CAYMAN ISLANDS



MERCHANT SHIPPING BILL, 2023

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A BILL FOR AN ACT TO REPEAL AND REPLACE THE MERCHANT SHIPPING ACT (2021 REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Commerce

Memorandum of

OBJECTS AND REASONS

This Bill seeks to repeal and replace the Merchant Shipping Act (2021 Revision) and to provide for incidental and connected purposes.

PART 1 - PRELIMINARY

Part 1 contains the preliminary provisions.

It provides for the short title of the legislation and the interpretation of certain words used throughout the legislation.

PART 2 - REGISTRATION OF SHIPS

Part 2 deals with the registration of ships and matters related to registration. This Part provides for the procedure for the registration of ships, including the registration of ships chartered by demise to a qualified person, registration during the transfer of ownership, registration of alterations, and the transfer of registration between the Islands and the United Kingdom or a Crown Dependency or a British Overseas Territory.

Part 2 also provides for rules as to names of ships. A ship shall not be described by a name other than that which it is for the time being registered.

Further, this Part provides that a change shall not be made in the name of a ship without the previous written permission of the Registrar of Shipping.

PART 3 - NATIONAL CHARACTER AND FLAG

Part 3 provides for matters related to the national character and the flag of ships.

This Part provides that a customs and border control officer shall not grant clearance for a ship until the master of the ship has declared to the officer the name of the nation to which the master claims that the ship belongs. If the master of the ship attempts to proceed to sea without such clearance, the ship may be detained until the declaration is made.

This Part also specifically provides that it is an offence for the master of a ship which is not a Cayman Islands ship to do, or permit to be done, anything for the purpose of causing the ship to appear to be a Cayman Islands ship. A person who contravenes this provision, whether done outside or within the Islands, commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars or to imprisonment for a term of two years, or to both.

PART 4 - PROPRIETARY INTERESTS IN REGISTERED SHIPS

Part 4 deals with proprietary interests in registered ships, and provides for the rights of owners and mortgagees, for transfers and transmissions, and for other matters related to the mortgage of a ship, or of a share in a ship.

This Part provides that subject to any rights and powers which appear from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with the legislation.

This Part also provides that a transfer of a registered ship, or a share in a ship, shall be effected by a bill of sale, and every bill of sale for the transfer within the Cayman Islands Shipping Registry of a registered ship or of a share in the ship, when executed, shall be produced to the Registrar of Shipping, with the declaration of transfer.

Upon being satisfied that the ship remains entitled to be registered in the Islands, the Registrar shall —

(a) enter in the register the name of the transferee as owner of the ship or share; and

(b) endorse on the bill of sale the fact of that entry having been made, with the date and time of the entry.

Where the Court orders the sale of a ship or a share in a ship, the order of the Court shall contain a declaration vesting in the person named by the Court the right to transfer that ship or share, and that person shall then 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.

This Part provides further that a ship or a share in a ship may be made a security for the repayment of a loan or the discharge of any other obligation, and the instrument creating the security, referred to as a mortgage, shall be produced to, and registered by, the Registrar of Shipping in the prescribed manner.

PART 5 - MASTERS AND SEAFARERS

Part 5 deals with masters and seafarers, and other related matters, including the minimum requirements for seafarers to work on a ship; the conditions of employment; the provision of food and water; health protection, medical care, welfare and social security protection; and the civil liability of seafarers for absence without leave, smuggling and fines under immigration laws.

This Part also provides for offences by seafarers in relation to the wearing of uniforms; any conduct which may endanger a person or which is likely to cause serious damage to the ship, its machinery and equipment, or any other ship or structure; disobedience of a lawful command and making of false statements for the purpose of obtaining a certificate or any other document.

Further, this Part provides that seafarers employed on Cayman Islands ships shall be subject to the latest edition of the Code of Conduct for the Merchant Navy as approved by the Government of the United Kingdom.

Part 5 also provides for matters related to the fitness of a seafarer. If it appears to the Chief Executive Officer that a seafarer is unfit to discharge the seafarer's duties or has been seriously negligent in the discharge of the seafarer's duties, the Chief Executive Officer may give the seafarer notice in writing that the Chief Executive Officer is considering the suspension or cancellation of any certificate issued to the seafarer under the legislation and the regulations made under the legislation. The legislation ensures that there is due process with such matters, as it provides for a hearing as well as a rehearing and an appeal process to the Court.

PART 6 - PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

Part 6 deals with the prevention of collisions, safety of navigation, vessels in distress and aids to navigation.

