which, if in force, subsection (1) of this section applies, calls at a port in Nigeria before the termination of its voyage and the term of its certificate expires during the course of that voyage, the Minister may, upon the report of a surveyor that he is satisfied as to the seaworthiness of the ship, grant a permit for the ship to clear from Nigeria in continuation of its voyage.

(7) Where a permit under subsection (4) of this section has been granted in respect of any ship, the ship shall for the purpose of continuing its voyage, be exempt from section 220, and section 222 shall apply to that ship as if it had not made that call at a port in Nigeria.

#### Certificates

226.(1) The Minister on the receipt of a declaration of survey shall, if satisfied that this part of this Act has been complied with, issue in duplicate a certificate of survey stating the compliance, and stating:

- (a) the limits, if any, beyond which the ship is not fit to ply or proceed;
- (b) the number of persons, including the master, comprising the crew of the ship for whom accommodation is provided; .
- (c) the number of passengers, if any, that the ship is fit to carry, distinguishing if necessary, the number of passengers to be carried in each part of the ship, and conditions and variations to which the number is subject; and
- (d) any other particular as may be prescribed.

(2) A certificate of survey issued in respect of a ship under this section shall bear as its date of issue a day not later than fourteen days after the day on which the Minister received the declaration of survey relating to the ship.

227. (1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian passenger ship, is satisfied that the ship:

- (a) complies with the construction rules, rules for lifesaving appliances, radio rules applicable to the ship and to such international voyages as the ship is to be engaged on; and
- (b) is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship a certificate, in this Act referred to as a "general safety certificate", showing that the ship complies with the requirements of the Safety Convention applicable.

(2) If the voyages on which the ship is to be engaged are short international voyages and the ship complies only with such of those rules as are applicable to the voyages, the certificate (in this Act referred to as a "Short Voyage Safety Certificate") shall show that the ship complied with the requirements of the Safety Convention applicable to it as a ship plying on short international voyages.

(3) If the Minister, on receipt of a declaration of survey in respect of any passenger ship, is satisfied that the ship is exempt, by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the construction rules, rules for lifesaving appliances, radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, whether short voyages or otherwise, that the ship complies with the rest of these requirements, and is

properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship

(A) an exemption certificate stating which of the requirements of the Safety Convention applicable to the ship, the ship is exempt from, and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(4) A certificate issued under paragraph (b) of subsection (2) of this section shall in this Act be referred to as a "qualified safety certificate" or a "qualified short voyage safety", as the case may be.

228.(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship

(a) complies with the rules for lifesaving appliances applicable to the ship and to such international voyages as the ship is to be engaged on; and

(b) is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship, a certificate showing that the ship complies with the requirements of the Safety Convention relating to the matters applicable to the ship and a certificate issued under this subsection shall be referred to as a "safety equipment certificate".

(2) If the Minister, on receipt of a declaration of survey in respect of any ship as referred to in subsection (1) of this section, is satisfied that the ship is exempt, by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules for lifesaving appliances, from any of the requirements of those rules applicable to the ship and to the international voyages the ship is engaged on, and that the ship complies with the rest of the requirements and is properly provided with the lights, shapes and means of making fog signals required by the collision rules, the Minister shall, on the application of the owner, issue in respect of the ship

(a) an exemption certificate stating which of the requirements of the Safety Convention, relating to the rules for lifesaving appliances and applicable to the ship, the ship is exempt from and that the exemption is conditional on the ship plying only on the voyages and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(3) A certificate issued under paragraph (b) of subsection (2) of this section shall in this Act be referred to as a "qualified safety equipment certificate".

229.(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship complies with the radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, the Minister shall, on the application of the owner, issue in respect of the ship, a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radio communications as are

applicable and any certificate issued under this subsection shall in this Act be referred to as a "radio certificate".

(2) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship is exempt, by virtue of any exercise by the Minister of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the radio rules applicable to the ship and to such international voyages as the ship is to be engaged on, and that it complies with the rest of the requirements of the radio rules, the Minister shall, on the application of the owner, issue in respect of the ship

(a) an exemption certificate stating which of the requirements of the Safety Convention relating to radio communications, are requirements applicable to the ship and from which the ship is exempt and that the exemption is conditional on the ship plying only on the voyages and complying with the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of the requirements.

(3) A certificate issued under paragraph (b) of subsection (2) of this section shall in this Act be referred to as a "qualified radio certificate".

(4) Where any Nigerian ship is wholly exempt from the requirements of the radio rules, the Minister shall, on the application of the owner, issue an exemption certificate stating that the ship is wholly exempted from the requirements of the Safety Convention relating to radio communications, and specifying the voyages from which, and conditions, if any, on which, the ship is so exempt and any certificate issued under this subsection shall in this Act be referred to as a "radio exemption certificate".

230. Where a ship complies with all the requirements of the construction rules, rules for lifesaving appliances, radio rules applicable to the ship and to the voyages on which it is to be engaged, so far as those requirements are requirements of the Safety Convention applicable to the ship, the Minister may issue in respect of the ship

(a) a general safety certificate;

(b) short voyage safety certificate; (c) a safety equipment certificate; or

(d) a radio certificate, as the case may be, notwithstanding that the ship is exempt

from, or for some other reason does not comply with, any requirements of the rules that are not applicable requirements of the Safety Convention.

231.(1) The Minister shall cause every certificate issued under this Part of this Act to be transmitted to the Registrar of ships or a Surveyor of ships at the port mentioned by the owner for the purpose, or at the port where the owner or agent of the ship resides, or where the ship has been surveyed or is at the time lying.

(2) The Minister shall cause a notice of the transmission made pursuant to subsection (1) of this section to be given to the owner, agent or master of the ship and the Registrar of ships or surveyor of ships to whom the certificate was transmitted shall, on the owner, agent or master applying and paying the proper fee and other sums, if any, mentioned in this Act as payable in that behalf,

deliver the certificate to the owner, agent or master of the ship.

(3) In proving the issue of a certificate, it is sufficient to show that the certificate was duly received by the Registrar of ships or surveyor of ship and that due notice of the

transmission was given to the owner, agent or master of the ship.

(4) In any case where there is no time for a certificate of survey to be delivered to the owner, agent or master as provided in subsection (2) of this section, before the ship sails from the port of survey, the surveyor may grant an interim certificate in such form as the Minister may approve.

(5) Every interim certificate issued under subsection (4) of this section shall have effect as if it were a certificate of survey issued under the provisions of this part of this Act, and shall be in force for the period specified in the certificate not exceeding two months from the date of its issue.

232. The provisions of subsection (1) of section 245 of this Act and any order made or deemed to have been made under that section shall not apply to Safety Convention ships plying on certain international voyages in respect of the exemption of the ships from any of the provisions of this Part of this Act except section 256 of this Act.

233.(1) The owner or master of a ship in respect of which certificate issued under this part shall, as soon as possible after any alteration is made in the ship's ownership, hull, equipment or machinery affecting the efficiency or seaworthiness of the ship or the terms of the certificate, give notice in writing containing full particulars of the alteration, to the Minister. .

(2) The Minister may where he has reason to believe that

(a) a certificate issued in respect of any ship under this part of this Act was obtained fraudulently or on wrong information; or

(b) since the making of the last declaration of survey, an alteration, as is meant in subsection (1) of this section, has been made to any ship; or

(c) since the making of the last declaration of survey, the hull, equipment or machinery of a ship had sustained any injury or had otherwise become insufficient, immediately cancel any certificate issued' in respect of the

under this part of this Act; or require the owner of the ship to have the equipment and machinery of the ship surveyed again to such extent as the Minister thinks fit; and, if the requirement is not complied with, may cancel any certificate issued in respect of the ship under this part of this Act.

(3) Whenever the Minister cancels any certificate under subsection (3) of this section

shall give notice to the owner, agent or master of the ship of the cancellation and ( reasons for the cancellation.

(4) In any such case, the Minister may if satisfied that the ship complies with the requirements of this part of this Act as to survey, and that the justice of the case requires, re-issue any cancelled certificate or issue a new certificate in its place without requiring that the ship be re-surveyed or that a further declaration of survey be transmitted.

(5) For the purposes of this section, "alteration", in relation to anything, includes the renewal of any part of the thing.

(6) The owner or master of a ship who fails to give notice of an alteration under section commits an offence and on conviction is liable to a fine not less than thousand Naira.

234.(1) The owner or master of every ship shall, immediately on the receipt by him or by his agent of a certificate under this part, cause the certificate to be put up in a conspicuous place on board the ship, such that the certificate is legible to all persons on board, and is so kept and legible while the certificate remains in force and the ship is in use.

(2) The owner or master who fails to put up the certificate as provided in subsection (1) of this section commits an offence and on conviction is liable to a fine not less than thousand Naira.

(3) If a ship plies or goes to sea or on any voyage or excursion with or without passenger on board, without complying with the provisions of this section, the owner and master of the ship shall each be deemed to have committed an offence and on conviction be liable to a fine not less than fifty thousand Naira.

235.(1) No Nigerian ship shall proceed to sea on an international voyage from a port in Nigeria unless there is in force in respect of the ship

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

(b) if the ship is a cargo ship, both

(i) a safety equipment certificate or a qualified safety equipment certificate, and

(ii) a radio certificate, a qualified radio certificate or a radio exemption certificate.

(2) The provisions of subsection (1) of this section shall not prohibit a cargo ship from proceeding to sea if there is in force in respect of the ship such certificate or certificates as would be required if the ship were a passenger ship.

(3) The master and owner of a ship which proceeds to sea without a certificate in accordance with this section shall be deemed to have committed an offence and on conviction shall be liable to a fine less than five hundred thousand Naira or to imprisonment for three years or to both.

(4) For the purposes of this section, a qualified safety equipment certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship, the corresponding exemption certificate and an exemption certificate shall be of no effect unless the certificate is, by its terms, applicable to the voyage on which the ship is about to proceed.

(5) The master of every Nigerian ship shall produce to the collector of customs from whom a clearance for the ship is demanded for an international voyage, any certificate required by subsections (1), (2) and (3) of this section to be in force when the ship proceeds to sea, and the collector of customs shall not grant clearance to and may detain the ship until the required certificate is produced.

(6) Where the Minister permits a passenger ship in respect of which a short

voyage safety certificate is in force, whether qualified or not to proceed to sea on an international voyage from a port in Nigeria not exceeding twelve hundred nautical miles in length between the last port of call in Nigeria and the final port of destination, the certificate shall, for the purposes of this section, be deemed to be applicable to the voyage on which the ship is about to proceed, notwithstanding that the voyage exceeds six hundred nautical miles between those ports.

(7) Where an exemption certificate, including a valid exemption certificate issued under this part of this Act in respect of a Nigerian ship specifies conditions on which the certificate is issued and those conditions are not complied with, the owner and master of the ship shall each be deemed to have committed an offence and on conviction be liable to a fine not less than five hundred thousand Naira.

236.(1) If, on any international voyage, a Nigerian passenger ship in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the lifesaving appliances on the ship provide, the Minister may, at the request of the master of the ship, issue a

memorandum stating the total number of persons carried on the ship on that voyage, and the consequent modifications which may be made for the purpose of that voyage in the particulars with respect to live saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

(2) The master of the ship in respect of which any memorandum is issued shall return the memorandum to the Minister at the end of the voyage to which it relates and if it is not so returned, the master of the ship commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira..

237.(1) A certificate of survey, a safety certificate, a radio certificate or a radio exemption Duration of certificate shall be in force for a period of one year, and a safety equipment certificate certificates. shall be in force for two years, from the date of the issue of the certificate odor such shorter period as may be specified in the certificate.

(2) No certificate under subsection (1) of this section shall remain in force after notice is given by the Minister to the owner, agent or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(3) An exemption certificate, other than a radio exemption certificate, shall be in force for the same period as the corresponding qualified certificate. .

238. (1) A certificate issued under this part of this Act, which certificate has expired or has been cancelled, shall be delivered by the owner, agent or master of the ship to the Minister or a person nominated by the Minister.

(2) Where, under this Act, two or more certificates are combined in one document, and one of the certificates has expired or been cancelled and the other certificate remains in force, the document shall be delivered by the owner, agent or master of the ship to the Minister or his nominee for the purpose of endorsement; and any document so delivered shall, when endorsed, be returned to the master, owner or agent in the manner provided for the transmission of

certificates by section 232 of this Act.

(3) If a certificate or document is required to be delivered under this section, the Minister may cause the ship to be detained until the certificate is delivered.

239.(1) The Minister may, in his discretion, if satisfied that the condition of the hull, machinery and equipment of a ship is such as to justify the Minister in doing so, grant an extension of any certificate issued under this part

(a) in the case of any certificate of survey issued under section 227 of this Act; and

(b) in the case of a Safety Convention certificate issued in respect of a Nigerian ship, for a period not exceeding one month from the date when the certificate would have, but for the extension, expired.

(2) If any Nigerian ship in respect of which any safety certificate, or any safety equipment certificate or radio certificate, whether qualified or not, or any radio exemption certificate is issued under this part of this Act is absent from Nigeria on the date when the certificate is due to expire, the Minister or any person authorised by him in that behalf may grant an extension of that certificate for a period not exceeding five months from that date.

(3) Any extension of a certificate under the provisions of this section may be granted, notwithstanding that the certificate has expired, as long as the application for the extension is received before the date the certificate expired.

(4) On any extension being granted under subsection (3) of this section, the certificate shall be deemed always to have been in force but nothing in that subsection shall be deemed to authorize the granting of any extension beyond the period specified in subsections (1) and (2) of this section.

240.(1) A Safety Convention Certificate shall be in such form as may be approved by the Minister, and the construction rules, rules for lifesaving appliances and radio rules as

the case may be, shall make such provisions with respect to Safety Convention Certificates, as appear to the Minister to be necessary, having regard to the Annexure to the Safety Convention.

(2) Any safety certificate or any radio certificate, whether qualified or not, or any radio exemption certificate, issued under this part of this Act in respect of any ship may be combined in one document with any certificate of survey issued under this part of this Act in respect of the ship.

(3) A certificate issued by the Minister under this part of this Act, and any document in which two or more certificates are, under the provisions of subsections (1) and (2) of this section combined, may be signed on behalf of the Minister by any person authorised by the Minister for this purpose and the certificate or document purporting to be so signed shall be admissible in evidence.

241.(1) The Minister may request the Government of a country to which the Safety Convention applies to issue in respect of a Nigerian ship, any Safety Convention Certificate which is authorised to be issued under this part of this Act; and a certificate issued in pursuance of the request and containing a statement that it has been so issued, shall have effect for the purposes of this Act

as if it had been issued by the Minister and not by the Government of that country.

(2) The Minister may, at the request of the Government of a country to which the Safety Convention applies, issue in respect of a ship registered in or belonging to that country, any Safety Convention Certificate, the issue of which in respect of Nigerian ships is authorised under the preceding provisions of this part, if the Minister is satisfied that it is proper for him to do so; and a certificate issued in pursuance of the request, and containing a statement that it has been so issued, shall have effect for the purposes of this Act as if it had been issued by that Government and not by the Minister.

242. A person who

(a) knowingly and wilfully makes, or assists in making or procures to be made, a false or fraudulent declaration of surveyor certificate under this part of this Act; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered, any such declaration or certificate, or anything contained in or any signature to any such declaration or certificate, commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira or to imprisonment for a term not less than two years, or to both.

Safety Convention Ships of Other Countries

243.(1) The Minister may by Order provide that certificates issued in accordance with the Safety Convention by the Government of a country other than Nigeria in respect of Safety Convention ships, not being Nigerian ships, or having effect under subsection (2) of section 242 of this Act as if so issued, be accepted as having the same force as corresponding certificates issued by the Minister under this Act.

(2) Any certificate required by an Order under subsection (1) of this section to be so treated is in this Act referred to as "Accepted Safety Convention Certificate" .

(3) A surveyor for the purpose of verifying

(a) that there is in force in respect of a Safety Convention ship, not being a Nigerian ship, an Accepted Safety Convention Certificate; or

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

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

(d) that the conditions on which a certificate, being the equivalent of an exemption certificate, is issued are complied with, shall have all the powers of an inspector under this Act.

(4) Where there is attached to an Accepted Safety Convention Certificate in respect of a Safety Convention passenger ship, not being a Nigerian ship, a memorandum which



(a) is issued by or under the authority of the Government of the country in which the ship is registered or to which the ship belongs; and

(b) modifies for the purpose of any particular voyage, in view of the number of persons carried on the voyage, the particulars stated in the certificate with respect to lifesaving appliances, the certificate shall have effect for the purpose of the voyage as if it were modified in accordance with the memorandum.

244.(1) Where an Accepted Safety Convention Certificate is produced in respect of a Safety Convention passenger ship, not being ~ Nigerian ship:

(a) the ship shall not be required to be surveyed under this Act by a surveyor except for the purpose of determining the number of passengers, if any, that the ship is fit to carry; and

(b) on receipt of any declaration of survey for the purpose of determining the number of passengers, the Minister shall issue a certificate under section 227 of this Act containing only a statement of the particulars set out in paragraph (c) of subsection (1) of section 227 of this Act and a certificate so issued shall have effect as a certificate of survey.

(2) Where there is produced in respect of any ship mentioned in subsection (1) of this section an Accepted Safety Convention Certificate, and a certificate issued by or under the authority of the Government of the country in which the ship is registered or to which it belongs showing the number of passengers the ship is fit to carry, and the Minister is satisfied that the number has been determined substantially in the same manner as in the case of a Nigerian ship, the Minister may, if he thinks fit, dispense with any survey of the ship for the purpose of determining the number of passengers that the ship is fit to carry, and direct that the last mentioned certificate has effect as a certificate of survey.

245. Where a Safety Convention cargo ship, which is not a Nigerian ship, is surveyed in Nigeria in the manner prescribed in this Part of this Act, and there is produced in respect of the ship an Accepted Safety Convention Certificate by virtue of the production of which that ship is, under section 247 of this Act, exempted from the rules for lifesaving appliances, or, as the case may be, from the radio rules, the surveyor shall state in his declaration of survey that if the Minister upon receipt of a declaration of survey, issues a certificate of survey in respect of any such ship, the Minister shall state in the certificate the rules from which that ship is exempted and the reasons for the exemption.

246. Where an Accepted Safety Convention Certificate is produced in respect of a Safety Convention ship which is not a Nigerian ship, and the certificate shows that the ship:

(a) is properly with the lights, shapes and means of making signals required by the collision rules; or

(b) complies with the requirements of the Safety Convention as to lifesaving and fireextinguishing appliances or if exempted from some of those requirements the ship complies with the rest; or

(c) that the ship complies with or is exempted from the requirements of the Safety Convention relating to radio communications, or if exempted from some of those requirements, the ship complies with the rest, the ship shall, to the

extent to which the certificate is applicable, be exempted from inspection for the purposes of enforcing the collision rules or from the provisions of the rules for lifesaving appliances or of the radio as the case may be.

247.(1) The master of a Safety Convention ship, which is not a Nigerian ship, shall produce to the collector of customs from whom a clearance for the ship is demanded in respect of an international voyage from a port in Nigeria, an Accepted Safety Convention Certificate that is the equivalent of the Safety Convention Certificate issued by the Minister under this part of this Act, required to be in force in respect of the ship if the ship were a Nigerian ship; and a clearance shall not be granted, and the ship may be detained until the certificate is so produced.

(2) The production of an Accepted Safety Convention Certificate which is the equivalent of:

(a) a qualified safety equipment certificate; or

(b) an exemption certificate, other than a radio exemption certificate, shall not avail for the purposes of this section or section 247 of this Act unless there is produced, the corresponding exemption certificate or qualified certificate, as the case may be.

248. In this Part of this Act:

"certificate" means a certificate issued in accordance with the safety regulations made under this Act;

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 as amended and its Protocol of 1978, together with such further other International Conventions on safety as the Minister may, by Order declare to be in effect;

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

"Safety Convention country" means a country the Government of which has accepted the Safety Convention;

"Safety Convention ship" means a ship to which the Safety Convention applies.