This Part provides that the International Convention on Regulations for the Prevention of Collisions at Sea 1972 and the rules and annexes contained in that Convention, as amended, modified or replaced from time to time and as extended to the Islands ("the Collision Convention"), has the force of law in the Islands. As such, prescribed vessels shall comply with the Collision Convention, unless exempted by the Chief Executive Officer.

This Part also provides that inspections of a ship shall be carried out by a surveyor or inspector to determine whether the ship is properly provided with lights and the means of making sound signals as required, in compliance with the Collision Convention.

Further, under this Part, there are duties imposed on the master of a ship, including a duty to render assistance following a collision, a duty to assist a ship in distress, a duty to assist persons in danger at sea, a duty to report any accidents at sea, and a duty to notify of any dangers or hazards to navigation.

This Part also provides for the establishment and management of aids of navigation, which are lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation, and includes all buildings, moorings and other works associated therewith.

A person who, among other things, wilfully or negligently damages, destroys or allows a ship to foul an aid of navigation, commits an offence and, in addition to the expenses of making good any damage so occasioned, is liable on summary conviction to a fine of five thousand dollars.

Further, where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of repairing or replacing the aid or rendering the aid effective again is paid.

PART 7 - SAFETY OF LIFE AT SEA AND MARITIME SECURITY

Part 7 provides for safety of life at sea and maritime safety.

This Part provides that the International Convention for the Safety of Life at Sea 1974 as modified by the Protocols of 1978 and 1988 including its codes and any other instruments made mandatory under the Convention and as amended, modified or replaced from time to

time and as extended to the Islands ("the Safety Convention"), has the force of law in the Islands. As such, prescribed vessels shall comply with the Safety Convention, unless exempted by the Chief Executive Officer.

This Part also provides that inspections and surveys of ships shall be carried out by a surveyor or inspector to determine whether the ship is in compliance with the Safety Convention.

In order to ensure such compliance, the owner and master of every relevant vessel shall ensure that the condition of the ship and the equipment is maintained in accordance with regulation 11(a) of Chapter I of the Safety Convention.

Only when a survey or surveys to meet the requirements of this Part are satisfactorily completed shall the Chief Executive Officer, or any other person authorised by the Chief Executive Officer, issue a certificate or certificates specified in Regulation 12 of Chapter I of the Safety Convention.

This Part also provides that the Chief Executive Officer may cancel a certificate previously issued where the Chief Executive Officer has reason to believe that the certificate was issued on false or erroneous information, or where, after a survey was done, the structure, equipment or machinery sustained damage or became otherwise deficient.

It should also be noted that a Cayman Islands ship and any ship registered in a country to which the Safety Convention applies shall not proceed to sea without the required certificate. A person who acts in contravention of this requirement commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of two years, or to both.

This Part also provides for the application of the International Ship and Port Facility Security Code to Cayman Islands ships, and to all other ships engaged on international or domestic voyages while they are in Cayman Islands waters unless exempted by or under the legislation.

Finally, this Part provides that the Chief Executive Officer has responsibility for ship security and the Governor has responsibility for setting and amending security levels to be operated on Cayman Islands ships.

PART 8 - SAFETY OF SUBMERSIBLES

Part 8 provides for matters related to the safety of submersible craft.

This Part provides that the owner of every submersible craft to which this Part applies shall cause it to be registered in the register of submersible craft under this Part, and have in force in respect of it a safety certificate issued under this Part. The submersible craft shall also be registered.

As it relates to the construction and equipment of submersible craft, this Part empowers the Cabinet to make regulations which, among other things —

(a) specifies construction requirements for submersible craft and supporting apparatus;

(b) requires submersible craft and supporting apparatus to be surveyed, and provides for the making of declarations of survey;

(c) prescribes obligations which any person concerned in the operation of submersible craft and supporting apparatus must fulfil and the required qualifications which such a person must hold; and

(d) provides for the detention of any submersible craft or supporting apparatus in respect of which a contravention of the regulations has or is suspected to have occurred.

This Part also provides for the issue, duration, extension, suspension and revocation of safety certificates in respect of a submersible craft.

Further, it provides for inquiries and investigations into casualties which occur in respect of a submersible craft or supporting apparatus.

As it relates to offences in respect of submersible craft, a person who causes, permits or is otherwise concerned in the launch, recovery, operation or support of a submersible craft in contravention of the legislation commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Also, where a person causes, permits or is otherwise concerned in the operation of supporting apparatus in contravention of the legislation, the person commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Further, this Part provides that a submersible craft which is launched, recovered, operated or supported in contravention of the legislation, and any supporting apparatus operated in connection with it may be detained.

PART 9 - LOAD LINES

Part 9 provides for load lines, which are the lines marked on a ship that indicate the maximum depth to which a ship may be loaded.

This Part provides that the International Convention on Load Lines 1966 and annexes as modified by the 1988 Protocol and as amended, modified or replaced from time to time and as extended to the Islands ("the 1966 Convention"), has the force of law in the Islands. As such, prescribed vessels shall comply with the 1966 Convention, unless exempted by the Chief Executive Officer.

In addition, this Part provides that the Assigning Authority may allow any equivalent fitting, material, appliance or apparatus to be fitted in a ship, or allow other provisions to be made in a ship, in the place of any fitting, material, appliance, apparatus or provision which is required under this Part, if satisfied by trial or otherwise that it is at least as effective as that so required by the applicable Convention requirements.

This Part also provides that a ship which undergoes repairs, alterations, modifications and any related outfitting shall continue to comply with the requirements previously applicable to the ship.

Further, this Part provides for an initial survey, a renewal survey and an annual survey. Upon satisfactory completion of an initial or renewal survey of a Cayman Islands ship, and upon payment of any appropriate fee, the Assigning Authority shall issue a Convention certificate in respect of the ship. After a satisfactory annual survey, the Assigning Authority shall endorse the Convention certificate accordingly.

It should also be noted that the owner and master shall ensure that after completion of any survey, no material alteration is made to the ship, its structure, equipment, arrangements, material or scantlings covered by the survey without the approval of the Assigning Authority that issued the Convention certificate.

This Part also provides for the form, duration, validity, cancellation and surrender of Convention certificates.

Further, this Part stipulates that a non-Cayman Islands ship holding a valid Convention certificate is subject to inspection by officers authorised by the Chief Executive Officer when it is in a Cayman Islands port.

Finally, it should also be noted that a ship which, in contravention of the requirements related to load lines, proceeds or attempts to proceed to sea without being surveyed and marked may be detained until it has been so surveyed and marked. If a ship proceeds, or attempts to proceed, to sea in contravention this provision, the master and the owner commit an offence and are liable on summary conviction to a fine of ten thousand dollars or on conviction on indictment to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both.

PART 10 - CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

Part 10 provides for the carriage of grain and other bulk cargoes, the carriage of dangerous cargoes, and the making of regulations in respect of such cargoes.

Unless expressly provided otherwise, this Part applies to all ships to which the Safety Convention applies and to cargo ships of less than five hundred gross tonnage.

This Part also provides that where grain is loaded on board any Cayman Islands ship, loaded within any port in the Islands on board any ship, or loaded with grain outside the Islands, if all necessary and reasonable precautions are not taken to prevent the grain from shifting, the owner or the master of the ship commits an offence and is liable on summary conviction to a fine of twenty thousand dollars, and the ship shall be deemed to be unsafe by reason of improper loading.

On the arrival at a port in the Islands of a ship carrying a cargo of grain, the master shall deliver to a customs and border control officer a notice which states the draught of water and freeboard of the ship after the loading of the cargo at the final port of loading and which provides for certain particulars in respect of the grain. Failure to deliver such a notice, or the making of a false statement in any such notice is an offence in respect of which a person is liable on summary conviction to a fine of two thousand dollars.

As it relates to the carriage and marking of dangerous goods, this Part provides that —

(a) no person shall send any dangerous goods by, or carry any dangerous goods in, a Cayman Islands ship, except in accordance with this Part and any applicable regulations; and

(b) no person shall send by, or carry in, a Cayman Islands ship, any dangerous goods without —

(i) first distinctly marking their nature on the outside of their outermost package in accordance with such regulations as the Cabinet may make; and

(ii) first giving written notice of the nature of such goods and of the name and address of the sender of the goods to the master or owner of the ship.

A person who acts in contravention of the aforementioned requirements commits an offence and is liable on summary conviction to a fine of twenty thousand dollars. Furthermore, the Court may order the goods, and any packaging or container of the dangerous goods, to be forfeited.

PART 11 - UNSAFE SHIPS

Part 11 provides for unsafe ships and matters related to such ships.