### PART XIII CONSTRUCTION OF SHIPS

249. (1) The Minister may make rules (in this Part of this Act referred to as "construction rules") prescribing requirements as to the hull, equipment and machinery of a Nigerian ship or any class of coastal or inland water ship.

(2) Every Nigerian ship or coastal or inland water ship shall, unless any of those classes of ships are otherwise exempted under this Act from the requirements of annual survey, comply with the requirements as are applicable.

(3) The power to make construction rules includes the power to make such further rules in relation to the construction rules as appear to the Minister necessary to implement the provisions of the Safety Convention.

(4) The Minister shall ensure that every ship constructed in Nigeria, to which the Safety Convention is applicable, shall comply in every particular with the provisions of the Convention.

250.(1) The provisions of this section shall apply with respect to every ship built in Nigeria.

(2) The builder of a ship shall submit the plans and specifications of the ship in duplicate to the Minister, and shall not commence the building until the Minister has approved of the plans and specifications.

(3) If a builder of a ship builds a ship without complying with the provisions of this section, the Minister may order the ship to be detained absolutely or until the builder performs the conditions with respect to alterations as the Minister thinks fit.

(4) The builder of a ship shall pay such fees for the examination of the plans and specifications of a ship under this section, as the Minister may, from time to time, direct.

(5) Any person who contravenes any of the provisions of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

#### Lifesaving Appliances

251. The Minister may make rules for lifesaving appliances which rules shall include such requirements as appear to the Minister expedient for the implementation the provisions of the Safety Convention relating to the matters mentioned in this part of this Act.

252. The owner and the master of a ship to which this part of this Act applies shall ensure that his ship is provided, in accordance with the rules for lifesaving appliances, with such of the appliances as, having regard to the nature of the service for which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of the ship's crew and passengers.

253.(1) A surveyor of ships may inspect a ship for the purpose of ensuring that the ship is properly provided with lifesaving appliances in conformity with this Act, and for the purpose of the inspection shall have all the powers of an inspector under this Act.

(2) If a surveyor of ships finds that the rules for lifesaving appliances have not been complied with, he shall give to the master or owner of the ship, a notice in writing stating in what respect there has been failure in compliance and what, in the opinion of the surveyor, is required to remedy the same.

(3) A notice given under subsection (2) of this section shall be communicated in the manner directed by the Minister, to the collector of customs at any port at which the ship may seek to obtain a clearance, and a clearance shall not be granted to the ship, which ship shall be detained by the collector of customs, until a certificate under the hand of a surveyor of ships is produced to the effect that the matter required to be remedied has been rectified.

#### Boat Drill and Fire Drill

254.(1) The master of a Nigerian ship shall

(a) cause his crew to be properly exercised in boat and fire drills at such times and in such manner as may from time to time be prescribed by the rules for lifesaving appliances;

(b) cause an entry to be made in the official log book of every occasion

on which a boat drill or a fire drill is practiced on board the ship or on which the appliances and equipment required by the rules for lifesaving appliances to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination;

(c) if in the case of -

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

(ii) any other ship, a boat drill or, fire drill is not practised on board the ship in anyone month; or

(iii) any ship, the boat and fire drill appliances and equipment are not examined in any such period as is prescribed by the rules for lifesaving appliances, the master of the ship shall cause a statement of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period to be entered in the official log book;

(d) permit any Registrar of ships or surveyor, or any collector or other officer of customs, to be present at any drill, and to inspect any entry made in the official log book in pursuance of this section;

(e) cause a boat or fire drill, or both, to be carried out in the presence of a surveyor at such times, while the ship is in port as the surveyor may require.

(2) Any master of a ship who fails to comply with any of the provisions of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

#### Adjustment of Compasses

255. The Minister may make rules

(a) providing for the licensing of properly qualified persons to be adjusters of compasses;

(b) prescribing the examination to be passed by applicants for such licences;

(c) fixing the fees to be paid for the adjustment of compasses;

(d) providing for the adjustment of compasses and the transmission of deviation tables;

(e) providing for the keeping and inspection of certificates;

(f) providing for the granting of exemptions for specified classes of ships; and

(g) providing for the recognition of certificates granted in other countries.

#### PART XIV RADIO RULES

256. (1) The Minister may make rules (in this Act referred to as "Radio rules") requiring ships Radio rules. to which this section applies to

(a) be provided with radio installation, other than a radio navigational aid, of such a nature as may be prescribed by the rules; and

(b) maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed, and the rules may contain provisions for preventing, as far as is practicable, electrical interference with the radio installation by other apparatus on board.

- (2) This section applies to
- (a) a sea-going Nigerian ship;
  - (b) any other sea-going ship while it is within any port in Nigeria.
- (3) The radio rules shall include such requirements as appear to the Minister necessary to implement the provisions of the Safety Convention relating to radio communications.
- (4) A radio surveyor may inspect any ship for the purpose of seeing that the ship is properly provided with a radio installation and radio officers or operators in conformity with the radio rules, and for that purpose shall have all the powers of an inspector under this Act; and, if the radio surveyor finds that the ship is not provided with a radio installation or radio officers or operators in conformity with the radio rules, he shall give to the owner or master notice in writing pointing out the deficiency, and pointing out what in his opinion is requisite to remedy the deficiency.
- (5) A notice given under subsection (4) of this section shall be communicated in the manner directed by the Minister to the collector of customs, at any port at which the ship may seek to obtain a clearance, and the ship shall be detained by the collector of customs until a certificate under the hand of a radio surveyor is produced to the effect that the ship is properly provided with a radio installation and radio officers or operators in conformity with the radio rules.

#### Radio Surveyors

257. Subject to the provisions of any rules made under this part of this Act, there shall be appointed such number of qualified persons to be radio surveyors, as may be necessary, and the Minister may recognise any qualified person as a radio surveyor generally or for a specified purpose or for a specified occasion.

#### PART XV SAFETY PROVISIONS FOR MISCELLANEOUS VESSELS

258.(1) The Minister may make rules generally for the safety of vessels in Nigeria other than ships which are not Safety Convention ships and in respect of which the Minister is satisfied that other adequate provisions do not exist.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Minister may make rules to

- (a) prescribe the requirements that the hull, equipment and machinery of any such vessel shall comply with;
- (b) provide for the inspection and licensing of any such vessel;
- (c) prohibit or prevent the overloading or overcrowding with passengers of any vessel to which the rules made or deemed to have been made under this Act and for such purposes do not apply;
- (d) require any such vessel to which the rules for lifesaving appliances do not apply to have on board such equipment as maybe prescribed; and
- (e) prescribe requirements for the manning and working of any such vessel to which the manning regulations do not apply; and
- (f) in respect of different classes of vessel or vessels of the same class in different circumstances.

259. (1) Nothing in this part of this Act

- (a) prohibiting or preventing a ship from proceeding to sea unless there

are in force in respect of the ship or is produced, the appropriate Safety Convention Certificate issued under this part or the appropriate Accepted Safety Convention Certificate; or

(b) conferring powers on a surveyor for the purpose of verifying the existence, validity or correctness of any Safety Convention Certificate, or that the conditions under which any such certificate was issued are complied with; or

(c) requiring information about a ship's stability to be carried on board;

or

(d) imposing a penalty for the contravention of any rule relating to openings in the hulls of ships and watertight bulkheads, shall, apply to any troop-ship, pleasure yacht, fishing boat or to any ship of less than one hundred tons gross tonnage, other than a passenger ship, or to any ship not propelled by mechanical means.

(2) Notwithstanding that any provision of this part of this Act is expressed to apply to ships not registered in Nigeria while they are within any part in Nigeria, the provision shall not apply to a ship that entered into the port due to the stress of weather or any other circumstances that the master or owner, or the charterer, if any, of the ship could not have prevented or forestalled.

260. (1) The provision of this Act as to annual survey of ships shall not apply to any ship under this section, unless affected by safety rules for vessels in Nigeria made or deemed to be under this part or the Minister otherwise directs in respect of a particular ship under this section.

(2) An owner of a ship who fails to comply with any direction of the Minister under subsection (1) of this section commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

(3) For the purpose of this section, "ship" includes(

a) fishing boats not exceeding fifteen tons;

(b) pleasure yachts not exceeding fifty tons; and

(c) ships not exceeding sixteen feet in overall length, not being ship propelled by mechanical power which are ferries and carry passengers for hire or reward.

(4) Nothing in this part of this Act prohibiting a ship from plying or progressing to sea or on any voyage or excursion unless there is in force in respect of that ship or is produced, a certificate of survey issued under this Act, shall apply to any ship within this section.

261. (1) For the purpose of this section and the provisions of this Act as to survey, any fishing boat shall, except as provided in the subsection (2) and (3) of this section deemed to be-

(a) a passenger ship on any occasion when the fishing boat carries more than four passengers or carries any passenger for hire or reward;

(b) a cargo ship on any occasion when the fishing boat carries any cargo other than the fish caught by the crew of the fishing boat.

(2) No fishing boat shall be deemed to be a passenger ship by reason only of the carriage of any person rescued from the sea, or any registered medical practitioner or registered nurse traveling in the course of his profession, or any person necessarily traveling to obtain urgent medical attention, or any police

officer or officer of the Ministry traveling on official duties.

(3) The Minister may, from time to time, subject to such conditions as he thinks fit, issue a permit to the owner or master of any fishing boat to carry more than four passengers or to carry any passenger or cargo for hire.

(4) No permit issued under subsection (3) of this section, shall continue in force for more than twelve months from its date of issue and any such permit may at any time be cancelled by notice in writing from the surveyor of ships to the owner of the fishing boat.

(5) Except as provided in subsection (2) and (3) of this section, nothing in this section shall operate to make lawful the carriage of passengers in any fishing boat in any circumstances where, but for the provisions of this section, such carriage of passengers shall be unlawful.

(6) Any owner or the master of a fishing boat that is used for the carriage of passengers or cargo contrary to the provisions of this section, commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

262. (1) The master of every near coastal trade ship and inland water ship shall issue to every passenger a sufficient quantity of water and wholesome provisions, unless the passenger had agreed to provide himself with such water or provisions.

(2) If, the owner or charterer or the master of the ship referred to in subsection (1) of this section fails to provide the sufficient quantity of water and provisions, he commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

263. (1) Every Nigerian ship engaged on a voyage in which a pilot is likely to embark shall carry a pilot ladder which shall comply with the rules for lifesaving appliances made pursuant to this part of this Act.

(2) Any owner or master of a ship that does not carry a pilot ladder as provided in subsection (1) of this section, commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

264. Where the Minister is satisfied-

(a) that the Government of any country has accepted or denounced, the Safety Convention; or

(b) that the Safety Convention extends or has ceased to extend, to any territory, he may, by order, make a declaration to that effect.

## PART XVI SAFETY OF NAVIGATION

### Prevention of Collision

265. (1) The Minister may make rules (in this Act called "collision rules") with respect to ships, and to aircraft on the surface of the water, for the prevention of collision; and the rule shall contain such requirements as appear to the Minister necessary to implement the provisions of the international treaties, agreements and regulations for the prevention of collisions at sea that are for the time being in force.

(2) The collision rules, together with the provisions of this part of this Act relating to those rules or otherwise relating to collisions, shall apply to all ships and aircraft which are locally within the jurisdiction of Nigeria.

(3) In any case arising in any court concerning matters arising locally within the jurisdiction of Nigeria, all ships and aircraft to which subsection (2) of this section applies shall concerns the collision rules and those provisions of this part, be treated as if they were Nigerian ships or as the case may be aircraft registered in or belonging to Nigeria.

(4) For the purpose of this section, aircraft taking off from or landing on water shall be deemed to be on the surface of the water when they are in contact with water.

(5) This section shall apply in the case of ships and aircraft belonging to the Federal Government as it applies in the case of other ships and aircraft.

266. (1) Every owner, master of ship and owner and person in command of an aircraft shall obey the collision rules, and shall not carry or exhibit any light of shapes, carry or use any means of making signals, other than those which are required or permitted by the collision rules to be carried, exhibited or used.

(2) Where an infringement of the collision is caused by the willful default of the owner or master of a ship, as the case may be, of the owner of any aircraft or of the pilot or other person on duty in charge of any aircraft, that person commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira or to imprisonment for a term not less than two years or to both.

(3) Where any damage to person or property arises from the noncompliance by any ship or aircraft with any of the collision rules, the damage shall be deemed to have been occasioned by the willful default of the officer in charge of the deck of the ship at the time or as the case may be, of the pilot or any other person on duty in charge of the aircraft at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the rules necessary.

(4) The Agency shall furnish a copy of the collision rules to any owner or master of a ship, or any owner or person in command of an aircraft, on the application of that owner, master or person in command.

(5) This section shall apply in the case of ships and aircraft belonging to the Federal Government as it applies in the case of other ships and aircraft.

267.(1) Unless otherwise exempted under this Act, any ship may be inspected by a surveyor of ships for the purpose of seeing that the ship is properly provided with lights, shapes and the means of making sound signals in conformity with the collision rules; and if he finds that the ship is not so provided, the surveyor of ships shall give to the master, owner or his agent notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

(2) Every notice so given shall be communicated in the manner directed by the Minister to the collector of customs at any port at which the ship may seek to obtain a clearance; and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the ship is properly provided with lights, shapes and with the means of making sound signals in conformity with the collision rules.

(3) For the purpose of an inspection under this section, a surveyor shall



have all the powers of an inspector under this Act.

(4) Where a certificate as to lights, shapes and means of making the sound signals is refused, the owner may appeal to the Minister and the Minister may appoint a Board of Survey under this Act at the port nearest to the place where the ship is.

(5) On any such appeal, the Board of Surveyor, if the matter is referred to a scientific referee under this Act, shall report to the Minister on the question raised by the appeal; and the Minister, when satisfied that the requirements of the report and of this Act as to lights, shapes and means of making sound signals have been complied with, may issue, or direct a surveyor or other person appointed by the Minister to issue the certificate.

(6) Where a surveyor making an inspection under this section is required by the owner to make the survey in the presence of the owner or of any person appointed by the owner, and the surveyor and the owner or person appointed by the owner agree, no appeal shall lie to the Minister.

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

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

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

(2) If the master or person in charge of a ship fails, without reasonable cause, to comply with this section, he commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira or to imprisonment for a term not less than two years or to both.

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

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

(2) Every master who fails to comply with this section commits an offence and on conviction shall be liable to a fine not less than one hundred thousand Naira.

270. Whenever it appears to the Minister that the Government of any foreign country is willing that the collision rules, or the provisions of this Part of this Act relating to the collision rules or otherwise should apply to ships or aircraft registered in or belonging to that country, when not locally within the jurisdiction of Nigeria, the Minister may, by Order, direct that those rules and

provisions shall, subject to any limitation of time and to any conditions and qualifications contained in the Order, apply to the ships and aircraft of that country, whether or not they are locally within the jurisdiction of Nigeria, and that those ships and aircraft shall, for the purpose of those rules and provisions, be treated as if they were Nigerian ships or, as the case may be, aircraft registered in or belonging to Nigeria.

271.(1) The master or person in charge of a ship shall, in so far as he can do so without serious danger to his own ship, its crew and passengers, if any, render every assistance to any person, even if that person is a subject of a State at war with Nigeria, who is found at sea in danger of being lost.

(2) A master or person in charge of a ship who fails to comply with the provisions of subsection (1) of this section commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira or imprisonment for a term not exceeding two years or to both.

(3) The compliance by the master or person in charge of a ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

#### Signals of Distress

272.(1) The Minister may make Rules to prescribe what signals shall be used by ships as signals of distress and the circumstances in which and the purposes for which any signal prescribed by any such Order is to be used and the circumstances in which it is to be revoked.

(2) A person who uses, displays, causes, or permits any person under his authority to use or display

(a) any signal prescribed by any Rules made or deemed to have been made under this section, except in the circumstances and for the purposes prescribed by the rules made or deemed to have been made pursuant to this section; or

(b) any private signal that is liable to be mistaken for any signal so prescribed by any rule, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira, and, in addition, shall pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal's having been supposed to be signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage is recoverable.

(3) Nothing in subsection (3) of section 275 of this Act shall interfere with the transmission of signals prescribed under this section.

273.(1) The master of a Nigerian ship, on receiving at sea a signal of distress or information from any source that a ship or other vessel or an aircraft or any person is in distress at sea, shall proceed with all speed to the assistance of the persons in distress, informing them if possible, that he is doing so, unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of subsection

(3) or subsection (4) of this section.

(2) Where the master of any ship in distress has requisitioned any Nigerian ship that has answered his call, it shall be the duty of the master of the

requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation 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, and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by subsection (1) of this section and if his ship has been requisitioned, from the obligation imposed by subsection (2) of this section, if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) A master of a ship who fails to comply with the provisions of subsections (1) and (2) of this section, commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira or to imprisonment for a term not exceeding two years or to both.

(6) Where a master of a Nigerian ship, upon receiving at sea a signal of distress or information from any source that a ship or other vessel or an aircraft or any person is in distress at sea, is unable or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall immediately cause a statement to be entered in the official log book of his reasons for not going to the assistance of those persons and if he fails to do so, he commits an offence and on conviction is liable to a fine not less than twenty thousand Naira.

(7) The master of every Nigerian ship shall enter or cause to be entered in the official log book every signal of distress or message that a ship or other vessel, or an aircraft or person, is in distress at sea; and, if he fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not less than twenty-five thousand Naira.

(8) Nothing in this section shall affect the provisions of section 272 of this Act and compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

#### Dangers to Navigation

274.(1) The master of a Nigerian ship, on meeting with a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal and in accordance with any rules made or deemed to have been made by the Minister for the purposes of this section, to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

(2) A master of a ship who fails to comply with the provisions of this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(3) A person in charge of a radio communication station which is under the control of the Federal Government or which is established or installed under licence of the Government shall on receiving the signal indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so

required by the Minister, shall transmit the message in such manner as may be required by the Minister; and compliance with this subsection shall be deemed to be a condition of every licence for a radio communication station granted by or on behalf of the Federal Government.

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

#### Report of Accidents and Loss of Ship

275.(1) When any ship to which this section applies has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting its seaworthiness or its efficiency either in its hull or in the case of a ship propelled by mechanical power, in any part of its machinery or has been in collision with another ship, the master shall transmit to the Agency

(a) where possible, by radio communication in the first instance, a preliminary report; and

(b) in all cases, if in port when the accident or damage occurs, within twenty-four hours of the happening, or otherwise within twenty-four hours of first reaching a port, whether in Nigeria or elsewhere, a full report in writing signed by him, of the accident or damage, and of the probable cause thereof, stating the name of the ship, its official number, if any, the port at which the ship is registered or to which it belongs and the place where it is.

(2) Where the managing owner or in the event of there being no managing owner resident in Nigeria, 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 not been reported to the Minister by the master and if such accident or damage has not been so reported, the managing owner or agent shall as soon as convenient send to the Minister notice in writing stating the name of the ship, its official number, if any, and the port at which the ship is registered or to which it belongs and stating also, to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause of and the place where the ship is.

(3) This section shall apply to

(a) all Nigerian ships;

(b) other near coastal trade and inland water ships; and

(c) other ships to which any such accident or damage as is mentioned in subsections (1) and (2) of this section occur, or is believed to have occurred, on or near the coast of Nigeria.

(4) Every master and managing owner or agent who fails, without reasonable cause, to comply with this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

276.(1) If the managing owner, or, in the event of there being no managing owner resident in Nigeria, the agent of any ship to which this section applies has reason, owing to the non-appearance of the ship or to any other circumstance, to

apprehend that the ship has been wholly lost, he shall, as soon as may be convenient, send to the Minister notice in writing stating the name of the ship, its official number, if any, and the port at which the ship is registered or to which it belongs, and stating also to the best of his knowledge and belief the probable cause of the loss.