Among other things, this Part provides that the Chief Executive Officer has the power to detain unsafe ships. It also provides that the owner and master are liable in respect of an unsafe ship and further that it is an offence to have a Cayman Islands ship, or to have a ship in port in the Islands, in a dangerously unsafe condition. A person who commits such an offence is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of six months, or to both.

This Part also provides that it is the duty of the owner of a ship to take all reasonable steps to ensure that the ship is operated in a safe manner. Failure to discharge this duty is an offence in respect of which a person is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of six months, or to both.

PART 12 - WRECK AND SALVAGE

Part 12 deals with wrecks and salvage and related matters.

Under this Part, the Governor may appoint the Port Director as the Receiver of Wrecks ("the Receiver") for the Islands, who shall exercise general direction and supervision over all matters relating to wreck and salvage.

Where a vessel is in distress, it shall be the duty of the Receiver, on being informed of the circumstances, to proceed to the place where the vessel is, to take command of all persons present, and to assign such duties and give such directions to each person as the Receiver thinks fit for the preservation of the vessel and the lives of the shipwrecked persons.

This Part empowers the Receiver, in relation to vessels in distress, to require such persons as are necessary to assist, including the master, and to require the use of any vehicle that may be near at hand.

This Part also imposes certain duties on the finder, or the person who takes possession, of any wreck in the Cayman Islands waters or any wreck outside in the Cayman Islands, and who brings it into Cayman Islands waters. If that person is the owner of it, the person shall give notice to the Receiver stating that the person has found or taken possession of it and the person shall describe the marks by which it may be recognised. If that person is not the owner of it, that person shall give notice to the Receiver that the person has found or taken possession of it and, as directed by the Receiver, either hold it to the Receiver's order or deliver it to the Receiver.

This Part also provides that a person who is entitled to unclaimed wreck found at any place in the Islands or in Cayman Islands waters shall give the Receiver a statement containing the particulars of the person's entitlement and specifying an address to which notices may be sent. Where such a statement has been given to the Receiver and the entitlement is proved to the satisfaction of the Receiver, the Receiver shall, on taking possession of any wreck found at a place to which the statement refers, within forty-eight hours send to the specified address a description of the wreck and of any marks distinguishing it.

Further, this Part stipulates how any unclaimed wreck is to be dealt with.

This Part also provides for the offences of taking a wreck to a foreign port and interfering with a wrecked vessel or a wreck.

In relation to salvage, this Part provides that the International Convention on Salvage 1989 as amended, modified or replaced from time to time and as extended to the Islands ("the Salvage Convention") has the force of law in the Islands. It should be noted however that certain provisions under this Part do not apply to the following structures and vessels —

(a) fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources; and

(b) warships or other non-commercial vessels owned or operated by a foreign state and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that state has decided to apply the Salvage Convention to such ships or vessels.

This Part also provides that where services are rendered for salvage in respect of the preservation of life and salvage in respect of the cargo or equipment of the vessel, the owner of the vessel, cargo or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part.

Further, this Part provides for the duties owed by a salvor to the owner of a vessel or other property in danger and for the duties owed by the owner and master of the vessel or the owner of other property in danger. Among other things, the salvor shall carry out the salvage operation with due care and seek assistance from other salvors whenever the circumstances reasonably so require. The owner or master shall co-operate fully with the salvor during the course of the salvage operations and when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

It should also be noted that the Receiver is empowered, in respect of salvage operations, to give directions, and to take measures in accordance with generally recognised principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

This Part also provides for the quantum of salvage rewards, and for special compensation where the salvor, by the salvor's salvage operations, has prevented or minimised damage to the environment. However, a salvor may be deprived of the whole or part of the payment due to the salvor under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on the salvor's part or if the salvor has been guilty of fraud or other dishonest conduct.

Further, this Part provides that where civil salvage services are rendered by or on behalf of the Government, or with the aid of Government property, the Government shall, subject to any applicable regulations, be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies as any other salvor.

Finally, this Part provides that the Cabinet may make such regulations as may be necessary to give effect to the Salvage Convention and in relation to salvage matters generally.

PART 13 - CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS

This Part provides for the control of persons on ships, passenger returns, and the returns of births and deaths on ships.

This Part provides that, among other things, it is an offence for a person —

(a) to persist in attempting to enter a ship if the person is drunk and disorderly and on that account, the person has been refused admission to the ship by the owner or a person in the owner's employment;

(b) to molest a passenger;

(c) to intentionally obstruct or damage any part of the machinery or equipment of the ship, or to obstruct the crew in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship;

(d) without the consent of the master or of any other person authorised to give it, to go to sea or attempt to go to sea in a Cayman Islands ship; and

(e) to go, or remain, on board, a ship without the consent of the master or of any other persons authorised to give it.