(2) This section shall apply to

(a) all Nigerian ships;

(b) other near coastal trade and inland water ships; and

(c) other ships which are lost or are supposed to have been lost on or near the coasts of Nigeria.

(3) Any managing owner or agent who fails, without reasonable cause, to comply with this section within a reasonable time, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

#### Search for Missing Ships

277.(1) Where a Nigerian ship or a near coastal trade ship or inland water ship, is missing, Search for missing and the owner has not caused reasonable search to be made for the ship, the Minister ships.

may require the owner to make such a search; and, if after being so required, the owner does not immediately cause reasonable search to be made for the ship, the owner commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira.

(2) For the purposes of this section, service of any notice on the agent of the owner shall be deemed to be service on the owner.

278. The Minister may make regulations for search and rescue procedures to be followed Search and rescue by all Nigerian vessels and organisation and for the establishment of Rescue Co- regulations. ordination Centres.

#### PART XVII UNSEAWORTHY SHIPS

279.(1) A person who sends or attempts to send, or is party to sending or attempting to send, a Nigerian ship to sea in such an unseaworthy state that the life of any person is likely to be endangered, by so doing, commits an offence under this Act, unless he proves that he used all reasonable means to ensure that the ship was sent to sea in a seaworthy state or that its going to sea in such an unseaworthy state, was under the circumstances, reasonable and justifiable.

(2) Every master of a Nigerian ship who knowingly takes the ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered commits an offence and unless he proves that the ships going to sea in such an unseaworthy state, was under the circumstances, reasonable and justifiable.

(3) Any person who commits an offence under subsection (1) or (2) of this section shall on conviction be liable to a fine not less than one million Naira or to imprisonment for a term not less than two years, or both.

280.(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman of the ship and in every instrument of cadetship by which any person is bound to serve as a cadet on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship, and the master,

and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep it in a seaworthy condition during the voyage.

(2) Nothing in this section shall subject the owner of a ship to any liability by reason 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 justified.

281.(1) Where a Nigerian ship, or an unregistered ship which is owned wholly by persons qualified to own a registered Nigerian ship, being in any port in Nigeria is an unsafe ship by reason of:

(a) the defective condition of the ship hull, equipment or machinery; or

(b) overloading or improper loading; or

(c) under-manning or being insufficiently ballasted, or in the case of a ship propelled

by mechanical power, by reason of having insufficient fuel on board for the intended voyage when proceeding at ordinary full speed, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which the ship is intended, the ship may be provisionally detained for the purpose of being surveyed or of ascertaining the sufficiency of its crew or fuel, and may be [finally] detained or released as provided in subsection (2) of this section.

(2) The Minister-

(a) may if he has reason to believe, on complaint or otherwise, that a ship to which this section applies is unsafe, order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed;

(b) when a ship is provisionally detained, there shall be immediately served on the master of the ship a written statement of the grounds of the detention of the ship and the Minister may, if he thinks fit, appoint a surveyor to survey the ship and where necessary, rejoin the crew and report on it to the Minister;

(c) the Minister, on receiving the report, may order the ship to be released or, if, in his opinion, the ship is unsafe, may order it to be finally detained absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo or ballast, or the manning of the ship, or the supply of fuel, as the Minister thinks necessary for the protection of human life and, may from time to time, vary or add to any such order;

(d) before the order for final detention is made, a copy of the report shall be served upon the master of the ship and within seven days after that service, the owner or master of the ship may appeal in the prescribed manner to the Minister and the Minister may appoint a board of survey under this Act to consider the case at the port at or nearest to which the ship is detained;

(e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that, that person be accompanied by some

person of nautical, engineering or other special skill or knowledge, as the owner or master may select; and, in that case, if the surveyor and the person so selected agree, shall cause the ship to be detained or released accordingly; but, if they differ, the Minister may act as if the requisition has not been made; and the owner and the master shall have right of appeal touching the report of the surveyor as in paragraph (d) of this subsection;

(f) where a ship has been provisionally detained, the Minister may at any time, if he thinks it expedient, refer the matter to a board of survey at the port or nearest to which the ship is detained; .

(g) the Minister may at any time, if satisfied that a ship detained under this section is not unsafe, order it to be released upon or without any conditions.

(3) A person authorised by the Minister for the purpose (in this Act referred to as a "detaining officer") shall have the same power as the Minister under this section to order the provisional detention of a ship for the purpose of being surveyed, and of appointing a surveyor or surveyors to survey the ship; and if he thinks that a ship so detained by him is not unsafe, may order the ship to be released.

(4) A detaining officer shall immediately report any order made by him for the detention or release of a ship to the Minister.

(5) An order for the detention of a ship, provisional or final, and an order varying same, shall be served as soon as practicable on the master of the ship.

(6) A ship detained under this section shall not be released by reason of her register in a foreign country being subsequently closed.

(7) A detaining officer shall, for the purpose of his duties, have all the powers of an inspector under this Act.

(8) A detaining officer and any surveyor appointed under this section to survey a ship may, in the performance of their duties, go on board any ship and inspect the same and every part of the ship and the machinery, equipment and cargo thereof, and may require the unloading or removal of any cargo, ballast or tackle.

(9) Any person who wilfully impedes a detaining officer or any such surveyor in the execution of the surveyor fails to comply with any requisition made by a detaining officer or surveyor, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

282.(1) If it appears that there was no reasonable cause for the provisional detention of a ship under this part of this Act as an unsafe ship, the Federal Government shall be liable to pay to the owner of the ship his costs of, and incidental to, the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

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

(3) For the purposes of this section, the costs of, and incidental to, any

proceeding before a board of survey and a reasonable amount in respect of the remuneration of the surveyor or detaining officer shall be part of the costs of the detention and survey of the ship; and where there is a dispute as to the amount of the costs the dispute may be referred to any registrar of a court of competent jurisdiction who shall on request by the Minister, ascertain and certify the proper amount of those costs.

283. (1) Where a complaint is made to the Minister or a detaining officer that a foreign ship is unsafe, the Minister or officer may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for the costs and compensation which the complainant may become liable to pay as mentioned in this section.

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

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

284.(1) Where a foreign ship at a port in Nigeria is unsafe by reason of the defective condition of the ship's hull, equipment or machinery or by reason of overloading, improper loading, )undermanning or insufficiency of fuel for the intended voyage when proceeding at ordinary full speed or by being insufficiently ballasted

(a) a copy of the order for the provisional detention of the ship shall be immediately served on the consular officer for the country to which the ship belongs at or nearest to the said port;

(b) where a ship has been provisionally detained, the consular officer, on the request of the owner or master-of the ship, may require that the person appointed by the Minister to survey the ship shall be accompanied by such person as the consular officer may select; and, in that case, if the surveyor and that person agree, the Minister shall cause the ship to be detained or released accordingly; but, if they differ, the Minister may act as if the requisition had not been made; and the owner and the master shall have the right to appeal to a board of survey on the report of the surveyor;

(2) This section shall not apply to a ship by reason of the ship being in a port in Nigeria if the ship was not bound for a port in Nigeria, and did not enter the port at which it is lying for the purpose of embarking or disembarking passengers or loading or discharging cargo or loading fuel.

285.(1) Where, in any proceeding against a seaman or cadet for the offence of desertion or absence without leave or for otherwise being absent from his ship without leave, it is alleged by one fourth or if their number exceeds twenty, by



not less than five, of the seamen belonging to the ship that the ship is, by reason of unseaworthiness, overloading, improper loading, undermanning, defective equipment, insufficiency of ballast or insufficiency of fuel for the intended voyage when proceeding at ordinary full speed, or for any other reason, not in a fit condition to proceed to sea or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as it thinks fit to ascertain the truth or otherwise of the allegation.

(2) The court shall receive the evidence of the persons making the allegation, and may summon any other witnesses whose evidence it may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but, if not so satisfied, shall before adjudication cause the ship to be surveyed.

(3) A seaman or cadet charged with desertion or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has, before quitting his ship, complained to the master of the circumstances so alleged in justification.

(4) For the purposes of this section, the court shall require a surveyor to survey the ship. If a surveyor or as the case may be a radio surveyor cannot be obtained without reasonable expense or delay then any other impartial person or persons appointed by the court and having no interest in the ship, her freight or cargo, to inspect the ship, and, in either case, to answer any questions concerning the ship which the court thinks fit to put.

(5) Every such person shall surveyor, as the case may be, inspect the ship and make his written report to the court, including an answer to every question put to him by the court; and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before it in accordance with those opinions.

(6) Any person making a surveyor inspection under this section shall, for the purposes of the surveyor inspection, have all the powers of an inspector under this Act.

286.(1) The costs, if any, of the surveyor inspection under section 286 of this Act, shall be determined by the court according to the prescribed scale of fees, and shall be paid into the Consolidated Revenue Fund by the owner or master of the ship.

(2) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey paid by the owner or master under subsection (1) of this section may be deducted by the owner or master out of the wages due, or to become due, to the persons on whose demand, or in consequence of whose allegations the survey was made.

I .  
(3) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the owner or master of the ship shall, in addition to his liability to pay the costs of the survey pursuant to

subsection (1) of this section be liable to pay to any seaman or cadet detained in consequence of the proceedings before the court such compensation for his detention as the court may award.

#### Overloading and Overcrowding in Ships Exempt from Survey

287.(1) The Minister may make rules with respect to ships exempt from survey under this Act for:

- (a) preventing the overloading of ships and the overcrowding of ships with passengers;
- (b) securing the safety of passengers, and proper accommodation for passengers on ships; and
- (c) generally for regulating all other matters relating to the protection of life and property of passengers and others on ships.

(2) Unless otherwise exempted, every person who commits a breach of any regulations made or deemed to have been made pursuant to this section, commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira.

#### PART XVIII LOAD LINES

288. For the purpose of this Part of this Act

"Convention Country" means a country, the Government of which is a party to the Load Line Convention and which has not denounced that Convention, or a territory of such country to which the Convention extends and remains extended; .

"existing ship" means a ship which is not a new ship;

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

"International voyage" means a voyage between

- (a) a port or place in Nigeria and a port or place outside Nigeria; or
- (b) a port in a Convention Country (other than Nigeria) and a port in any other country or territory of the country (whether or not a Convention) which is outside Nigeria, so however, that in determining the ports between which voyage is made, no account shall be taken of any deviation by a ship from its intended voyage which is due solely to stress of weather or other circumstances that neither the master nor the charterer, if any, of the ship could have prevented or forestalled;

"Load Line Convention" means the International Convention on Load Lines 1966 and any amendments thereto which the Minister may, by Order declare to be in effect for Nigeria;

"Load Line Convention ship" means an international Load Line ship belonging to a country to which the Load Line Convention applies;

"Load Line Regulations" means the regulations made by the Minister to give effect to the Load Line Convention;

"Load Line ship" means

- (a) an international Load Line ship, that is to say, an existing ship of not less than one hundred and fifty tons or a new ship of twenty-four metres or more in length which carries cargo or passengers on international voyages; and
- (b) a local Load Line ship, that is to say, a ship, other than an

international Load Line ship, which carries cargo or passengers; .

"new ship" means a ship whose keel is laid or which is at a similar stage of construction on or after

(a) in the case of a ship registered in or flying the flag of a country other than Nigeria which is a Convention country, the date from which it is declared that the Government of the country has ratified or acceded to the Load Line Convention, or that it is a country to which that Convention applies;

(b) in the case of any other ship, the date of the coming into force of this Act.289. This Part shall not apply to

(a) ships of war;

(b) pleasure craft not engaged in trade; and

(c) fishing vessels.

290. The Minister may, from time to time, by notice published, in the Gazette make a list of countries that have ratified, acceded to or denounced the Load Line Convention.

291. The Minister may make such rules in this part of this Act referred to as the "Load Line Regulations" as appear to him to be necessary for the purpose of giving effect to the Load Line Convention, and without prejudice to the generality of the foregoing, such Regulations may also prescribe Load Line requirements and provide for the issue of local Load Line Certificates in respect of ships to which the Load Line Convention does not apply.

292.(1) An International Load Line Certificate may be issued to every ship which has been surveyed and marked in accordance with the Load Line Convention.

(2) An International Load Line Exemption Certificate may be issued to any ship to which

an exemption has been granted in accordance with the Load Line Convention.

293.(1) Where a Nigerian ship has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship, on his application.

(2) For the purpose of this section, the appropriate certificate

(a) in the case of an existing ship of not less than one hundred and fifty gross tons, and in the case of a new ship of twenty-four metres or more in length shall be called an "International Load Line Certificate (1966)"; and

(b) in the case of any other ship, shall be called a "Nigerian Local Load Line Certificate" .

294.(1) The Minister may request the Government of a country which is a party to the Load Line Convention to issue an International Load Line Certificate in respect of a Nigerian ship and a certificate so issued and containing a statement that it was so issued shall have effect for the purposes of this part as if it had been issued by the Minister.

(2) Where a valid Load Line Certificate issued in pursuance of subsection

(1) of this section is produced in respect of a ship, that ship shall, for the purposes of this part of this Act, be deemed to have been surveyed under the Load Line Regulations, and if the deck line and Load Line correspond with the marks specified in the certificate, the ship shall be deemed to be marked as

required by this part.

295. The Minister may, at the request of the Government of a country to which the Load Line Convention applies, issue an International Load Line Certificate in respect of a ship of that country, if he is satisfied that, as in the case of a Nigerian ship, he can properly issue the certificate; and where a certificate is issued at such a request, it shall contain a statement to the effect that it has been so issued.

296.(1) With a view to determining the validity in Nigeria of Certificate purporting to have been issued in accordance with the Load Line Convention in respect of foreign ships, the Minister may make such regulations as appear to him to be necessary .

(2) For the purposes of the provisions of this Part relating to a foreign ship the expression "a valid Load Line Certificate " means a certificate complying with such of those regulations made under subsection (1) of this section as are applicable in the circumstances.

297.(1) Where in the opinion of the Minister the sheltered nature and conditions of international voyages between ports in Nigeria and ports in neighbouring countries make it unreasonable or impracticable to apply the provisions of this Act to ships plying on such a voyage, and the Minister is satisfied that the Governments of the other countries concur in that opinion, the Minister may, by Order, specifying those port, direct that ships plying on such voyages be exempt from provisions of this part.

(2) The Minister may, by Order, direct that ships under twenty-four metres in length engaged solely in the coastal trade, or any class of such ships specified in the Order be exempt from the provisions of this part of this Act.

(3) Any Order under this section may be made subject to such conditions as the Minister thinks fit, and where any such Order is made subject to conditions, the exemption granted by the Order shall not have effect in relation to a ship unless the ship complies with those conditions.

298.(1) On the application of the owner of a Nigerian ship to which this part applies and the ship is either an existing ship of not less than one hundred and fifty gross tons or a new ship of not less than twenty-four metres in length, the Minister may exempt the ship if in his opinion the ship embodies features of a novel kind such that, if the ship had to comply with the requirements of this part, the development of those features and their incorporation in the ship might be seriously impeded.

(2) On the application of the owner of a Nigerian ship to which this part applies, and which is

(a) an existing ship of less than one hundred and fifty gross tons or a new ship of less than twenty-four metres in length; or

(b) a ship, not falling within paragraph (a), which does not ply on international voyages, the Minister may exempt the ship.

(3) Without prejudice to subsection (2) of this section, where a Nigerian ship to which this Part applies is an existing ship of not less than one hundred and fifty gross tons or a new ship of not less than twenty-four metres in length, does not normally ply on international voyages but is in exceptional circumstances,

required to undertake a single international voyage, the Minister, on the application of the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

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

299. In this part of this Act, any reference to exempting a ship means exemption

(a) from all the provisions of this part of this Act and of the Load Line Regulations; or (b) from such of those provisions as are specified in the instrument granting the exemption.

300.(1) Where the Minister exempts a ship under section 298 or 299 of this Act the Agency 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 granted under subsection (1) or (3) of section 299 of this Act shall be called an "International Load Line Exemption Certificate"; and

(b) where the exemption is granted under subsection (2) of that section shall be called a "Nigerian Local Load Line Exemption Certificate" .

(3) Any certificate issued under this section shall be issued in such manner, as may be prescribed by the Load Line Regulations.

301.(1) The Load Line Regulations shall make provisions for determining the period which any exemption granted under section 298 or 299 of this Act or any certificate issued under section 293 of this Act is to remain in force including

(a) provisions enabling the period for which any such exemption or certificate is originally granted or issued to be extended within such limits and in such circumstances as may be prescribed by the Regulations; and

(b) provisions for terminating any such exemption and for cancelling any such certificate in such circumstances as may be 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.

302. Where a valid Load Line Certificate issued under this Part of this Act is produced in respect of the ship to which the certificate relates

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

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

303.(1) Every Load Line Certificate issued by or under the authority of the Minister shall, unless it is renewed in accordance with the provisions of subsection (2) of this section, expire at the end of such period as is specified in

the certificate but not exceeding five years from the date of its issue.

(2) Any such load line certificate may, after a survey that is "not less effective than the survey required by the Load Line Regulations before the issue of the certificate, be renewed, from time to time, by the Agency or by any person authorised by it to issue a load line certificate for such period not exceeding five years on any occasion as the Agency or other authorized person renewing the certificate thinks fit.

(3) The owner of every ship in respect of which any such certificate remains in force, shall cause the ship to be surveyed in the prescribed manner at least once in every period of twelve months after the issue of the certificate should remain in force, having regard to subsection (2) of this section and if the ship is not so surveyed, the Minister shall cancel the certificate, but may, if he thinks fit extend the said period by a maximum of three months.

304. (1) Subject to any exemption granted under this part, no Nigeria ship being an international load line shall proceed to sea on an international voyage unless there is in force in respect of such ship an International Load Line Certificate.

(2) No Nigeria ship, being a local load line ship, shall proceed to sea unless there is in force in respect of such ship a Local Load Line Certificate.

(3) Any owner or master of a ship of which proceeds to sea contrary to the provisions of subsection (1) and (2) of this section commits an offence and on conviction is liable to a fine of not less than one hundred thousand Naira.

(4) The master of every Nigeria load line ship shall produce to the customs officer from whom a clearance for the ship is demanded the certificate that is required by this section to be in force when the ship proceeds to sea, and a clearance shall not be granted and the ship shall be detained until that certificate is produced.

305. (1) The Minister may make regulations, in this section referred to as the "the Deck Cargo Regulations", prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a load line ship.

(2) Where the Load Line Regulations provide for assigning special freeboards to ships which are to have effect when carrying only timber deck cargo, without prejudice to the generality of subsection (1) of this section, 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) of this section, the Minister shall have regard in particular to the provisions of Chapter IV of Annex 1 to the Load Line Convention.

(4) Where any provisions of the Deck Cargo Regulation are contravened:

(a) in the case of a Nigerian ship; or

(b) in the case of any other ship while the ship is within any port in Nigeria, the master of the ship subject to subsection (5) of this section, commits an offence and is liable to a fine of not less than one hundred thousand Naira.

(5) Where a person is charged with an offence under subsection (4) of this section it shall be a valid defence if proven to the satisfaction of the court that the contravention was due solely to deviation or delay caused by stress of weather or any other cause of force majeure 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 authorized in that behalf by the Agency may inspect any ship to which this part applies which is carrying cargo in any uncovered space on its deck, and for the purpose of any such inspection any such person shall have all the powers of a surveyor under this Act.

306. A surveyor of ships or any other marine officer may inspect any Nigerian load line ship for the purpose of ensuring that the provisions of this Part of this Act have been complied with.

307. (1) The owner or master of a ship in respect of which a load line certificate issued under this part is in force shall, as soon as practicable after any structural alteration which affects the load line marks is made in the hull or superstructures of the ship, give notice in writing to the Agency containing full particulars of the alteration.