This Part also provides for the master's power of arrest. The master of a Cayman Islands ship may cause any person on board the ship to be put under restraint if and for so long as it appears to the master necessary in the interest of safety or for the preservation of good order or discipline on board the ship.

Further, this Part provides that the master of a ship shall make returns giving the total number of any passengers carried on a ship.

Finally, this Part enables the making of regulations in relation to births and deaths occurring on a ship.

PART 14 - LIABILITY AND COMPENSATION

Part 14 provides for liability, including —

(a) liability for oil pollution in the case of certain ships;

(b) liability for bunker oil pollution;

(c) liability for oil pollution in the case of tankers;

(d) liability and division of liability for maritime claims;

(e) liability for wreck removal; and

(f) liability of a carrier for the carriage of passengers and luggage by sea.

Part 14 also deals with matters related to liability such as time limits, competent jurisdiction, limits of liability and compensation.

This Part provides that the Athens Convention, the Bunkers Convention, the Fund Convention, the Limitation of Liability Convention, the Liability Convention, and the Wreck Removal Convention have the force of law in the Islands and in relation to Cayman Islands ships.

This Part also provides for the determination of liability for oil pollution by certain ships, liability for pollution from bunker oil, and liability for oil pollution by tankers and for exceptions to such liability.

No liability shall be incurred by a defendant in the case of oil pollution by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that the discharge or escape or the relevant threat of contamination —

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the defendant, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

This Part also provides for the extinguishment of claims in respect of liability for oil pollution by certain ships, liability for pollution from bunker oil, and liability for oil pollution by tankers if the action is commenced three years from the date when the damage or relevant threat of contamination occurred or six years from the date of the incident which caused the damage or relevant threat of contamination.

Further, this Part empowers the Cabinet to make such regulations as may appear to it to be necessary to give effect to the Conventions and Protocols in this Part and also relating to the Islands, Cayman Islands ships, or foreign ships.

This Part also stipulates that shipowners and salvors may limit their liabilities in respect of certain maritime claims, including claims in respect of loss of life or personal injury or loss of or damage to property, claims in respect of the removal or destruction of a ship which is wrecked or stranded and claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship.

However, limitation of liability shall not apply to certain other claims, including claims for salvage, claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, claims for oil pollution damage in respect of any liability incurred and claims against a shipowner of a nuclear ship for nuclear damage.

Further, a person liable shall not be entitled to limit the person's liability if it is proved that the loss resulted from the person's personal act or omission, committed with the intent to cause such loss, or committed recklessly and with knowledge that such loss would probably result.

In relation to liability for wreck removal, this Part provides that the Cabinet may make such regulations as may appear to it to be necessary to give effect to the Wreck Removal Convention and in relation to wrecks generally.

With respect to the liability of a carrier for the carriage of passengers and luggage by sea, this Part provides that a carrier is liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of the servants or agents of the carrier acting within the scope of their employment. However, the limits of liability of a carrier for death or personal injury shall not exceed the amount determined in paragraph 1 of Article 7 of the Athens Convention. The limits of liability of the carrier for loss of or damage to luggage shall not exceed the amounts determined in article 8 of the Athens Convention.

Finally, this Part provides for the International Oil Compensation Fund ("the Fund"), the purpose of which is to provide for compensation in respect of pollution damage in the territory of the Islands if the person suffering the damage has been unable to obtain full compensation under the legislation. The Fund also provides compensation in respect of pollution damage in the territory of a Fund Convention country if the incident has caused pollution damage in the territory of the Islands and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Islands.

As it relates to contributions to the Fund, in the case of oil which is being imported into the Islands, the importer is liable to pay such contributions in respect of oil carried by sea to ports or terminal installations in the Islands otherwise than on a voyage only within its national waters. In other cases, the person who is liable to pay such contributions is the person by whom the oil is received.

Under this Part, the Director is empowered to, by notice, require a person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice for the purpose of transmitting to the Fund the names and addresses of the persons who are liable to make contributions to the Fund. A person who refuses to comply with such a notice commits an offence and is liable on summary conviction to a fine of four thousand dollars, and on conviction on indictment, to a fine of fifteen thousand dollars or to imprisonment for twelve months, or to both.

PART 15 - MARITIME SECURITY

Part 15 deals with maritime security under the United Nations Convention on the Law of the Sea 1982.