(2) Where notice of any alteration is not given as required by subsection (1) of this section, the owner and the master of the ship each commits an offence and shall on conviction be liable to a fine not less than one hundred thousand Naira.

(3) The Agency may exercise with respect to any such ship his powers specified in subsection (4) of this section where he has reason to believe that-

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

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

(4) In any such case the Agency may-

(a) cancel the Load Line Certificate; or

(b) require the owner to have the ship surveyed again to such an extent as the Agency thinks fit, and, if that requirement is not complied with he may cancel the Load Line Certificate.

(5) Where the load line certificate has expired or has been cancelled, the Agency may require the owner or master of the ship to which the certificate relates to deliver up the certificate as he may direct and the ship may be detained.

(6) A ship owner or master who fails without reasonable cause to comply with the requirement in subsection (5) of this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

308. (1) No ship shall be so loaded as to submerge in salt water when the ship has no list, the appropriate load line on each side of the ship, the load line indicating or purporting to indicate the maximum dept to which the ship is for the time being permitted under the Load Line Regulations to be loaded.

(2) where any ship is loaded in contravention of this section, the owner or master of the ship commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira and to such additional fine, as specified in 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, or would have been increased by reason of the submersion.

(3) The additional fine referred to in subsection (2) of this section shall not exceed fifty thousand Naira for every centimetre or part thereof by which the appropriate load line on each side of the ship was submerged if the ship had been in salt water and without any list.

(4) In any proceedings against an owner or master in respect of a contravention of this section, it shall be a valid defence that the contravention was due solely to deviation or delay caused by stress of weather or any cause of force majeure which neither the master, the owner, nor the charterer, if any, could have prevented or forestalled.

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

309. (1) The owner or master of a Nigeria load line ship who fails without reasonable cause to keep the ship marked in accordance with this part of this Act commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira.

(2) Any person who conceals, removes, alters, defaces or permits any person under his control to conceal, remove, alter, deface or obliterate any mark placed on the ship in accordance with this part of this Act, except with the authority of a person entitled under the Load Line Regulations to authorize the alteration of the mark commits an offence and on conviction is liable to a fine of not less than five hundred thousand Naira.

310. (1) No Nigeria load line ship shall proceed to sea unless-

(a) the ship has been surveyed in accordance with the Load Line Regulations either by a surveyor of ships or by any organization to act in that behalf by the Minister or at his request by the Government or any Conventional Country;

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

(c) the ship is marked each side with a mark (in this Act referred to as "deckline") indicating the position of the uppermost deck and with marks (in this Act referred to as "load line"), indicating the several maximum depths to which the ship is permitted to load in various circumstances prescribed by the Load Line Regulations;

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

(2) Where the ship proceeds or attempts to proceed to sea in contravention of this section the master or the owner thereof is liable to a fine not less than five thousand Naira and the ship may be detained until it has been so surveyed and marked.

311. The master of any Load Line Convention ship shall, upon request produced a valid Load Line Certificate to the Custom Officer from whom a clearance for the ship from a port in Nigeria is demanded and a clearance shall not be granted and the ship may be detained until the certificate is produced.



312. Unless a valid Load Line Certificate is produced in case of a foreign ship, the provision of section 303 of the Act, shall apply that ship proceeding or attempting to proceed to sea from a port in Nigeria as they apply to Nigerian ship.

313. The provisions of section 309 of this Act shall apply to a foreign ships while they are in Nigeria waters as they apply to Nigeria ships, subject to the following-

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

(b) the expression “the appropriate load line” means-

(i) in the case where a Load Line Convention certificate in respect of the ship is produced on such an inspection as mention in paragraph (a) of this section, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being permitted under the Load Line Convention to be reloaded,

(ii) in the case where a valid Load Line Convention certificate is not so produced, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being permitted in accordance with the Load Line Regulations to be reloaded.

314. (1) Where a Load Line Certificate has been issued under this part in respect of a Nigeria load line ship-

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

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

(2) The master of any Nigeria Load Line ship shall before the ship proceeds to sea-

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

(b) cause a notice in the prescribed form to be displayed in some conspicuous place on board the ship and the notice shall remain displayed and shall be legible while the ship is at sea.

(c) The owner or master of any Nigeria Load Line ship who fails to comply with the provisions of this section, commits an offence and conviction is liable to a fine not less than one hundred thousand Naira.

315.(1) A surveyor of ships or any other marine officer may board any ship when the ship is within Nigerian waters and may demand the production of any Load Line Certificate for the time being in force in respect of the ship.

(2) Where a valid Load Line Certificate is produced to the surveyor his powers of inspecting the ship with respect to load lines shall be limited to

ensuring that

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

(b) the markings of the load line on the ship correspond with those specified in the certificate;

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

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

(3) Where a valid Load Line Certificate is not produced to the surveyor under this section, he shall have the same power of inspecting the ship as provided for in section 307 of this Act as if the ship were a Nigerian Load Line ship.

316.(1) Where it is found upon an inspection referred to in section 316 of this Act, that a ship is loaded in contravention of section 309 of this Act, the ship may be detained and proceedings may be taken, against the master or owner of the ship under section 309 of this Act.

(2) Where the load lines on the ship are not marked as specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(3) Where on an inspection, a ship is found to have been so materially altered in respect of the matters referred to in paragraphs (c) or (d) of subsection (2) of section 316 of this Act, that it is manifestly unfit to proceed to sea without danger to human life, the ship shall be detained, but where the ship has been so detained the Agency shall order the ship to be released as soon as it is satisfied that the ship is fit to proceed to sea without danger to human life.

#### **PART XIX CARRIAGE OF BULK CARGOES**

317. The Minister may make regulations relating to

(a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safety Practice for Bulk Cargoes, issued by the International Maritime Organisation and any amendments to the Code or replacements of the Code;

(b) the safe carriage and stowage of grain in compliance with the International Convention for the Safety of Life at Sea, 1974 and any amendments to the Convention or replacements of the Convention as they come into force for Nigeria.

318.(1) Where grain is loaded on board any Nigerian ship, or is loaded at any port in Nigeria on any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and, if such precautions are not taken, the owner or the master or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, is guilty of an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(2) Where a ship, loaded with grain outside Nigeria without necessary and reasonable precautions having been taken to prevent the grain from shifting,

enters any port in Nigeria so laden, the owner or master commits an offence and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

(3) No offence is committed under subsection (2) of this section where the ship would not have entered any such port but for stress of weather or any other cause or force majeure, and the master, the owner the charterer if any, could not have prevented or forestalled it.

(4) Any person authorized by the Agency to ensure the observance of the provisions of this section may inspect the grain, and the mode in which it is stowed and shall have all the powers of a surveyor of ships under this Act.

319. Any person who contravenes any of the provisions in this Part of this Act commits an offence and on conviction is liable to a fine not less than two hundred thousand Naira.

320. The Minister may make regulations relating to - Safe containers.

(a) the construction, safe handling, stacking and transportation of containers;

(b) the facilitation of international container transport;

(c) the packing of cargo in freight containers or vehicles.

## PART XX DANGEROUS GOODS

321.(1) The Minister may by regulations establish which goods, articles or materials to be carried in a ship, are dangerous goods in accordance with the provisions of the International Convention for the Safety of Life at Sea, 1974 relating to the carriage of dangerous goods and to amendments thereto or replacements thereof or with any other Convention which may be accepted by Nigeria, and such regulations shall have regard to the International Maritime Dangerous Goods Code of the International Maritime Organisation.

(2) Without restricting the generality of subsection (1) of this section, the Minister may by regulations prescribe

(a) the method of packing and stowing of the goods referred to by this section;

(b) the quantity of the goods which may be carried in any ship;

(c) the place or places within a ship in which the goods may be carried;

(d) the marking that is to be placed on any package or container in which goods may be placed for shipment;

(e) the precautions that shall be taken with respect to the carriage of goods under this section and the powers of inspection to determine compliance with the provisions of the regulations.

322.(1) No person shall send by or carry in a Nigerian ship, except in accordance with the regulations made pursuant to section 322 of this Act, any dangerous goods, but this section shall not apply to ship's distress signals or to the carriage of military stores under conditions authorised by the Minister.

(2) No person except the owner or master of a Nigerian ship shall send by or carry any dangerous goods in the ship without first distinctly marking the nature of the goods on the outside of the outermost package containing the same, in accordance with the regulations as the Minister may make and without first giving written notice of the nature of the goods and of the name and

address of the sender, to the master or owner of the ship.

(3) This section shall apply to all foreign ships while loading at any place in Nigeria as, they apply to Nigerian ships.

323. A person who contravenes any of the provisions of this part of this Act commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira and the ship shall be deemed, for the purposes of this Act, to be unsafe by reason of improper loading.

324.(1) The master or owner of any ship may refuse to take on board any package or parcel that he suspects might contain dangerous goods; and may require the package to be opened to ascertain its nature.

(2) When dangerous goods, or 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 323 of this Act, the master or owner of the ship may cause the goods, together with their package or container to be thrown overboard; and the master or the owner of the ship shall not be subject to a civil or criminal liability in any court in respect of such action.

325.(1) Where dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this part of this Act, the court may order the goods, and any packaging or container thereof, to be forfeited.

(2) A court may exercise the powers conferred by subsection (1) above notwithstanding

(a) that 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) that there is no evidence to show to whom the goods belong, but the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

#### PART XXI TONNAGE MEASUREMENT

326.(1) Every ship shall before it is registered be surveyed by a surveyor of ships and the tonnage of the ship ascertained in accordance with the provisions of any regulation made under this part of this Act.

(2) The surveyor shall grant a Certificate of Survey 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 Registrar.

The Certificate of Survey shall be delivered to the Registrar before registration.

327.(1) The Minister, by regulations, (in this Act referred to as "the Tonnage Regulations") may

(a) provide for ascertaining the tonnage of ships;

(b) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;

(c) make any provision of the regulations dependent on compliance with such conditions to be evidenced in such manner as may be specified in the regulations;

(d) prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship; and

(e) make provision for the master and the owner of the ship to be liable to a fine of two hundred thousand Naira on contravention of any of the provisions.

(2) In the Tonnage Regulations, provision may be made

(a) for assigning to a ship, in place of the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not to be loaded to the full depth to which it can otherwise be safely loaded;

(b) for indicating on the ship by such mark as is specified, that such a lower tonnage has been assigned to it and, where it has been assigned to it as an alternative, the depth to which the ship can be loaded for the lower tonnage to be applicable; and

(c) for the issue of documents certifying the registered tonnage of any ship or the tonnage that is to be taken for any purpose specified as the tonnage of a ship not registered in Nigeria.

(3) Any person who contravenes any of the provisions of these Regulations commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand Naira.

(4) In making the tonnage regulations the Minister shall have due regard to the International Convention on Tonnage Measurement of Ships 1969, including any amendments to the Convention.

328.(1) Where it appears to the Minister that a foreign country has promulgated rules on Tonnage that are substantially the same as those under the tonnage regulations made ship under this part of this Act, the Minister may order that a ship of that country, without being re-measured in Nigeria, be deemed to be of the tonnages denoted in its certificate of registry or other national certificates relating to tonnage in the same manner, to the same extent and for the same purposes as the tonnages denoted in the certificate of registry of a Nigerian ship is deemed to be the tonnages of that ship.

(2) Any space shown by the certificate of registry or other certificates relating to tonnage of any foreign ship described in subsection (1) of this section as deducted from the tonnage on account of being occupied by seamen or cadets and appropriated to their use, shall be deemed to have been certified under this Act and to comply with those provisions of this Act that apply to such a space in the case of Nigerian ships, unless a surveyor inspects the ship and certifies to the Minister that the construction and the equipment of the ship in respect of that space do not meet the standard required of a Nigerian ship under this Act, in which case the ship shall be re-measured and assigned a tonnage in accordance with this Act.

(3) Where it appears to the Minister that the tonnage of a foreign ship is measured by the rules materially different from the rules for measurement of tonnages under this Act, the Minister may order that any of the ships of that country be re-measured in accordance with this Act, for all or any of the purposes of this Act.

329.(1) Where a ship has been measured and registered as a foreign ship or has already been measured without being registered as a Nigerian ship, a surveyor

may accept and use any figures of measurement contained in the latest register relating to that ship, or in the case of an unregistered ship, in the latest certificate of survey relating to that ship.

(2) Before acting under subsection (1) of this section, the surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate that he proposes to use; and where any such changes have been made he shall re-measure the ship to the extent made necessary by the changes.

330. Where any alteration or reconstruction of a Nigerian ship is made that could affect the ship's classification, measurement, tonnage or load line, the owner or master of the ship shall, within thirty days after the completion of the alteration or reconstruction, advise the Agency of the alteration or reconstruction and give him details of such alteration or reconstruction.

331.(1) For the purposes of this Act, the Minister may appoint duly qualified persons within or outside Nigeria as surveyors to survey and measure ships.

(2) The Minister may, by regulations, nominate any person within or outside Nigeria to be a classification society for the purposes of this Act and any classification society so nominated may appoint any person to survey and measure ships under and for the purposes of this Act, subject to such conditions as the Minister may impose.

332.(1) Every ship shall, before being registered in Nigeria, be marked permanently and conspicuously in accordance with the regulations made under this part of this Act.

(2) Where the Agency is satisfied that a ship is insufficiently or inaccurately marked, he may suspend the certificate of registry of the ship or in the absence of such certificate he may detain the ship until, the insufficiency or inaccuracy has been remedied to his satisfaction.

(3) The Minister may make regulations exempting any class of ship from all or any of the requirements of this section.

## PART XXII PASSENGER SHIPS

333.(1) The Minister may make regulations:

- (a) relating to accommodation, facilities and provisions on board passenger ships which carry passengers from a port in Nigeria;
- (b) requiring the preparation and furnishing of particulars as to all passengers to or from a port in Nigeria;
- (c) regulating the number of passengers which a ship may carry from a port in Nigeria whether or not the ship is a passenger ship; and
- (d) prescribing the terms and conditions upon which ships may carry passengers between ports in Nigeria.

(2) In making regulations pursuant to subsection (1) of this section, the Minister shall have due regard to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, and its Protocol of 1990.

(3) The Minister may waive or vary the regulations referred to in subsection (1) of this section in respect of applications to license Nigerian passenger ships operating solely within Nigerian waters.

334.(1) Any person, on board or attempting to board a passenger ship in Nigeria who-

(a) on account of being drunk and disorderly, is refused admission to a passenger ship or where he is already on board, is requested by the owner or any person in his employ to leave the ship, and after having the amount of the fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship, or refusing to leave the ship;

(b), after warning by the master or other officer of the ship, molests or continues to molest any passenger;

(c) on account of the ship being full, is refused admission to a passenger ship or where he is already on board, is requested by the owner or any person in his employ to leave the ship, and after having the amount of the fare paid by him returned or tendered to him, nevertheless persists in attempting to enter the ship, or where he is already on board, refuses to leave the ship;

(d) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment;

(e) having paid his fare for a certain distance, knowingly and willfully proceeds in the ship beyond that distance without first paying the additional fare for the additional distance, intending to avoid payment of the additional fare;

(f) on arriving in a ship at a point to which he has paid his fare, knowingly refuses or neglects to leave the ship;

(g) fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipts showing the payment of his fare as is usually given to persons traveling by and paying their fare for the ship; or

(h) willfully causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the ship, or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship, commits an offence under this Act.

(2) A person who commits an offence under this section on conviction is liable to a fine not less than one hundred thousand Naira and to imprisonment for not less than three months.

#### PART XXIII PREVENTION OF POLLUTION FROM SHIPS

335.(1) As from the commencement of this Act, provisions of the following International

Conventions and Agreements shall apply

(a) International Convention for the Prevention of Pollution from Ships, 1973/1978 and the Annexes thereto;

(b) Convention Relating to Intervention on the High Seas in Cases of Threatened Oil Pollution Casualties, 1969;

(c) International Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matters; 1972;

(d) International Convention on Oil Pollution Preparedness, Response and Co operation, 1990;

(e) International Convention on Civil Liability for Oil Pollution Damage

1992;

(f) Convention on Limitation of Liability for Maritime Claims, 1976 and the 1996 Protocol thereto;

(g) Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 and its Protocol of 1992;

(h) Basel Convention on the Control of Trans boundary Movements of Wastes and their Disposal, 1989; and

(i) any International Agreement or Convention not mentioned in paragraphs (a) to

(h) of this subsection which relates to the prevention, reduction or control of pollution of the sea or other waters by matters from ships, and civil liability and compensation for pollution damage from ships; to which Nigeria is a party.

(2) The Minister shall, subject to the provisions of this Act and any other law or Convention for the time being in force relating to the Prevention of Pollution from Ships have responsibility for the prevention of pollution of marine environment from ships.

(3) Without prejudice to the generality of subsection (1) of this section, the Minister may make regulations giving effect to the provisions of the International Conventions and Agreements mentioned therein.

(4) Without prejudice to the generality of subsection (2) of this section, provisions may be made

(a) for applying for the purpose mentioned in that subsection, any enactment or instrument relating to the pollution of the sea or other waters;

(b) with respect to the carrying out of surveys and inspections for the purpose of the subsection and the issue, duration and recognition of certificates for that purpose;

(c) with respect to the application of the regulations to Nigeria and the extra territorial operation of any provisions made by or under the regulations;

(d) stipulating fines and punishment for the contravention of any provision made by or under the Regulations;

(e) for detaining any ship in respect of which a contravention is suspected to have occurred.

(5) Any regulations made under subsection (1) of this section may

(a) make different provision for different circumstances;

(b) make provision in terms of any document which the Minister or any person considers relevant from time to time;

(c) provide for exemptions from any provisions of the regulations;

(d) provide for the delegation of functions exercisable by virtue of the regulations;

(e) include such incidental, supplemental and transitional provisions as may appear

to the Minister to be expedient for the purposes of the regulations;

(f) authorise the making of any instrument for any of the purposes of this section.

(6) Any person who contravenes any of the provisions of this section or any Regulations made thereto pursuant to this section commits an offence and shall



be liable on conviction to a fine not less than five hundred thousand Naira or to imprisonment for a term not less than two years or to both.

336. The Minister may, by Order, make such provisions as he considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 for the protection and preservation of the marine environment from pollution by matter from ships.

#### PART XXIV LIABILITY IN COLLISION CASES

337. In this part of this Act

"vessel" means any ship, craft, machine, rig or platform whether capable of navigation or not which is involved in a collision;

"collision" means any accident involving two or more vessels which causes loss or damage even if no actual contact has taken place;

"claimant" means any person, corporate body or legal entity to whom damages are due in respect of loss or damage (excluding death and personal injury) as a result of a collision;

"damages" means the financial compensation payable to the claimant;

"total loss " means an actual total loss of the vessel or such damage to the vessel that the cost of saving and repairing her would be unreasonable.

338.(1) This Part of this Act shall apply to any person as if the expression "owner" included this the person responsible for the fault of any ship; but without prejudice thereto, where by virtue of any charter or demise or for any other reason, the owner is not responsible for the navigation and management of the ship, the expression shall be read and construed as though there were substituted therefore references to the charterer or other person so responsible.

(2) References in this part of this Act to damage or loss caused by the fault of a ship, shall be construed as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

(3) For the purposes of this section, "ship" means every description of vessel used or intended for use in navigation, however propelled, and whether completed or in the course of construction or completion.

339.(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of division them, or to their cargo 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: .

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

(b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed; and

(c) 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. .

(2) This section shall apply to Nigerian Government ships as it applies in the case of other ships.

340.(1)Where loss of life or personal injury is 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) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured or any person entitled to sue in respect of that loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

341.(1) Subject to the provisions of this section, where loss of life or personal injury is suffered by any person on board a ship owing to the fault of the ship and any other contribution.

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, the owners of that ship may recover, by way of contribution, the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.

(2) No amount shall be recovered as provided in subsection (1) of this section 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 person entitled to sue therefore.