This Part provides for the offences of piracy, armed robbery, hijacking of ships, the seizing or exercising control of fixed platforms, the destruction of ships or fixed platforms or endangering the safety of such ships or platforms, and any other acts endangering or likely to endanger safe navigation.

Further, this Part provides that a person commits an offence if —

(a) in order to compel any other person to do or abstain from doing any act, the person threatens that the person or some other person will do in relation to any ship or fixed platform an act which constitutes the offence of destroying a ship or a fixed platform or endangering the safety of the ship or the platform; and

(b) the making of that threat is likely to endanger the safe navigation of the ship or the safety of the fixed platform.

A person who commits any of the aforementioned offences under this Part is liable on conviction on indictment to imprisonment for life.

PART 16 - ENFORCEMENT OFFICERS AND POWERS

Part 16 deals with enforcement officers, particularly surveyors and inspectors, and the powers of enforcement officers.

Both surveyors and inspectors are appointed by the Chief Executive Officer and may be appointed either generally or for any particular case or purpose.

A surveyor of ships may, at all reasonable times, go on board a ship and inspect that ship, or anything on that ship, for the purposes of —

(a) determining that the legislation is complied with;

(b) conducting any inspection and survey required by the legislation; or

(c) determining that the terms of any approval, licence, consent, direction or exemption given by virtue of the legislation are complied with.

An inspector may, at all reasonable times —

(a) enter any premises in the Islands; or

(b) board any Cayman Islands ship wherever it may be and any other ship which is present in the Islands or in Cayman Islands waters,

for the purpose of reporting to the Chief Executive Officer on certain matters, including whether the legislation has been complied with and upon the nature and causes of any damage which a ship has sustained, and for the purposes of determining whether an improvement notice or a prohibition notice should be served.

This Part also provides that where a person intentionally obstructs a surveyor or an inspector in the exercise of his or her powers, the person commits an offence and is liable on summary conviction to a fine of ten thousand dollars or on conviction on indictment to a fine of twenty thousand dollars or to imprisonment for a term of one year, or to both.

Further, this Part provides for improvement notices, prohibition notices and detention orders, the content of each document, the circumstances in which each of these may be served on a person, and offences for failing to comply with a requirement or direction which is imposed under any such notice or order.

Finally, this Part provides that questions related to the reasons or matters specified in an improvement notice, a prohibition notice or a detention order shall, if the person on whom a notice was served, or the owner of a detained ship, so requires, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by the arbitrator. Subsequent to this, where an arbitrator decides that any reason or matter did not constitute a reasonable basis for the officer's opinion, and it appears to the arbitrator that there were no reasonable grounds for the officer to form that opinion, the arbitrator may award the party requiring arbitration such compensation in respect of any loss suffered by the party in consequence of the service of the prohibition notice or issue of the detention order as the arbitrator thinks fit.

PART 17 - INVESTIGATIONS AND INQUIRIES INTO MARINE CASUALTIES

Part 17 provides for investigations into marine or shipping casualties, such as the loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship; a loss of life or serious injury to any person, caused by fire on board, or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; and any damage caused by a ship.

This Part also provides for the constitution of the Board where a formal inquiry into a marine or shipping casualty as aforementioned is held and the related rules relating to inquiries and investigations, especially where the inquiry relates to a report of death or injury.

This Part also ensures that there is due process as provision is made for a rehearing as well as an appeal process to the Court.

PART 18 - LEGAL PROCEEDINGS

Part 18 deals with legal proceedings and related matters, including the prosecution of offences, matters related to jurisdiction, the enforcement of the detention of a ship and special evidentiary provisions.

This Part provides for the time limit for summary offences and the time limit for the enforcement of orders for the payment of money in proceedings before a summary court.

This Part also provides that, for the purpose of conferring jurisdiction, any offence under this legislation shall be deemed to have been committed in any place in the Islands where the offender may be for the time being. For the same purpose, any matter of complaint under this legislation shall be deemed to have arisen in any place in the Islands where the person complained against may be for the time being.

In relation to enforcing the detention of a ship, this Part provides that where, under this legislation, a ship is to be detained, a customs and border control officer shall, and where under this legislation a ship may be detained, a customs and border control officer may, refuse to clear the ship outwards.

As it relates to special evidentiary proceedings, this Part provides that if the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceedings and it is proved that that person cannot be found in the Islands, any deposition that person may have previously made at a place outside the Islands in relation to the same subject matter shall be admissible in evidence in those proceedings.