(3) The persons entitled to contribution under this section shall, subject to the provisions of this Act, have in addition to any other remedy for the purposes of recovering the contribution, the same rights and powers as the persons entitled to sue for damages in the first instance.

342.(1) Subject to the provisions of this section, no action shall be maintainable to enforce any claim or lien against a ship or its owners in respect of any damage or loss to another ship, its cargo or freight, or any property on board, or damages for loss of life or personal injuries suffered by any person on board, caused by the fault of the former ship, whether such ship is wholly or partly in fault, or in respect of any salvage services, unless proceedings in respect of the damages are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered.

(2) An action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings in that respect are commenced within one year from the date of payment.

(3) Any court of competent jurisdiction may extend the period on such conditions as it thinks fit and shall, if satisfied that during the period there has not been a reasonable opportunity of arresting the defendant ship at any port in Nigeria, or within three miles of the coast of Nigeria or locally within the jurisdiction of the country to which the ship of the plaintiff belongs or in which the plaintiff resides or has his principal place of business, extend the period to the extent necessary to give such a reasonable opportunity .

Damages in Collision Cases

343. The provisions contained in this part of this Act shall apply to the

assessment of damages where a vessel has been involved in a collision with another vessel or vessels, so however that a claimant shall be entitled to recover only such damages as may reasonably be considered to be the direct and immediate consequence of the collision.

344. The damages recoverable under this part of this Act shall be such as to place the claimant in the same financial position as he would have been had the collision not occurred. .

345. The burden of proving the loss or damage sustained in accordance with the provisions of this part of this Act shall be upon the claimant and damages shall not be recoverable to the extent that the person against whom the claim is made is able to show that the claimant could have avoided or mitigated the loss or damage by the exercise of reasonable diligence.

346.(1). Where there is a total loss of a vessel, the claimant shall be entitled to damages equal to the cost of purchasing a similar vessel in the market at the date of the collision.

(2) Where no similar vessel is available, the claimant shall be entitled to recover as damages the value of the vessel at the date of the collision calculated by reference to the type, age, condition, nature of operation of the vessel and any other relevant factors.

(3) The damages recoverable in the event of a total loss shall include

(a) reimbursement of salvage, general average and other charges and expenses reasonably incurred as a result of the collision;

(b) reimbursement of sums for which the Claimant has become legally liable and has paid to third parties in respect of such liability, arising out of the collision by reason of contractual, statutory or other legal obligations; and

(c) reimbursement for the net freight lost and the value of bunkers and ship's gear lost as a result of the collision and not included in the value of the vessel ascertained in accordance with this section.

(4) Subject to reimbursement for any claim for loss of freight under paragraph (c) of subsection (2) of this section, compensation for the loss of use of the vessel for the period reasonably necessary to find a replacement whether the vessel is actually replaced or not and such compensation shall be calculated in accordance with the provisions of section 348 less any interest which the claimant may be entitled to receive in respect of the said period.

347. (1) Where a vessel is damaged but not in total loss as defined in this part of this Act, the claimant shall be entitled to recover as damages:

(a) the cost of temporary repairs reasonably effected, and the reasonable cost of permanent repairs:

(i) the cost of those repairs shall include but not limited to the cost of any necessary 'dry-docking, gas-freeing or tank cleaning, port charges, supervision and classification surveys, together with dry-dock dues and or wharf age, for the time occupied in carrying out such repairs,

(ii) where the collision damage repairs are carried out in conjunction with owners' work which is essential to the seaworthiness of the vessel or with essential repair work arising out of another incident or are deferred to and carried out at a routine docking, the damages shall include, but not limited to,

dry dock dues, wharf age or other time-based charges but only to the extent that the period to which such charges relate has been extended by reason of the collision damage repairs;

(b) reimbursement of salvage, general average and other charges and expenses reasonably incurred as a result of the collision;

(c) reimbursement of sums, for which the claimant has become legally liable and has paid to third parties in respect of such liability, arising out of the collision by reason of contractual, statutory or other legal obligations;

(d) reimbursement for the net freight lost and the cost of replacing bunkers and vessel's gear lost as a result of the collision and not included in the cost of repairs under subsection (1) (a) of this section.

(2) Without prejudice to the provisions of subsection (1) of this section, the damages recoverable shall include:

(a) subject to reimbursement for any claim for loss of freight under subsection (1) (d)

of this section, compensation for the net loss of earnings arising from the collision;

(b) compensation assessed by establishing the gross earnings of the vessel lost during detention, calculated by reference to the vessel's earnings or by reference to the earnings of comparable vessels in the same trade and deducting from the gross earnings the operating costs which would normally have been incurred in order to achieve the gross earnings, such as hire payable, crew and bunkers costs, port disbursements and insurance; and

(c) operating costs and expenses actually incurred during detention, other than those included under subsection (1) of this section.

(3) In the application of subsection (2) of this section, the following particular provisions shall be relevant:

(a) where detention occurs during the performance of a voyage charter party and such detention does not require the cancellation of the charter party, compensation shall be calculated by applying the average net earnings on the two voyages prior to and the two voyages subsequent to the detention:

(b) where no reference to two prior and two subsequent voyages is possible, the net earnings on other relevant voyages or if there are no other relevant voyages on the voyage during which the collision took place shall form the basis of compensation;

(c) if in consequence of such detention the charter party is cancelled, and freight remains unearned, compensation shall include the net freight lost;

(d) when detention occurs while the vessel is being operated on a liner service, compensation for detention shall be assessed in the following circumstances:

(i) where detention occurs during the voyage which the vessel is performing at the time of the collision by applying to the detention the net daily earnings for that voyage, computed for the time the voyage would have taken had the collision not occurred,

(ii) where detention occurs other than during the voyage which the vessel is performing at the time of the collision, by applying to the detention the

average net earnings on the two voyages prior to and the two voyages subsequent to the detention,

(iii) where reference to two prior and two subsequent voyages is not possible, the basis of the computation will be the net earnings on other relevant voyage and if there are no other relevant voyages the compensation will be assessed by reference to the net earnings of a similar vessel operating in a similar trade.

(e) where detention occurs while the vessel is performing under a time charter, compensation shall include the net loss of hire during the detention. If in consequence of such detention the charter party is cancelled, compensation shall include the net hire which would have been paid during the unperformed portion of the charter, allowance being made for any actual net earnings during that portion.

(4) Where collision damage repairs are carried out in conjunction with the work of the owner which is essential to the seaworthiness of the vessel or with essential repair work arising out of another incident or are deferred to and carried out at a routine docking, damages shall include compensation for detention only to the extent that the period under repair is extended by reason of the collision damage repairs.

348.(1) The claimant shall be entitled to recover damages when property has been lost or damaged in consequence of the collision.

(2) In the case of property having a commercial value the damages shall be:

(a) if the property is lost, the claimant shall be entitled to reimbursement of the market value at the port of destination at the time when it should have arrived, less any expenses saved;

(b) where the market value cannot be determined, the value of the property shall be the shipped value plus freight and the cost of insurance if incurred by the claimant, plus a margin for profit assessed at no more than ten per cent of the value of the property calculated in paragraph (a) of this subsection;

(c) if the property is damaged, the claimant shall be entitled to damages equal to the difference between the value of the property in sound condition at destination and its value in damaged condition; .

(d) where physical damage to such property arises from the prolongation of the voyage following the collision, the compensation shall be fixed on the same basis, where the loss arises from a fall in the market during such prolongation there shall be no right to damages.

(3) In the case of any other property the claimant shall be entitled to recover:

(a) where the property has been lost or is irreparable its value or the reasonable cost of its replacement;

(b) where the property is damaged and can be repaired; the reasonable cost of repairs, but not exceeding its value or the reasonable cost of its replacement.

349. (1) Interest on damages is recoverable in addition to the principal sum.

(2) For claims under subsection (1) of section 347 of this Act, interest shall

run from the date of the collision to the date of payment.

(3) For all other claims, interest shall run from the date the loss was sustained or the expense was incurred to the date of payment.

The rate of interest shall be ten per cent per annum.

350. Where the claimant is a non-Nigerian, unless the parties have agreed to apply a specific currency in the calculation of their damages, the following procedure shall be adopted:

(a) losses or expenses shall be converted from the currency in which they are incurred into Naira at the rate of exchange prevailing on the day the losses or expenses were incurred; and

(b) the final amounts due shall be calculated in Naira and the balance due shall be paid to the claimant in the currency of his choice at the rate of exchange prevailing on the date of payment.

#### PART XXV LIMITATION OF LIABILITY FOR MARITIME CLAIMS

351.(1) In this Part of this Act, the ship owners and salvors, as defined in subsection (2) of this section may limit their liability as provided in this Part of this Act.

(2) The term-

(a) "ship owner" means the owner, charterer, manager and operator of a ship; and

(b) "salvor" means any person rendering services for salvage operations and salvage

operations shall include operations referred to in section 387 of this Act.

(3) If any claims set out in section 353 of this Act are made against any person for whose act, neglect or default the ship owner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Part of this Act.

(4) In this Part of this Act the liability of a ship owner shall include liability in an action brought against the vessel herself.

(5) An insurer of liability for claims subject to limitation in accordance with the rules of this part of this Act shall be entitled to the benefits of this part of this Act to the same extent as the assured himself.

(6) The act of invoking limitation of liability shall not constitute an admission of liability.

352. (1) Subject to sections 354 and 355 of this Act, the following claims,

whatever the basis of liability may be, shall be subject to limitation of liability

(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 removal, destruction or the rendering

harmless of the cargo of the ship;

(e) 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 of this Act, and further loss caused by such measures;

(f) claims in respect of floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof;

(g) 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.

(2) Claims set out 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. However, claims set out under paragraphs (d), (e) and (g) of subsection (1) of this section shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

353. The rules of this part of this Act shall not apply to

(a) claims for salvage or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage or of any amendment thereto which is in force;

(c) claims subject to any International Convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servant the shipowner or salvor is entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in section 357 of this Act.

354. A person liable shall not be entitled to limit his liability if it is proved that the loss or damage resulted from his personal act or omission or the act or omission of his servants or agents acting within the scope of their employments committed with the intent to cause such loss or damage or recklessly and with knowledge that such loss would probably result.

355. Where a person entitled to limitation of liability under the rules of this Part of this Act has a claim against the claimant arising out of the same occurrence, their respective claim shall be set off against each other and the provisions of this part shall only apply to the balance, if any.

356. The limits of liability for claims other than those mentioned in this Act, arising on any distinct occasion, shall be calculated as follows:

(a) in respect of claims for loss of life or personal injury

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i); for each ton from 2,001 to 30,000 tons, 800 Units of Account; for each ton from 30,001 to 70,000 tons, 600 Units of Account; and for each ton in excess of 70,000 tons, 400 Units of Account,

(b) in respect of any other claims

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i): for each ton from 2,001 to 30,000 tons, 400 Units of Account,

(iii) for each ton from 30,001 to 70,000 tons, 300 Units of Account, and

(iv) for each ton in excess of 70,000 tons, 200 Units of Account.

(2) Where the amount calculated in accordance with subsection (1) (a) of this section is insufficient to pay the claims mentioned in full, the amount calculated in accordance with subsection (1) (b) shall be available for payment of the unpaid balance of claims under subsection (1) (a) and such unpaid balance shall rank ratably with claims mentioned under subsection (1) (b).

(3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

(4) For the purpose of this part of this Act the ship's tonnage shall be the gross registered tonnage.

357.(1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorised 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.

358. The Unit of Account referred to in sections 357 and 358 of this Act is the Special Drawing Right as defined by the International Monetary Fund and in the absence of agreement between the parties concerned as to the applicable currency, the amounts mentioned in the said sections shall be converted into Naira at the date the limitation fund shall have been constituted, payment is made, or security given.

359.(1) The limits of liability determined in accordance with section 357 of this Act shall apply to the aggregate of all claims which arise on any distinct occasion:

(a) against the person or persons mentioned in subsection (2) of this section and any person for whose act, neglect or default he or they are



responsible; or

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible. .

(2) The limits of liability determined in accordance with section 357 of this Act shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in subsection 2 of section 358 in respect of the ship referred to in section 357 and any person for whose act, neglect or default he or they are responsible.

## PART XXVI WRECKS

360(1) In this Part of this Act, unless the context otherwise requires "ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, and fixed or floating platforms or mobile offshore units when such platforms or units are not on location engaged in the exploration, exploitation, storage or production of sea-bed mineral resource;

"wreck" means

(a) a sunken or stranded ship, or any part thereof, including anything that is on board such a ship or which is stranded, sunken or in danger at sea and lost at sea from a ship; or

(b) a ship that is about, or that may reasonably be expected, to become a wreck by reason of

(i) collision, stranding or any other incident of navigation; or

(ii) any other occurrence on board the ship or external to it, resulting in material damage, or imminent threat of material damage, to the ship;

"hazard" means any condition or threat of

(a) danger or impediment to navigation; or

(b) Substantial physical damage to the marine environment, or damage to the coastline.

"related interests" means

(a) the health of the coastal population and the well being of the area concerned, include conservation of living marine resources and of wildlife

(b) maritime, coastal, port or estuarine activities, including fisheries activities, an essential means of livelihood of the persons concerned;

(c) tourist attractions of the area concerned;

(d) harbour works, basins and navigable waterways; and

(e) offshore or underwater infrastructure and other economic interests; .

"removal" means any form of prevention, mitigation or elimination of hazard proportionate to the hazard;

"shipowner" 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, at the time of the incident leading to a wreck;

"territorial sea" means the territorial sea as defined by the Territorial Waters Act.

(2) Where a ship is owned by a country and operated by a company which is registered as the ship's operator, "shipowner" shall mean the company.

361. This part of this Act shall not apply to any ship that was, or at the time of the incidence or occurrence that caused it to become a wreck, a warship, naval auxiliary or to a Nigerian Government ship used for the time being, only on government non commercial service.

#### Receiver of Wreck

362.(1) There shall be appointed by the Minister, a Receiver of Wreck, and such number of assistant Receivers of Wreck for any part of Nigeria as may be necessary; and any such assistant Receiver of Wreck shall exercise such powers conferred by this part of this Act on the Receiver of Wreck and may perform such duties as are imposed by this part of this Act on the Receiver of Wreck, as the Receiver of Wrecks may delegate to him.

(2) Anything lawfully done by an assistant Receiver of Wreck acting under this section shall, for the purposes of this Part, be deemed to have been done by the Receiver of Wreck.

363. The Receiver of Wreck shall be responsible for determining whether a hazard exists, taking into account the following criteria, as appropriate, without regard to the order hazard in which the criteria are presented below

(a) size, type and construction of the wreck;

(b) depth of the water;

(c) tidal range and currents in the area;

(d) proximity of shipping routes or established traffic lanes; ( e) traffic density and frequency;

(f) type of traffic;

(g) nature and quantity of the wreck's cargo, the amount and types of oil (such as fuel oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;

(h) vulnerability of port facilities;

(i) prevailing meteorological and hydrographic conditions; (j) submarine topography of the area;

(k) height of the wreck above or below the surface of the water at lowest astronomical tide;

(l) acoustic and magnetic profiles of the wreck;

(m) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and (n) any other circumstances that necessitate the removal of a wreck.

364.(1) Where any wreck is determined to constitute a hazard, the Receiver of Wreck shall ensure that all reasonable steps are taken to mark the wreck.

(2) In marking the wreck referred to in subsection (1) of this section, all practicable steps shall be taken to ensure that the markings conform with internationally accepted systems of buoy age.

(3) The particulars of any wreck marking shall be communicated to

mariners.

365.(1) If the Receiver of Wreck determines that the wreck constitutes a hazard, he shall immediately so inform the shipowner.

(2) The shipowner shall remove a wreck determined to constitute a hazard.

(3) The shipowner, or another interested party, shall provide the Receiver of Wreck with evidence of financial security. .

366.(1) The shipowner may contract with any salvor or other person to perform the operation of removal on the owner's behalf.

(2) When such operations have been commenced by the shipowner or private salvors, the Receiver of Wreck may intervene in such operations only to the extent necessary to ensure that the removal operations proceed as expeditiously as possible consistent with safety and environmental considerations.

(3) Before such operations are commenced by the owner or private salvors, the Receiver of Wreck may lay down conditions for such operations only to the extent necessary in order to ensure that the removal operations proceed as expeditiously as possible consistent with safety and environmental considerations and to simplify that he is to approve the methods applied in the operation.

367. (1) The Receiver of Wreck shall

(a) set a reasonable deadline within which the shipowner must undertake the removal of the wreck taking into account the hazard;

(b) inform the shipowner in writing of the deadline he has set and specify that, if the, shipowner does not undertake the removal of the wreck within that deadline, he can undertake the removal at the shipowner's expense; and

(c) inform the shipowner that he intends to intervene immediately where the hazard is particularly severe.

(2) If the shipowner does not remove the wreck within the deadline set, or the Receiver of Wreck considers that immediate action is required, he may undertake the removal or marking of the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment and related interests.

Fees of Receivers of Wreck

368.(1) There shall be paid to the Receiver of Wreck and every assistant Receiver of Wreck the expenses and such fees properly incurred by them in the performance of their duties and also, in respect of such other matters as may be prescribed; but the Receiver of Wreck and the assistant Receiver of Wreck shall not be entitled to any remuneration other than those payments.

(2) The Receiver of Wreck and every assistant Receiver of Wreck shall, in addition to all other rights and remedies for the recovery of the expenses and fees aforesaid, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him. .

(3) Whenever any dispute arises as to the amount payable to the Receiver of Wreck or any assistant Receiver of Wreck in respect of expenses or fees, that dispute shall be determined by the Minister and the Minister's decision shall be

final.

(4) All fees received by the Receiver of Wreck or any assistant Receiver of Wreck in respect of any services performed by him as the Receiver of Wreck or the assistant Receiver of Wreck, as the case may be, shall be paid into the Consolidated Revenue Fund.

#### Vessels in Distress

369.(1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, the Receiver of Wreck shall, upon being made acquainted with the circumstances, forthwith proceed thereto, and, upon his arrival, shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel, and of the lives of the persons belonging to the vessel and of the cargo and apparel of the vessel.

(2) The Receiver of Wreck shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

(3) Any person who willfully disobeys any lawful directions of the Receiver of Wreck, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

370.(1) The Receiver of Wreck may, with a view to the preservation of life, or of the vessel, cargo or apparel 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 aid with his men or vessel as may be in his power; and  
(c) demand the use of any vehicle or of any craft that may be near at hand.

(2) Any person who refuses without reasonable cause to comply with the provisions of subsection (1) of this section commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

371.(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of shipwrecked persons or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass and re-pass, either with or without vehicles, over any adjoining land without being subject to interruption by the owner or occupier so however, that they do as little damage as possible and may also on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part of this Act determined or recoverable.

(3) Where the owner or occupier of any land

(a) impedes or hinders any persons in the exercise of the rights given by this section by locking his gates or refusing, upon request, to open the same, or

otherwise;

(b) impedes or hinders the deposit of any cargo or other article recovered from the vessel as aforesaid on the land; or

(c) prevents or endeavours to prevent any cargo or other article from the remains deposited on the land for a reasonable time, until it can be removed to a safe place or public deposit, he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

372.(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel, or of the shipwrecked persons, or of the cargo or apparel of the vessel, the Receiver of Wreck may cause that person to be apprehended.

(2) The Receiver of Wreck may use force for the suppression of any such plundering, disorder or obstruction, and may command all persons present to assist him in so using force.

(3) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not less than two hundred thousand Naira or imprisonment for a term not less than one year or both.

(4) Where any person is killed, maimed or hurt by reason of his resisting the Receiver of Wreck or any person acting under the orders of the Receiver of Wreck in the execution of the duties under this Part of this Act committed to the Receiver of Wreck, the Receiver of Wreck or the person acting under his orders shall not be liable to any punishment, or to pay any damages, by reason of the person being so killed, maimed or hurt, unless the Receiver or person acting under his orders used more force than was reasonably necessary in the circumstances.