This Part also provides that a certificate issued under regulations made under the legislation, the official log book of a ship, lists of crews and certain returns or reports are all admissible in evidence and, when in the custody of the Chief Executive Officer, open to public inspection.

Finally, this Part provides that service of documents shall be effected by delivering it to the person, by leaving it at the person's proper address, or by sending it by post to the person at the person's proper address.

PART 19 - SUPPLEMENTAL

Part 19 deals with miscellaneous supplemental matters, including matters related to the administration of the legislation, financial provisions, a general regulation-making power, the making of shipping notices, the application of the Act to certain descriptions of ships, the repeal of the Merchant Shipping Act (2021 Revision) and the Wreck and Salvage Act (1996 Revision), and the application of United Kingdom legislation.

As it relates to the administration of the legislation, the Minister with responsibility for merchant shipping and seafarers has the general superintendence of all matters relating to merchant shipping and seafarers and is authorised to carry into execution the provisions of this and all legislation relating to merchant shipping and seafarers, except where those provisions concern revenue, the Port Authority or the Director of Ports.

Where the provision of the legislation concerns revenue, the Minister of Finance shall administer that provision. The Minister with responsibility for the Port Authority shall administer provisions of the legislation concerning the Port Authority and the Director of Ports.

This Part also provides for the making of regulations by the Cabinet to prescribe fees to be charged under the legislation. Further, it provides that certain expenses shall be payable out of money provided by the Parliament. These include expenses incurred by the Receiver of the Wreck and such expenses as the Cabinet directs for establishing and maintaining on the coasts of the Islands proper lifeboats with the necessary crews and equipment and affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea.

The Cabinet is empowered under this Part to make regulations making such provisions as it considers appropriate in relation to or arising out of matters in this legislation, or to give effect to any provisions of an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and as extended to the Islands.

The Chief Executive Officer, with the approval of the Minister, is also empowered under this Part to make Cayman Islands Shipping Notices in relation to or arising out of matters to give effect to any provisions of an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and extended to the Islands which are not otherwise prescribed by this legislation.

Further, this Part provides for the application of the legislation to non-Cayman Islands ships, Government ships, ships chartered by demise to the Government and to certain structures.

As it relates to the application of United Kingdom legislation, this Part provides that the Cabinet may, after consultation with the Secretary of State for Transport of the United Kingdom, by Order, apply to the Islands as part of the law of the Islands, subject to such exceptions, adaptations and modifications as may be specified in the Order, any legislation of the United Kingdom to which this section applies. It should also be noted that that any regulations made under this legislation shall be made after notification of the regulation is given to the Secretary of State for Transport of the United Kingdom.

The Schedule deals with the Instruments and documents for which forms are to be prescribed.

CAYMAN ISLANDS

MERCHANT SHIPPING BILL, 2023

Arrangement of Clauses

Clause Page

PART 1 - PRELIMINARY

1. Short title 33
2. Interpretation 33

PART 2 - REGISTRATION OF SHIPS

Registration **38**
3. Cayman Islands ship 38
4. Qualifications for owning a Cayman Islands ship 38
5. Entitlement of ship to be registered under this Act 39
6. Representative person 40
7. Refusal of registration 42
8. Termination of registration 42
9. Penal liability 44
10. Registrar of Shipping 45
Procedure for Registration **45**
11. Register 45
12. Entries in register in relation to the property in a ship 45
13. Survey and measurement of ships 46
14. Marking of ship 47
15. Application for registration 49
16. Declaration of eligibility 49
17. Evidence of title on first registry 49