373.(1) Where any Nigerian ship is or has been in distress on the coast of Nigeria, the Receiver of Wreck, or in the absence of the Receiver of Wreck, a magistrate, shall, as soon as possible, examine on oath any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to any of the following matters

(a) the name and description of the ship;

(b) the name of the master and of the owners;

(c) the names of the owners of the cargo;

(d) the ports from and to which the ship was bound; (e) the occasion of the distress of the ship;

(f) the services rendered; and

(g) such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2) The person holding the examination shall take it down in writing and shall send two copies to the Minister and the Minister shall cause one copy to be displayed in some conspicuous position for public inspection, and shall publish so much of the result of the examination as he thinks fit in the Gazette.

(3) The person holding an examination under this section shall have all the powers of an inspector; and for the avoidance of doubt, the power to examine on oath shall include the powers to administer an oath.

## Dealing with Wreck

374. Where any person finds or takes possession of any wreck within Nigeria, or finds or takes possession of any wreck outside those limits and brings it within those limits, he shall

(a) if he is the owner of the wreck, give notice to the Receiver of Wreck, stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised; or

(b) if he is not the owner of the wreck, as soon as possible deliver it to the Receiver of wreck, and where the person fails without reasonable cause, to comply with this section, he commits an offence and on conviction is liable to a fine not less than fifty thousand Naira, and shall, in addition, if he is not the owner, forfeit any claim to salvage, and be liable to pay to the owner of the wreck, if it is claimed or if it is unclaimed to the Minister, double the value thereof.

375.(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, any cargo or other articles belonging to, or separated from, the vessel which may be washed onshore or otherwise lost or taken from the vessel, shall be delivered to the Receiver of Wreck.

(2) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the Receiver of Wreck or to any person authorised by the Receiver of Wreck to demand the same, he commits an offence and on conviction is liable to a fine not exceeding fifty thousand Naira or imprisonment for a term not exceeding two years or both.

(3) The Receiver of Wreck or any authorised person may take any such cargo or article by force from the person so refusing to deliver the same.

376.(1) Where the Receiver of Wreck takes possession of any wreck, he shall, within forty eight hours

(a) cause to be posted at the nearest police station, and otherwise publish in such manner as he may deem fit, a description of the wreck and of any marks by which it is distinguished; and

(b) if, in his opinion, the value of the wreck exceeds one hundred thousand Naira, send a copy of such description to the Minister.

(2) The Minister may, if he thinks fit, direct that a copy of any description of any wreck sent to him by the Receiver of Wreck under subsection (1) of this section, be sent to the secretary of Lloyd's in London.

377.(1) The owner of any wreck in the possession of the Receiver of Wreck, upon establishing his claim to same to the satisfaction of the Receiver of Wreck within one year, from the time, when the wreck came into possession of the Receiver of Wreck, shall, upon paying the salvage fees and expenses due, be entitled to have the wreck or the proceeds thereof, delivered up to him.

(2) Where any foreign vessel is wrecked in Nigeria, or any articles belonging to, or forming part of, any such vessel, or belonging to; or forming part of, the cargo of any such vessel, are found in Nigeria or are brought into any port within Nigeria, the consular officer of the country to which the vessel,

or, in the case of cargo, to which the owner of the cargo, may have belonged, if authorised by any treaty or arrangement with that country, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as it relates to the custody and disposal of the vessel or the articles.

378. The Receiver of Wreck may at any time sell any wreck in his custody if in his reasonable opinion

(a) it is under the value of fifty thousand Naira.

(b) it is so much damaged or of such perishable nature that it cannot with advantage be kept; or,

(c) it is not of sufficient value to pay for warehousing and the proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver of Wreck for the same purposes and subject to the same claims, rights and liabilities, as if the wreck had remained unsold.

Unclaimed Wreck

379. Where no owner establishes a claim to any wreck which

(a) has been found in Nigeria, or found or taken possession of outside Nigeria and brought into Nigeria; and

(b) has been in the possession of the Receiver of Wreck for one year, the Receiver of Wreck shall sell such wreck and shall pay into the Consolidated Revenue Fund the proceeds of the sale after deducting there from the expenses of sale and any other expenses incurred by, and the fees payable to him in respect thereof, and paying to the salvors such amount of salvage as the Minister may, by special or general directions, specify.

380. Upon delivery of wreck or payment of the proceeds of sale of wreck by the Receiver of Wreck in pursuance of the provisions of this Part of the Act, the Receiver of Wreck shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or effect any question which may be raised by third parties concerning the right or title to the wreck.

Removal of wreck

381. (1) Subject to the provisions of any other enactment or law relating to ports, where any vessel is sunk stranded or abandon in any port, navigable river or tidal water within Nigeria or in or near any approach to any port, navigable river or tidal water, in a manner as in the opinion of the Receiver of Wreck, to be or to be likely to become, an obstruction or danger to navigation, Receiver of Wreck-

(a) may take possession of and raise, remove or destroy, the whole or any part of the vessel;

(b) may light or buoy any such vessel or part of the vessel, until the raising, removal or destruction of the vessel; and

(c) subject to the provisions of subsection (2) and (3) of this section, may sell, in a manner as he thinks fit, any vessel or part so raised or removed and any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale reimburse himself for the expenses incurred by him under this section in relation to such vessel, or part of a vessel, or other property, and shall hold the balance, if any, for payment to a person

who establishes his right to the vessel in so far as the person makes the claim within three years of the sale and the balance shall be paid into the Consolidated Revenue Fund.

(2) A sale shall not, except in the case of property which is of a perishable nature or which would deteriorate in value if delayed, be made under this section until at least seven clear day's notice of the intended sale has been published in the Gazette or such widely circulated newspapers as the Receiver may decide.

(3) At any time before any property is sold under this section, the owner of the property shall be entitled to have delivery to him on payment to the Receiver of Wreck of the fair market value of the property to be ascertained by agreement between the Receiver of Wreck and the owner. Failing such agreement, by some person to be named for the purpose by the Minister; and the sum paid to the Receiver of Wreck as the value any property under this subsection shall, for the purpose of this section, be deemed to be the proceeds of sale of that property.

(4) If the proceeds of sale of any property as is mentioned in this section is less than the costs incurred by the Receiver of Wreck under this section, he may recover such difference from the owner of the vessel by a civil action.

382.(1) If any person, being the owner of any vessel wrecked, submerged, sunken or stranded, or a duly authorized agent or servant of such owner, is desirous of breaking up such vessel prior to removal thereof from Nigeria, such person shall, before commencing salvage or breaking up operations, obtain the written permission of the receiver of wreck, who shall be entitled to grant permission and, in his discretion, to require reasonable security as he may consider necessary to ensure the removal of such vessel or any portion thereof, from Nigeria.

(2) Any person who, without the previous written permission of the Receiver of Wreck, does or causes to be done any salvage or breaking up operations of any vessel or any wrecked, submerged, sunken or stranded vessel lying within Nigeria, commits any offence and on conviction is liable to a fine not less than two hundred thousand Naira, or to imprisonment for a term not less than one year, or to both.

383. The provision of this Part of the Act relating to removal of wrecks shall apply to every article or thing, or collection of things, being or forming part of the tackle, equipment, cargo, cargo stores or ballast of a vessel, in the same manner as if it were included in the word "vessel"; and, for the purposes of those provisions, any proceeds of sale arising from a vessel and from the cargo of the vessel or any other property recovered from it, shall be regarded as a common fund.

384.(1) A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress unless that person is, or acts by command of the Receiver of Wreck or a person lawfully acting as such.

(2) Any person who acts in contravention of this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira, and the master of the vessel may repel him by force.



385.(1) Where the Receiver of Wreck suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any magistrate for a search warrant; and that magistrate shall have power to grant such a warrant and the

Receiver of Wreck, by virtue of such warrant, may enter any house or other place, wherever situate, and also any vessel and search for such wreck, and seize and detain any such wreck there found.

(2) If any such seizure of wreck is made in consequence of information given by any person to the Receiver of Wreck, on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum, not exceeding fifty thousand Naira, or as the Receiver of Wreck may allow.

#### PART XXVII ASSISTANCE TO AND SALVAGE OF VESSELS

386. In this Part unless the context otherwise requires

"owner" in relation to a vessel, means the person who was the owner of the vessel at

the time of the sinking, stranding or abandoning of the vessel;

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

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of the

sea or any tidal water;

"salvage operation" means any activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever;

"vessel" means any ship or craft or structure capable of navigation;

"damage to the environment" means any substantial physical damage to human health or marine life or resources in coastal or inland waters or to areas adjacent to coastal or inland caused by pollution contamination, fire explosion or similar major incident;

"property" means any property not permanently and intentionally attached to the shoreline and any freight at risk.

387.(1)The provisions of the International Convention on Salvage, 1989 shall apply to this Part of this Act.

(2) The owner and the master of a vessel in danger shall take timely and reasonable steps to arrange for salvage operations.

(3) The owner and the master of the vessel or the owner of any property in danger shall

(a) co-operate fully with the salvor during the course of salvage operations;

(b) exercise due care to prevent or minimize damage to the environment;

(c) when the vessel or other property has been brought to a place of safety accept re delivery when reasonably requested by the salvor to do so.

(4) A salvor shall

(a) carry out the salvage operations in which he is engaged with due care;

- (b) in performing the salvage operations exercise due care to prevent or minimize danger to the environment;
- (c) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or of other property in danger and the amount of the salvor's reward shall not be prejudiced if the request for other salvors was unreasonable

388. (1) The master of a vessel has authority to conclude contracts for salvage operations on contract, on behalf of the owner of the vessel.

(2) The master or owner of a vessel has authority to conclude salvage contracts on behalf of the owner of any property on board his vessel.

(3) No payment is due under the provisions of .this Part of this Act unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before danger to the vessel arose.

(4) An agreement for assistance or salvage entered into at the moment and under the influence of danger may at the request of either party to the agreement, be annulled or modified by the court, if it considers that the conditions agreed upon are not equitable.

(5) If it is proved that the consent of one of the parties to an agreement under this section is vitiated by fraud or concealment, or the remuneration is, in proportion to the services rendered in an excessive degree too large or too small, the agreement may be annulled or modified by the court at the request of the affected party .

(6) The owner or master of a vessel or owner of any property in danger, not on board the ship, shall not pay for any service rendered by a salvor who is not permitted to do so under this Part of this Act.

Conditions and

389.(1) Every act of assistance or salvage which yields a useful result gives a right to amount of reward. equitable reward and as otherwise provided payment shall not be made to a salvor if salvage operations do not yield any beneficial results.

(2) The provisions of subsection (1) of this section shall apply notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same person.

(3) A person who takes part in salvage operations notwithstanding the express and reasonable prohibition on the part of the vessel to which the services were rendered, shall not be entitled to receive a reward.

(4) A tug shall not receive reward for assistance rendered to or for salvage of the vessel or the cargo of the vessel the tug tows unless it renders exceptional services which cannot be considered as rendered in fulfillment of the contract of towage.

(5) The amount of reward to be paid for salvage shall be fixed by agreement between the parties. and, where there is no agreement between the parties. by the court.

(6) The proportion in which a reward for salvage is to be distributed amongst the salvors shall be fixed in the same manner.

(7) The apportionment of reward between the owner, master and other

persons in the services of any salving vessel shall be determined as provided in this part of this Act.

390.(1) The master of every vessel shall as far as he can do so without serious danger to his vessel and persons on the vessel, render assistance to any person in danger of being lost at sea.

(2) Where the master of a ship does not comply with the provisions of subsection (1) of this section, the owner of the vessel shall not be held liable.

(3) Any master of a vessel who fails to comply with the provisions of subsection (1) of this section commits an offence and on conviction is liable to a fine not less than five hundred thousand Naira or to imprisonment for a term not exceeding two years or both.

391.( 1) The criteria for determining the reward for salvage operations shall be fixed by taking the following into consideration

(a) the salvaged 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 obtained by the salvor;

(d) the nature and degree of the danger;

(e) the skill and effort of the salvors in salvaging the vessel, other property and life;

(f) the time spent and 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 the vessels or other equipment intended for salvage operations.

(j) the state of readiness and efficiency of the salvor's equipment and the value thereof;

(2) Payment of reward fixed according to subsection (1) of this section shall be made by all the vessel and other property interests in proportion to their respective salvaged values.

(3) The rewards, exclusive of any interest and recoverable legal costs that may be payable on the rewards, shall not exceed the salvaged value of the vessel and other property .

(4) The court may deprive the salvors of all rewards or may award a reduced reward if it appears that the salvors have by their fault rendered the salvage operation or the assistance that was required more difficult or are guilty of theft, fraudulent concealment or other dishonest conduct.

392.( 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 the salvor failed to earn a reward under section 392 of this Act, which is at least equivalent to the special compensation assessed in accordance with this section, the salvor shall be entitled to special compensation from the owner of the vessel, equivalent to the expenses as defined in this section.

(2) Where in the circumstances set out in subsection (1) of this section, the salvor by his salvage operation prevented or minimized damage to the

environment, the special compensation payable by the owner to the salvor under subsection (1) of this section may be increased to a minimum of 30 per cent of the expenses incurred by the salvor but the court may if it deems it fair and just and bearing in mind the criteria set out in section 392 subsection (1) of this Act, increase the compensation further, but in no event shall the total increase be more than 100 per cent of the expenses incurred by the salvor:

(3) The expenses of a salvor for the purposes of subsections (1) and (2) of this section, is 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 operations, taking the criteria prescribed in subsections (1) (h), (i) and G) of section 392 of this Act into consideration.

(4) The total compensation under this section shall be paid only if and to the extent that the compensation is greater than any reward recoverable by the salvor under section 392 of this Act.

(5) Where the salvor has been negligent and has by such negligence failed to prevent or minimize damage to the environment, the salvor may be deprived of the whole or part of any special compensation due to him under this section.

(6) Nothing in this section shall affect any right of recourse on the part of the owner of the vessel.

393.(1) The apportionment of a reward between salvors under section 392 this act shall be made on the basis of the criteria set out in that section.

(2) The apportionment between the owner, master and other persons in the service of each salvaging vessel shall be determined by the flag of that vessel, but where the salvage was not carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

394.(1) No remuneration is due from persons whose lives are saved.

(2) A salvor of human life who took part in the services rendered on the occasion of an accident giving rise to the salvage or assistance, is entitled to a fair and reasonable reward from the owners of the salvaged vessel and cargo as may be determined by the court.

395.(1) Nothing in this Part of this Act shall affect the salvor's maritime lien under any International Convention or Nigerian law.

(2) A salvor may not enforce his maritime lien when satisfactory security for his claim, including interests and costs, has been duly tendered or provided.

(3) The law relating to civil salvage whether of life or property, except section 404 of this Act, shall apply in relation to salvage services in assisting any government ships, or in saving life from government ships, or in saving any cargo or equipment belonging to the Federal Government, in the same manner as if the ship, cargo or equipment belonged to a private person.

(4) Where salvage services are rendered by or on behalf of the Federal Government, the Government shall be entitled to claim salvage in respect of those services to the same extent as any other salvor and shall have the same right and remedies in respect of the services as any other salvor.

(5) No claim for salvage services by the commander or crew or part of the crew of any ship belonging to the Federal Government shall be finally

adjudicated upon without the consent of the Minister to the prosecution of the claim being first obtained.

(6) Any document purporting to give the consent of the Minister or any officer delegated by him for the purposes of subsection (5) of this section shall be evidence of the consent.

(7) Where a claim is prosecuted without the consent required in subsection (5) of this section, the claim shall be dismissed with costs.

396.(1) Any person liable for a payment under this Part of this Act shall, upon the request of the salvor, provide satisfactory security for the claim including interests, and costs of the salvor.

(2) Without prejudice to subsection (1) of this section, the owner of the salvaged vessel shall ensure that the owners of the cargo provide satisfactory security for the claims against them, including interests and costs before the cargo is released.

(3) The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which the vessel and other property first arrived after the completion of salvage operations until the provisions of subsection (1) of this section have been complied with.

397.(1) The court may, by an interim decision, order that a salvor be paid on account, such amount as seems fair and just and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

(2) Where an interim payment is made under subsection (1) of this section, the security provided under section 397 of this Act shall be reduced accordingly.

398. (1) An action relating to payment under this part of this Act shall be time barred if judicial or arbitral proceedings have not been instituted within a period of two years and the limitation period shall commence on the day which the salvage operations are terminated; provided that the said period shall be extended in cases where it has not been possible to arrest the vessel assisted or salvaged in Nigeria.

(2) A person against whom a claim is made may, at any time during the running of the limitation period, extend that period by a declaration to the claimant and this period shall in like manner be further extended.

(3) An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in subsection (1) and (2) of this section, if brought within the time allowed by law. .

399.(1) The provisions of this Part of this Act shall not apply to

(a) salvage operation which takes place in inland waters of Nigeria and in which all the vessels involved are of inland navigation; and

(b) a salvage operation which takes place in inland waters of Nigeria and in which no vessel is involved;

(c) fixed or floating platforms or to mobile offshore drilling units when the platforms or units are on location engaged in the exploration, exploitation or production of sea bed mineral resources.

(2) Inland waters in this section does not include any water in ebb and flow of the tide at ordinary tide or waters which is directly or (by means of one or

more docks) indirectly connected with such waters.

(3) . Nothing in this Part of this Act shall be used as a basis for the seizure, arrest or detention by any legal process of or for any proceedings in ream against a warship, other non commercial vessel or non commercial cargo owned by the Federal Government and entitled at the time of salvage operation to sovereign immunity.

(4) Nothing in this Part of this Act shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes if the country that donated the humanitarian cargoes has agreed to pay for salvage services rendered in respect of the humanitarian cargoes.

400.(1) The Minister may make regulations with respect to salvage operations and related matters.

(2) Any regulation made under this section may provide for

(a) enforcing the duty of every master to render assistance to persons in danger at sea;

(b) steps to be taken to protect the coastline from pollution following maritime casualty;

(c) admittance to Nigerian ports of vessel in distress;

(d) facilities to be provided to salvors and the mode and fees for such facilities;

(e) co-operation between salvors and other interested parties.

401. Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, and services are rendered by any person in assisting that vessel, saving life from that vessel or saving the cargo or apparel of that vessel, or any part of the vessel and the services are rendered by any person other than the Receiver of Wreck in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo apparel or wreck a reasonable amount of salvage, to be determined in case of dispute in the manner hereinafter mentioned.

402.(1) A dispute as to the amount of salvage, whether of life or property and whether the services for which the amounts claimed have been rendered within or outside Nigeria, arising between the salvor and the owner of any vessel, cargo, equipment or wreck shall, if not settled by agreement, arbitration or otherwise be determined by the court.

(2) A dispute relating to salvage may be determined on the application of the salvor or of the owner of the property salvaged, or of their respective agents.

(3) Any dispute as to salvage which is to be determined under subsection (2) of section 395 of this Act shall-

(a) where the dispute relates to the salvage of wreck; or

(b) where the dispute relates to salvage in the case of services rendered to any vessel, or to the cargo or equipment of the vessel, or in saving life from the vessel, be referred to the court.

403.(1) Where any dispute as to salvage arises, the Receiver of Wreck may, on the application of either party to the dispute, appoint a valuer to value the property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to

be certified as a true copy by the Receiver of Wreck, shall be admissible as evidence in any subsequent proceedings.

(3) There shall be paid, in respect of the valuation, by the person applying for the valuation, such fee as the Minister may direct.

(4) Where salvage is due to any person under this Part of this Act, the Receiver of Wreck shall

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life from the vessel, or in saving the cargo or equipment of the vessel, detain the vessel and cargo or equipment; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Part of this Act, detain the wreck;

(c) subject to the provision of this section, the Receiver of Wreck shall detain the vessel and the cargo and equipment or the wreck (in this Part referred to as "detained property") until payment is made for salvage or process is issued for the arrest or detention of the detained property by a court of competent jurisdiction;

(d) the Receiver of Wreck may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds two hundred thousand Naira and any question is raised as to the sufficiency of the security, to the satisfaction of the court.

(5) Any security given for salvage in pursuance of this section to an amount exceeding two hundred thousand Naira may be attached by the court in the same manner as if bail had been given in the court.

(6) The Receiver of Wreck may sell any detained property, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases:

(a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount becomes due;

(b) where the amount is disputed, but no appeal lies from the decision of the court to which the dispute is referred and payment is not made within twenty days after the decision of the said court;

(c) where the amount is disputed and an appeal lies from the decision of the court, to which the dispute is referred, to some other court, and within thirty days after the decision of the first court, payment of the sum due is not made and proceedings are not commenced for the purpose of appeal or of obtaining leave to appeal.

(7) The proceeds of sale of any detained property shall, after payment of the expenses of the sale, be applied by the Receiver of Wreck in payment of the expenses, fees and salvage incurred and payment in respect of such property, and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive same.  
appointment of receiver and court.

404.(1) Where the aggregate amount of salvage payable in respect of salvage services rendered within Nigeria has been finally determined by the court or by agreement, and does not exceed four hundred thousand Naira, but a dispute arises as to the apportionment of the amount among several claimants, the

person liable to pay the amount may apply to the Receiver of Wreck for liberty to pay the same to him; and the Receiver of Wreck shall, if he thinks fit, receive the same accordingly, and grant to the person paying the amount a certificate for the amount paid and of the services in respect of which it is paid.

(2) A certificate issued under subsection (1) of this section shall be a full discharge and indemnity to the person by whom the money is paid and to his vessel, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(3) The Receiver of Wreck shall, with all convenient speed, distribute any amount received by him under this section among the persons entitled to same on such evidence, and in such shares and proportions, as the Receiver of Wreck thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(4) A distribution made by the Receiver of Wreck in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

(5) Whenever the aggregate amount of salvage payable in respect of salvage service rendered:

(a) within Nigeria has been finally ascertained and exceeds four hundred thousand Naira; and

(b) elsewhere has been finally ascertained, whatever that amount may be, if any delay or dispute arises as to the apportionment of a court of competent jurisdiction, the court may cause the aggregate amount of salvage payable to be apportioned among the persons entitled to the amount of salvage in such manner as the court thinks just, and may, for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect, and may compel any person in whose hands, or under whose control, the amount may be, to distribute the same, or to bring the same into court to be dealt with as the court may direct and may, for such purpose, issue processes as it thinks fit.

## PART XXVIII LEGAL PROCEEDINGS

### Prosecution of Offences

405. No prosecution for an offence under this Act, except in respect of offences relating to discipline and order on board a ship, shall be instituted, or if instituted shall be continued, without the consent of the Attorney-General of the Federation.

### Imprisonment in lieu of Fine

406. Where any court or tribunal is empowered by any provision of this Act to impose a penalty for a summary conviction offence, the court or tribunal may, in the absence of any express provision to the contrary in the same or any other written law, order a defendant who is convicted of the offence, in default of payment of the sum of money adjudged to be paid by the order, immediately or at the time specified in the order, as the case may be, to be imprisoned.

### Jurisdiction

407. For the purpose of conferring jurisdiction under this Act, an offence shall be deemed to have been committed, and every cause of complaint to have



arisen, in the place in which the offence was actually committed or arose or in any place in which the offender or person complained against may be.

408. Where an area within which a court which has jurisdiction under this Act for any purpose whatever, is situated on the coast of any sea, or abutting on or projecting into any bay, channel or other navigable water, the court shall have jurisdiction for the purposes of this Act over any vessel which is on, or lying or passing off, the coast, or which is in or near the bay, channel or navigable water, and over all persons on board that vessel or for the time being belonging to the vessel, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court.

409.(1) Notwithstanding anything in this Act, no court or tribunal shall, by virtue only of any provision of this Act, have jurisdiction to

(a) try any master, seaman or cadet belonging to, or connected with, any sea-going ship registered in or belonging to any country other than Nigeria for any offence committed outside Nigeria;

(b) try an owner or any other person for any offence committed outside Nigeria on board, or in relation to, any ship referred to in paragraph (a) of this subsection; or

(c) adjudge the forfeiture of any ship referred to in paragraph (a) of this subsection, or any share in the ship, if that liability to forfeiture was incurred outside Nigeria.

(2) Nothing in this Act shall be construed to be in derogation of any rightful jurisdiction of the Federal Government under the Law of Nations or, subject to the provisions of this section be construed to affect or prejudice any jurisdiction conferred by any other enactment having the force of law in Nigeria.

410.(1) Where the Minister is satisfied that the laws of any foreign country which apply with respect to ships registered in or belonging to the country while the ships are at any port in Nigeria are substantially -the same or equally as effective as any of the provisions of this Act or any regulations made under this Act, the Minister may by Order direct that all or any of the provisions of this Act or regulations made under it shall not apply with respect to ships registered in or belonging to that country while the ships are at any port in Nigeria, if it is proved that those ships comply with the corresponding provisions of the laws of the country in which the ships are registered or to which the ships belong. .

(2) The Minister shall not make an Order under subsection (1) of this section unless the Minister is satisfied that the government of the other country has provided or undertaken to provide for the exemption of Nigerian ships while the Nigerian ships are at any port in that country, from the corresponding provisions of the law of that country.

(3) Where the Minister is satisfied that the government of a foreign country desires that any of the provisions of this Act or any regulations made there under which do not apply to ships registered in or belonging to the country, or to any class or description of those ships, should so apply, whether generally or in specified circumstances, and no special provision for the application is made elsewhere in this Act, the Minister may by order declare that the provisions shall, subject to any limitation prescribed in the order, apply to ships registered

in or belonging to that country or, as the case may be, to any class or description of the ships and to the owners, masters and crews and other persons in the service of the ships when not locally in the jurisdiction of the foreign country, in the same manner as if those ships were Nigerian ships.

(4) Any order made under subsection (1) or (2) of this section shall, subject to any limitation stated in the order, have effect according to the period of validity of the order.

411.(1) Whenever a complaint is made to an appropriate officer in a foreign country that-

(a) person who is, or has within three months previously been, employed as a master, seaman or cadet on any Nigerian ship, or on any unregistered ship which is required to be registered in Nigeria, has committed an offence against property or persons at any place outside Nigeria, whether on shore or afloat; or  
(b) that any master, seaman or cadet belonging to any ship referred to in subsection (1) of this section has committed an offence on the high seas, the appropriate officer may inquire into the case upon oath or affirmation, and may, if the case so requires, take any steps in his power to place the person alleged to have committed the offence under the necessary restraint and send the person as soon as practicable in safe custody to Nigeria. .

(2) The appropriate officer may order the master of any Nigerian ship, which is not a ship of the Nigerian Navy or its Reserve bound to Nigeria to receive on board and afford a passage and subsistence during the voyage to a person alleged to have committed the offence under subsection (1) of this section, and to any witness.

(3) Where an appropriate officer requires the master of a ship to receive an alleged offender or any witness as provided in subsection (2) of this section, the appropriate officer shall endorse upon the agreement of that ship such particulars, with respect to every person so received on the ship, as the Minister may require.

(4) Any master of a ship to whose charge any person alleged to have committed an offence is committed shall, on the ship's arrival at a port in Nigeria to which the ship is bound, give the alleged offender into the custody of a police officer or constable.

(5) A master of a Nigerian ship, who when required by an appropriate officer to receive and afford a passage and subsistence to any alleged offender or to any witness, refuses to do so or does not deliver any alleged offender committed into his charge into the custody of a police officer or constable as provided in subsection (4) of this section, commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira.

(6) The expense of placing any person referred to in subsection (1) of this section under restraint, and of conveying him and any witnesses to Nigeria in any manner other than on board the ships to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid by the Minister.

412. In trying an offence under this part of this Act, a court or tribunal

(a) shall not impose any higher sentence than the court or tribunal is

empowered to impose under its ordinary jurisdiction; and.

(b) may, and if so required by a party shall sit with any person experienced in maritime affairs as assessor.

### Depositions

413.(1) Subject to the provisions of this section, where in the course of any proceedings instituted under this Act before any court or person authorised to receive evidence, the testimony of any witness is required in relation to matter of the proceedings, and the witness cannot be found in Nigeria, any deposition that the witness has previously made on oath in relation to the same subject matter before a judge or magistrate in any country other than Nigeria, or before any diplomatic or consular officer of Nigeria or of any foreign country, shall be admissible in evidence.

(2) No deposition shall be admissible in criminal proceedings unless the deposition was, taken in the presence of the person accused, and the judge, magistrate or diplomat or consular officer when authenticating the deposition made before him certifies that the accused was present at the taking of the deposition.

(3) A deposition admissible for the purposes of this section shall be deemed to be duly authenticated if it purports to have been signed by the judge, magistrate or diplomatic or consular officer before whom it was taken.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, a certificate purporting to have been signed by the judge, magistrate or diplomatic or consular officer before whom the deposition was taken that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the fact.

(5) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other written law.

### Detention of Ship and Distress on Ship

414.(1) Where, under this Act, a ship is to be, or may be detained, any commissioned officer on full pay in any of the armed forces of Nigeria, or any person in any of the armed forces in Nigeria generally or specifically authorized by this Act or by the Minister, may detain the ship.

(2) If, after detention of a ship under subsection (1) of this section or after service on the master of the ship of any notice or order for detention, the ship proceeds to sea before it is released by a competent authority, the master of the ship, the owner and any person who sends the ship to sea, (if that owner or person is party or privy to the master's offence), commits an offence and on conviction shall be liable to a fine not less than five hundred thousand Naira.

(3) Where a ship proceeds to sea without release as provided in subsection (1) of this section, and has on board any officer authorized to detain the ship or any surveyor or officer appointed under this Act, or any officer of customs in the execution of his duty, the owner and master of the ship shall be deemed to have each committed an offence and in addition liable to pay all the expenses

of, and incidental to, the officer or surveyor being so taken to sea, and they shall also be deemed to have committed an offence and on conviction shall be liable to a fine not less than fifty thousand Naira, for every day until the officer or surveyor returns or until such time as would enable the officer after leaving the ship to return to the port from where he was taken, whichever is the greater; and the expenses ordered to be paid may be recovered in like manner as the fine.

(4) In addition to the penalty in subsection (1) of this section, the owner and master of a ship convicted of an offence under that subsection shall pay the expenses of, and incidental to the taking of the officer or surveyor to sea.

(5) Where a ship is to be detained under this Act, the collector of customs shall refuse to grant port clearance; and in any other case authorising the detention of a ship, the collector of customs may refuse port clearance.

415. Where any foreign ship is detained under this Act, and proceedings are taken under this Act against the owner or master of the ship, notice shall immediately be given to the consular officer for the country to which the ship belongs, at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

416. Where a ship is held under any provision of this Act requiring detention until the happening of a certain event, the owner of the ship shall be liable to pay to the Federal Government the costs of and incidental to the detention and survey, if any, of the ship and those costs shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.

417. Where any court is empowered to make an order under this Act directing payment of any seaman's wages, fines or other sums of money to be made and, if the party so directed to pay is the owner or master of a ship, and the payment is not made at the time or in the manner prescribed in the order, the court which made the order may, in addition to any other powers it may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, its tackle, furniture and equipment, and shall remit the case to the court for the levying of the said distress or sale.

#### Evidence and Service of Documents

418. Notwithstanding anything in any other Act or rule of law, where any document is required by this Act to be executed in the presence of, or to be attested by a witness, the document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness.

419.(1) Where a document is declared to be admissible in evidence, under this Act, the document shall on its production from proper custody, be admissible in evidence in any court or before any person that has the proper authority to receive evidence, and unless admission is refused on any other ground, shall be evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2) A copy of any document referred to in this section or an extract from the document shall also be admissible in evidence if proved to be a copy or extract

made from or compared with the original, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted.

(3) Any person who has authority to receive evidence under this Act has the same powers as a court to impound any document to which this section applies, which bears a false or counterfeit seal, stamp or signature attached to it, and the restrictions which apply for the admission of secondary evidence shall have effect accordingly.

420.(1) Where, for the purposes of this Act, a document is to be served on any person, that document may be served-

(a) in any case, by delivering a copy of the document personally to the person to be served, or by leaving the same at his last place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the document for him on board the ship with the person who is or appears to be, in command or charge of the ship;

(c) if the document is to be served on the master of a ship, where there is no master, and the ship is within Nigeria, on the managing owner, of the ship, and if there is no managing owner, on an agent of the owner residing in Nigeria or where the agent is not known or can not be found, by affixing a copy of the document in a conspicuous place in the ship.

(2) Any person who obstructs the service on the master of a ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira and, if the owner or master of the ship is party or privy to the obstruction he commits an offence and on conviction is liable to a fine not less than one hundred thousand Naira or to imprisonment for a term not exceeding one year, or both.

Protection of Officers, etc.

421. Any officer or other person appointed or authorised to act for any purpose under this Act, shall when acting for that purpose be deemed to be a public officer.

422. No suit shall be maintained against any public officer for or in respect of anything done or omitted to be done by the officer in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed on him under this Act.

Transmission of Documents

423.(1) Any notice, authority, order, certificate, direction or other communication required or authorised by this Act to be given or made by the Minister to any person not being an officer appointed under this Act shall be given or made in writing.

(2) Where any notice or document is required by this Act to be transmitted or sent, the notice or document may be transmitted or sent by post.

Exemption of Certain Ships, etc.

424. Unless otherwise specially provided in this Act or by regulations under this Act, nothing in this Act shall apply to a ship, which belongs to the Nigerian

Navy or the Nigerian Naval Reserve or the Government.

425. Subject to the provisions of any Convention which the Federal Government has ratified or to which that Government has acceded, in the case of a sea-going or near coastal trade ship, the Minister may, in his discretion and upon such conditions as he may think fit to impose, exempt any vessel or class of vessels, or any person or class of persons from any of the provisions of this Act.

## PART XXIX INVESTIGATIONS AND INQUIRIES INTO SHIPPING CASUALTIES

426.(1) Where a shipping casualty within the meaning of this part of this Act occurs-

- (a) The Minister may appoint a fit and proper person to hold a preliminary inquiry immediately after the incidence to inquire into the causes and reason for the occurrence and the person so appointed shall have all the powers of an inspector under this Act;
- (b) the person appointed to hold a preliminary inquiry under subsection (1) of this section shall not later than fourteen days after the conclusion of the hearing, report his findings to the Minister.
- (2) An inspector who is authorised to, and any person having the powers of an inspector may
  - (a) go on board any ship and inspect the same or any part of the ship, or any machinery, boats, equipment or articles on board the ship to which the provisions of this Act apply, not unnecessarily detaining or delaying it from proceeding on any voyage;
  - (b) enter and inspect any premises in pursuance of an inquiry under this section;
  - (c) by summons under his hand, require the attendance of person he thinks fit to call before him and examine that person for the purpose of his report and may require answers or returns to any inquiries he thinks fit to make;
  - (d) require and enforce the production of all books, papers or documents which he considers important for the purpose of his report.

427.(1) The Minister may from time to time by Order constitute a Board having a magistrate Marine Boards.

as President (in this Act referred to as "the Maritime Board") to make formal investigations into any casualty in respect of which reports have been submitted to the Minister or to inquire into charges of incompetence or misconduct on the part of any officer of a ship.

- (2) The Marine Board shall, when holding any formal investigation into matters referred to the Board by the Minister, sit with one or more assessors of nautical, engineering, or other special skill or knowledge; and
- (3) The assessors shall be appointed out of a list of persons for the time being approved for the purpose by the Minister.
- (4) The decision of the President shall be the decision of the Marine Board but the president may if he thinks fit require the assessors to join in the report, and if an assessor refuses or dissents, the assessor shall give his reasons in writing to the Minister.

(5) The list of persons approved as assessors shall be in force for three years only, but, persons whose names are on any such list may be approved for any subsequent list, and the Minister may at any time amend the list.

(6) Where a formal investigation involves or appears likely to involve the canceling or suspension of the certificate of a master, mate, or engineer, the Marine Board shall sit with not less than two assessors having experience in the merchant service.

(7) A person who applies for and obtains a formal investigation, shall superintend the management of the case and give such assistance to the Marine Board as the Board may require.

(8) An assessor shall, if he is not a member of the public service, be paid such sums as the Minister after consultation with the Minister charged with responsibility for finance, may approve or direct for each day that the Marine Board sits.

(9) Where a Marine Board holds a formal investigation, it shall be deemed to be a court of summary jurisdiction and for such purpose shall have and may exercise all the powers of a Magistrates' Court.

(10) The Minister may, if he thinks it fit to do so, before appointing any person as President of the Marine Board, consult with the Chief Justice of Nigeria, but the question as to whatever and if any consultation was held shall not be inquired into by any person.

428.(1) For the purposes of an investigation under this Part of this Act, a casualty shall be deemed to occur

(a) when any ship is lost, abandoned or materially damaged on or near the coasts of Nigeria;

(b) when any ship causes loss or material damage to any other ship on or near the coasts of Nigeria;.

(c) when any loss of life ensues by reason of any casualty happening to or on board any ship, on or near the coasts of Nigeria;

(d) when, in any place, any such loss, abandonment, material damage or casualty as mentioned in paragraphs (a), (b) and (c) of this subsection occurs, and any witness is found in Nigeria; or

(e) when any ship has been stranded or damaged, in any place, and a witness is found in Nigeria; or

(f) when any ship has been lost, or is supposed to have been lost, and any evidence is obtainable in Nigeria as to the circumstances in which the ship proceeded to sea or was last heard of.

(2) The Marine Board may, in any of the following cases

(a) where a casualty occurs to a ship on or near the coasts of Nigeria, or to any ship in the course of a voyage to Nigeria;

(b) where a casualty occurs in any part of the world to a Nigerian ship;

(c) where some of the crew of a ship to which a casualty has occurred, and who are competent witnesses to the facts, are found in Nigeria;

(d) where the incompetency or misconduct has occurred on board a ship on or near the coasts of Nigeria, or on board any ship in the course of a voyage to Nigeria;

(e) where the incompetency or misconduct has occurred on board a Nigerian ship;

(f) where any officer of a ship who is charged with incompetency or misconduct on board that ship is found in Nigeria, make investigation respecting the casualty and may hear and inquire into any such charge of incompetency or misconduct; and for that purpose the matter in question shall be deemed to be within the ordinary jurisdiction of a magistrates I court, and the president shall have all the powers of an inspector under this Act.

(3) An inquiry shall not be held into any matter which has once been the subject of an investigation or inquiry, other than a preliminary inquiry, and has been decided on by a competent court or tribunal in Nigeria or elsewhere, or in respect of which the certificate of any officer of a ship has been cancelled or suspended by a court of competent jurisdiction.

429.(1) The Marine Board may cancel or suspend the certificate of any officer of a Nigerian ship

(a) if the Marine Board finds that the loss or abandonment of, or serious damage to, any ship, or loss of life, was caused by the officer's wrongful act or default; or

(b) if the Marine Board finds that the officer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that, in case of collision, the officer has failed to render such assistance or give such information as is required by this Act.

(2) Where any case before the Marine Board involves a question as to the cancellation or suspension of a certificate, the Board shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancellation or suspension of the certificate.

(3) Any officer of a Nigerian ship whose certificate is cancelled or suspended in pursuance of this Act shall, on the demand of the Marine Board or, if it is not demanded by that board, deliver the certificate to the Minister or to such other person as the Minister directs.

(4) Any officer who fails to deliver his cancelled certificate as provided under subsection (1) of this section, commits an offence and on conviction is liable to a fine not less than fifty thousand Naira.

(5) The Marine Board shall, in all cases, send a full report of the case with the evidence to the Minister, and shall, where it determines to cancel or suspend any certificate, send the certificate cancelled or suspended to the authority by whom the certificate was granted.

(6) A certificate shall not be cancelled or suspended by the Marine Board under this section unless the holder of the certificate is furnished with a copy of the report or a statement of the case on which the investigation or inquiry was ordered at the commencement of the investigation or inquiry .

430.( 1) An appeal shall lie from a decision of the Marine Board to the court in the case of an investigation into the conduct of a holder of a certificate of competency granted under this Act.

(2) The court in its discretion may determine the case or remit the case for rehearing



generally or in part to the Marine Board.

(3) The court shall remit a case

(a) if any new and important evidence which was not produced at the investigation or enquiry is discovered; or

(b) if for any other reason there is ground for suspecting that a miscarriage of justice has occurred.

(4) Subject to the terms of any order of the court, where no application for re-hearing is made or a re-hearing is refused, the former holder of the certificate of competency may apply to the Minister and the Minister in his discretion may direct the re-issue and return of the certificate, or may direct the grant of another certificate of the same or a lower grade.

431. In the exercise of its powers under this Act the Marine Board may

(a) remove the master of a ship if the removal is shown to the satisfaction of the Board to be necessary whether or not on the application of the owner of the ship or his agent or of the charterer or of any certificated mate or of one third or more of the crew of the ship;

(b) appoint a new master in place of the one removed, but the appointment shall not be made without the consent of the owner, agent or charterer if within the jurisdiction of the Marine Board.

Board of Survey

432.(1) Subject to the provisions of this Part of this Act as to the powers of a Marine Board, the Minister may from time to time by notice in the Gazette appoint a committee to be known as a Board of Survey, which shall consist of not more than five or less than three members one of whom shall be a legal practitioner of not less than ten years post call with experience in maritime practice and who shall be Chairman of the Board.

(2) Members, other than the chairman, shall be masters of sea-going Nigerian ships or persons having special skills or knowledge in merchant shipping to the satisfaction of the Minister.

(3) A Board of survey shall consider such other cases involving the survey of ships as the Minister may from time to time, refer to it and when sitting to consider any such case referred to it, the Board shall be deemed to be a court having jurisdiction for the purpose, and accordingly

(a) the hearing shall be open to the public;

(b) every member of the Board shall have the powers of an inspector under this Act; (c) the Board may order the ship to be surveyed; and the Board or a majority of

members may appoint a fit and proper person to make the survey and report to the Board;

(d) the Board shall have and may exercise the same powers as the Minister, as to the release of a ship;

(e) the Board may if the majority thinks fit, order the final detention of a ship;

(f) the owner, or agent as the case may be and the master of the ship or the representative of any such persons may attend any inspection or survey to be made;

(g) the Board shall have the powers of a court to make any order it thinks fit as to costs of inquiry or survey under this section.

(4) If costs are awarded under the powers conferred by this section, the costs shall be recoverable in the same manner as a civil debt and for this purpose the Chairman may certify the award and when certified it may be filed without payment of any fee in the nearest magistrate's court.

(5) If an award is filed, the costs shall be deemed to have been awarded in respect of a claim within the civil jurisdiction of a magistrate and the rules of the magistrates' court shall be read with all amendments necessary to give effect to this section.

(6) Nothing in this Part of this Act shall be construed as affecting the admiralty jurisdiction of a court in any way.

#### Scientific Referees

433.(1) If the Minister is of the opinion that an appeal to him to appoint a Board of Survey involves a question of construction or design, or of scientific difficulty or important principle, the Minister may refer the matter to one or more scientific referees who appear to him to possess the special qualifications necessary for the particular case.

(2) A referee may be selected by an agreement between the Minister and the appellant, or in default of an agreement, by the Minister and the appeal shall be determined by a referee rather than by the Board of Survey.

(3) If an appellant in any appeal requires the Minister to, and gives security to the satisfaction of the Minister to pay the costs of and incidental to a reference, the Minister shall refer the appeal to a referee selected as provided in subsection (2) of this section.

#### PART XXX SUBSIDIARY LEGISLATION

434. Without prejudice to any other power to make regulations conferred upon the Minister by this Act, the Minister may make regulations generally for carrying into effect, the provisions of this Act and may by regulations provide for

(a) anything which is required to be, or may be, prescribed under this Act;

(b) the carriage of passengers and cargo and the keeping and transmission of lists relating thereto;

(c) the qualifications for officers, able seamen and ship's cooks, and the issue of certificates of competency in respect thereof;

(d) the manning of ships with certified officers, able seamen and ship's cooks, and the keeping and transmission of lists of the crews;

(e) the manning and survey of fishing vessels; (f) the engagement and discharge outside Nigeria of seamen for and of Nigerian ships;

(g) the dealing with, accounting for and disposal of the property of deceased seamen and apprentices on Nigerian ships in cases to which section 166 of this Act does not apply;

(h) the dealing with, accounting for and disposal of the property of seamen and apprentices left behind outside Nigeria;

(i) the making of complaints by seamen and apprentices when outside

Nigeria;

(j) the operation of schools of navigation;

(k) the operation by the Government of the Federation or a State of cargo and passenger ships, and the insurance by the Government of the Federation of cargo; (l) the control of foreign-going pleasure yachts;

(m) the control of pleasure boats;

(n) the control of vessels operating within Nigeria (other than naval vessels of the Government of the Federation, or of the government of any part of the commonwealth, or of a foreign government for which the Minister is satisfied that no other adequate provision has been made in this Act or by other written law, or which has been generally or partially exempted from the provisions of this Act;

(o) the procedure to be followed in any preliminary inquiry or by a Marine Board under Part XXIX;

(p) the classification of coastal trade and inland waters ships, either in relation to the seaworthiness of such ships or the manning thereof, restricting the area within which any class of such ships may ply;

(q) fees, including stamp duty and other charges;

(r) documents and forms and their exemption from stamp duty;

(s) the prevention of pollution, by oil, of navigable waters;

(t) the construction of ships and gangways;

(u) the prohibition or restriction of navigation in any waters over which the Government of the Federation has control.

435. Without prejudice to any other powers conferred on the Minister by the provisions of this Act or by any regulations made under this Act, the Minister may subject to such conditions, if any as he thinks fit to impose, by order exempt any ship or class or description of ships from any specific requirement contained in or prescribed under this Act, if he is satisfied that the requirement has been substantially complied with or that compliance is unnecessary in the circumstances of the case.

436. The Minister shall from time to time by Notice, publish the International Conventions relating to maritime matters including amendments to and replacements of the Conventions and other International Instruments which apply to Nigeria, the reservations if any, entered on by Nigeria on the Conventions as well as those International Conventions, including amendments to and replacements of the Conventions and other International Instruments which cease to apply to Nigeria.

437. Subject to the provisions of this Act, any subsidiary legislation made or deemed to have been made under this Act may provide penalties for the contravention of the subsidiary legislation.

438.(1) The subsidiary legislation contained in the First Schedule to this Act to the extent only to which it is in force on the commencement of this Part of this Act and anything to the contrary in the Interpretation Act or any other Act notwithstanding, shall be deemed to have been made under this Act and have effect accordingly.

(2) The subsidiary legislation shall be read subject to such alterations

therein as local circumstances render necessary and to any variations, revocations or suspensions made by subsidiary legislation under the appropriate provisions of this Act.

(3) The Minister may, from time to time, by Order amend the First Schedule to this Act.

(4) For the avoidance of doubt, references in any applied subsidiary legislation to "seaplanes" shall, unless the context otherwise requires, be construed as references to "aircraft" under this Act.

#### PART XXXI REPEALS AND TRANSITION

439. The Merchant Shipping Act 1990 is hereby repealed.

440.(1) Reference in any other Act or written law to the Shipping Laws or any subsidiary legislation made there under shall, unless the context otherwise requires, be construed as references to the same or similar provisions of this Act or, as the case may be, of any subsidiary legislation made or deemed to be made there under or therefore.

(2) Unless the context otherwise requires, references in any other Act or written law to a ship registered in Nigeria shall, be deemed to include references to a Nigerian licensed ship.

(3) Unless the context otherwise requires, references in any other Act or written law to a British ship shall, be construed as references to a Commonwealth ship other than a Nigerian ship.

441. Where, in respect of any Nigerian ship, there is an International Convention or other International Instrument which applies to Nigeria and which the ship has contravened, the Agency may suspend the Certificate of Registration of the ship until the contravention is rectified.

#### Transitional Provisions

442. Any instrument which was issued, served or granted under any law which is repealed or which ceases to have effect by virtue of this Act shall, without prejudice to any power to amend the instrument, and subject to such modifications as may be necessary to bring it into conformity with this Act, continue in force until superseded, revoked or otherwise terminated, and shall be deemed to have been issued, served or granted under this Act.

443. The Minister may make regulations to provide

(a) for resolving any difficulties that may arise out of the repeal by this Act of any such enactment;

(b) for the amendment or revocation of any regulation or any part of the regulation, made under any law repealed by this Act and remaining in force pursuant to this Part;

(c) for the continuance in force, subject to such conditions as may be prescribed, of any exemptions (whether or not based upon reciprocity with any other country) from the operation of any enactment repealed by this Act of this Act;

(d) generally, for effecting a due and orderly assimilation of the law relating to shipping throughout Nigeria in conformity with the purposes of this Act.

444. In this Act, unless the context otherwise requires

"Agency" means the National Maritime Authority charged with the responsibility for Maritime Safety Administration or its successor;

"agreement" or "agreement with the crew" in relation to any ship or to any seaman, means the agreement made between the master and the crew of the ship or as the case may be, of the ship to which the seaman belongs; and a ship is a ship for which an agreement with the crew is required, if the master is, by this Act or by the law of the country in which the ship is registered or to which it belongs, required to enter into an agreement with the members of the crew;

"aircraft" means any ship or vessel designed for flying but capable of being manoeuvred on water and a seaplane or any ship or vessel able to alight on or hover over water;

"appropriate officer" in relation to a function or activity means a person authorised to perform that function or activity and may include a consular officer; "article of agreement" has the same meaning as agreement under this Act; "barratry" includes every wrongful act willfully committed by the master or crew to the prejudice of the owner or, as the case may be, the charterer of the ship;

"Board of Survey" means a Board of Survey appointed under this Act;

"cadet" means a person duly indentured as an apprentice to the sea service;

"cargo" includes livestock; .

"cargo ship" means a ship which is not a passenger ship or a fishing vessels;

"certificate of survey " means a certificate of survey issued under this Act;

"clearance" means a clearance issued under the Customs and Excise Management Act, and includes a transpire issued under that Act;

"Coastal trade limit" means the west coast of Africa between Cape Verde in the north and the mouth of the River Congo in the South;

"Coastal trade ship" means a ship which is authorised to ply within coastal trade limits; "Collector of Customs" means the Board of Customs and Excise and includes the principal or other officer of customs for the time being at any port;

"collision rules" means the rules on collision made or deemed to have been made under this Act;

"Consolidated Revenue Fund" means the Consolidated Revenue Fund of the Federation;

"consular officer", in relation to a foreign country, means a person recognised by the Government of Nigeria as a consular officer of the country;

"country to which the Load Line Convention applies" means

(a) a country, the Government of which has been declared by the Minister by Order, to have ratified, or acceded to, the Load Line Convention, and which has not been so declared to have denounced the Convention, and

(b) a territory to which the Safety Convention has been declared to extend and to which it has not been declared that the Convention has ceased to extend;

"court" or "court of competent jurisdiction" means the Federal High Court or any court having particular jurisdiction for the purposes of this Act; "crew" in relation to a ship means the captain and all other persons actually employed in the working or service of the ship;

"dangerous goods" means goods which, by reason of their nature, quantity or

mode of stowage, are liable, singularly or collectively, to endanger the lives of persons on or near any ship or to imperil any ship; harmful substances and any other goods which are declared, by rules made or deemed to have been made under this Act or by the Minister by Regulation or notice in the Gazette to be dangerous goods for the purposes of this Act;

"deck line" means a mark on each side of a ship indicating the position of the uppermost complete deck, as defined by the load line rules;

"declaration of survey" means a declaration of survey made under this Act;

"desertion" means the absence of a seaman or cadet from his ship without leave for a

period of forty-eight hours without lawful cause or excuse, or any unlawful departure from his ship with the intention of not returning to the ship;

"detaining officer" means a person authorised by the Minister to detain ships under

this Act;

"effects" includes doilies and documents;

"fishing boat" means a ship or boat engaged in fishing for profit;

"foreign ship" means a ship, other than a Nigerian registered or licensed ship which

is not owned wholly by persons qualified to own a registered Nigerian ship;

"freeboard" means, in the case of any ship which is marked with a deck line, the height from the water to the upper edge of the deck line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured;

"freight" includes passage money and hire;

"go to sea" or "proceed to sea" includes the getting under way for the purpose of going to sea;

"gross tons", or "gross tonnage", in relation to any ship, means the tonnage of the ship determined in accordance with the tonnage regulations, without making the deductions directed by those regulations to be made for the purpose of ascertaining registered tonnage;

"Federal Government" means the Government of the Federal Republic of Nigeria;

"inland waters ship" means a ship which is authorised only to ply within inland waters;

"inspector" means any inspector appointed for the purposes of this Act;

"international load line ship" means a load line ship of one hundred and fifty tons

gross tonnage or more which carries cargo or passengers;

"international voyage" means a voyage from a Port in one country to a Port in another country; and "short international voyage" means an international voyage as so defined in the course of which a ship is not more than two hundred nautical miles from a port or place in which passengers and crew could be placed in safety but no account shall be taken of any deviation by a ship from the ship's intended voyage due solely to stress of weather or any other circumstances that the master or the owner or charterer, if any, of the ship could not have prevented or forestalled;

"legal personal representative" means any person, constituted executor, administrator or other representative of a deceased person by any probate, administration or other instrument;

"load lines" means the marks indicating the several maximum depths to which a ship is entitled to be loaded in various circumstances prescribed by the load line rules;

"Load Line Convention ship" means an international load line ship registered in or belonging to a country to which the Load Line-Convention applies;

"Load line rules" means rules made or deemed to have been made pursuant to the Merchant Shipping Load Lines Regulations as amended from time to time;

"Local Load line rules" means rules made or deemed to have been made pursuant to the Merchant Shipping Load Lines Regulations as amended from time to time;

"Local Load line ship" means a load line ship which

(a) is of less than one hundred and fifty tons gross tonnage, or

(b) does not carry cargo or passengers;

"Marine Board" means a marine board constituted under this Act;

"marine officer" means a deck or naval officer with the qualification of Class 1 Deck (Master Marine Certificate of Competency, covered by Chapter 11 of Standard Training Certification and Watch-keeping 1995 Convention;

"master" means any person, other than a pilot, having lawful command or charge of a ship;

"merchant ship" means any ship other than a fishing vessel or a naval vessel;

"Minister" means the Minister charged with responsibility for matters relating to merchant shipping; and "Ministry" has a corresponding meaning;

"motor ship" means a ship propelled by mechanical power other than steam;

"national colours" means the national colours of Nigeria;

"near coastal trade limits" means the west coast of Africa between Cape Verde in the north and the mouth of the River Congo in the South; "near coastal trade ship" means a ship which is authorised to ply only within coastal trade limits;

"Nigerian citizen" means a Nigerian citizen as defined in the Constitution of Federal

Republic of Nigeria 1999;

"Nigerian Government ship" means a ship which belongs to the Government of the 1999 No. 24. Federation or, of a State; but does not include a ship which forms part of the

Nigerian Navy;

"Nigerian licensed ship" means a ship licensed by virtue of this Act;

"Nigerian ship" means a ship

(a) which is registered or licensed in Nigeria under this Act, or

(b) not exceeding eighty registered tonnage employed solely on the coasts or inland

waters of Nigeria and exempted under this Act from being registered;

"officer", when used in relation to a ship, means the master, mate or engineer of the ship, by whatever name called and whether certificated or not, and also any radio officer qualified in accordance with the radio rules;

"officer of customs" has the same meaning as the word "officer" in the Customs and

Excise Management Act;

"owner" in relation to a ship includes a demise or bare boat charterer and a managing owner;

"passenger" means any person carried on a ship, other than

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

(b) a person on board the ship in pursuance of an obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that the master or owner or the charterer, if any, could not have prevented or forestalled, and

(c) a child under one year of age;

"passenger ship" means a ship which is constructed for or which is habitually or on any particular occasion used for, carrying more than twelve passengers;

"person in command", in relation to any aircraft, means, in any case where a person other than the pilot in charge is in command, that person and in any other case, the pilot in charge;

"pilot ", in relation to any ship, means any person not belonging to the ship who has the conduct of the ship;

"pleasure yacht" means a ship, however propelled, used exclusively for pleasure and not for carrying passengers or cargo for hire or reward or for the transport or entertainment of lodgers at any institution, hotel, private-hotel, boarding house, lodging house, guest house or other establishment;

"port" means a place for arriving, loading and unloading of ships and includes a harbour, piers jetty and lighter terminals;

"Port Health Officer" includes the Chief Medical Adviser of the Federation and any officer for the time being performing the duties of a Port Health Officer;

"port or place of registry ", in relation to any ship, means the port or place at which

the ship is for the time being registered;

"proper return port ", in relation to a seaman or cadet discharged or left behind abroad, means

(a) the port at which the seaman or cadet was taken on board, or

(b) a port in a country of which the seaman or cadet is a national, or

(c) a port agreed to as such by the seaman or cadet;

"radio navigational aid" means the radio apparatus on board a ship, being apparatus designed for the purpose of determining the position or directions of ships or other objects;

"radio rules" means the rules made or deemed to have been made under this

Act; "radio surveyor" means a radio surveyor appointed or recognised as such under this Act;

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

"sea-going ship" means a ship which is not a near coastal trade ship or an inland waters ship;

"safety certificate" means a safety certificate issued pursuant to this Act or a



regulation made under this Act;

"Safety Convention" means the International Convention for the Safety of Life at Sea signed at London on the 18th day of November, 1974 and any protocol and amendment to or replacement of the Convention and any Rules annexed to the Convention;

"Safety Convention Certificate" means any safety certificate issued in accordance with the Safety Convention;

"Safety Convention Ship" means a ship registered in or belonging to a country to which the Safety Convention applies, being a ship that is subject to the provisions of the Safety Convention;

"sailing ship" means a ship propelled solely by sails;

"Salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

"scientific referee" means an expert appointed by the Minister to provide specialist opinion on scientific matters when in doubt;

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

"ship" means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles of any other floating craft which shall include but not limited to Floating Production Storage and Offloading (FPSO) platform as well as Floating Storage and Offloading (FSO) platform;

"Ship Registry" means the Central Ship Registry and such other places as the Minister may by notice in Gazette designate as places for the registration of Nigerian ships;

"Superintendent or Superintendent Officer" means an officer appointed to take charge of the Seafarer Services Office and subject to the provisions of subsection (3) of section 91 of this Act, includes any officer appointed under subsection (2) of that section;

"surveyor of ships" means a surveyor of ships appointed under or recognised as such by this Act;

"tackle" means in relation to a vessel, the tackle, machinery, gear, apparatus and appliances used on board a ship for loading and unloading the ship;

"tidal water" means any part of the sea, or of a river within the ebb and flow of the tide at Ordinary spring tides;

"ton", "registered ton", "tonnage" or "registered tonnage" means the registered tonnage of the ship calculated in accordance with the Tonnage Regulations;

"vessel" means anything constructed or used for the carriage on, through or under water of persons or goods and includes a hovercraft and an aircraft when waterborne;

"wreck" includes

- (a) flotsam, jetsam and derelict found in the waters or on the shores of Nigeria,
- (b) cargo, stores, tackle or equipment,
- (c) the personal property of shipwrecked persons; and,
- (d) any wrecked aircraft or any part and the aircraft.

(2) In this Act any reference to a ship built or constructed before or after any date shall be construed as a reference to a ship the keel of which has been laid before or after that date, as the case may be.

445. This Act may be cited as the Merchant Shipping Act, 2007.