18. Entry of particulars in register 50
19. Documents to be retained by Registrar of Shipping 50
20. Port of registry 50
Certificate of Registry **50**
21. Certificate of registry 50
22. Custody of certificate 51
23. Penalty for use of improper certificate 51
24. Power to issue a new certificate 51
25. Duplicate certificates 52
26. Endorsement of change of ownership 52
Demise Charter Registration **52**
27. Registration of ships chartered by demise to a qualified person 52
28. Consequences of registration under section 27(1) 53
29. Application of this Act where a ship is registered under section 27 54
30. Transfer of rights and obligations of charterer under the charter by demise 55
31. Rights and obligations relating to interests in ships registered under section 27(1) 56
32. Dispensations for ships chartered by demise and registered outside the Islands 56
33. Termination and revocation of dispensation granted under section 32 57
34. Flag to be used where a dispensation has been granted under section 32 58
Interim Registration in the Course of Transfer of Ownership **58**
35. Registration during the transfer of ownership 58
36. Consequences of registration under section 35 60
37. Provisions relating to application of this Act where a ship is registered under section 35 60
38. Definition of transferee in this Part 61
Name of Ship **61**
39. Rules as to name of ship 61
40. Offences 61
Registration of Alterations **62**
41. Registration of alterations 62
42. Offences 62
43. Procedure for registration of alterations 62
Transfer of Registration between the Islands and the United Kingdom or a Crown Dependency or British Overseas Territory **62**
44. Transfer of registration from the Cayman Islands to the United Kingdom, a Crown Dependency or a British Overseas Territory 62
45. Transfer of registration from the United Kingdom, a Crown Dependency or a British Overseas Territory to the Cayman Islands 63
Tonnage Measurement **64**
46. Tonnage of ships of foreign countries adopting tonnage regulations 64
47. Force of law of Tonnage Convention and tonnage regulations 65
Unregistered Ships **66**
48. Liabilities of unregistered ships 66
49. Application of this Act to unregistered ships 66
Miscellaneous **67**
50. Termination of overseas registration 67
51. Requirement for insurance cover 67
52. Trusts, equitable interests and liabilities of beneficial interests 67
53. Registrar of Shipping may dispense with declaration or evidence 68
54. Returns to be made by Registrar of Shipping 69

55. Evidence of certificate of registry and other documents 69
56. Forms of documents 70
57. Forgery of documents 70
58. False declarations 70
59. Registration regulations 71
60. Certified copy of entry in register to be evidence 71

PART 3 - NATIONAL CHARACTER AND FLAG

61. National character of ship to be declared before clearance 71
62. Offences relating to Cayman Islands character of ship 71
63. Penalties 72
64. National colours and penalty for carrying improper colours or not showing colours 72
65. Proceedings on forfeiture of a ship 73

PART 4 - PROPRIETARY INTERESTS IN REGISTERED SHIPS

General **74**
66. Rights of owners and mortgagees 74
Transfers and Transmissions **74**
67. Transfers 74
68. Declaration of transfer 75
69. Registration of transfer 75
70. Transmission of property in ship 75
71. Order for sale on transmission to unqualified person 76
72. Transfer of ship on sale by order of court 77
73. Powers of court 77
Mortgages **77**
74. Mortgage of ship or share 77
75. Priority of mortgages 79
76. Entry of discharge of mortgage 79
77. Protection of undischarged mortgage 79
78. Mortgagee not owner and mortgagee's power of sale 79
79. Mortgage not affected by bankruptcy 80
80. Transfer of mortgages and transmission of mortgage interest by death, bankruptcy, etc. 80

PART 5 - MASTERS AND SEAFARERS

General **81**
81. Definitions in Part 5 81
82. Force of law of the Maritime Labour Convention and STCW Convention 81
83. Application of this Part 82
84. Regulations made under this Part 82
Minimum requirements for seafarers to work on a ship **82**
85. Young persons 82
86. Production of certificates and other documents of qualifications 82
87. Crew's ability to communicate and knowledge of English 82
88. Unqualified seafarer going to sea as qualified person 83

89. Special certificates of competence....83
Conditions of Employment **83**
90. Seafarers' employment agreements....83
91. List of crew....84
92. Discharge of seafarer when the ship ceases to be registered in the Islands....84
93. Payment of seafarers' wages....84
94. Account of seafarers' wages....85
95. Power of Shipping Master to decide disputes on wages....85
96. Restriction on assignment of and charge upon wages....86
97. Power of court to award interest on wages due....86
98. Allotment notes....86
99. Right of person named in allotment note to sue in own name....87
100. Protection of certain rights and remedies....87
101. Repatriation, relief and return of seafarers left behind or shipwrecked....87
102. Limit of employer's liability under section 101....88
103. Recovery of expenses from employer incurred for relief and return....88
104. Recovery of expenses from seafarers....88
105. Right, or loss of right, to wages in certain circumstances....88
106. Power to exempt from manning requirements....89
107. Prohibition on going to sea undermanned....89
Food and catering **90**
108. Provision of food and water....90
109. Complaints about food or water....90
Health Protection, Medical Care, Welfare and Social Security Protection **91**
110. Expenses of medical care and other treatments....91
111. Obligation of shipowners as to seaworthiness....91
112. Shipowner's relief from liability for unseaworthiness....91
Offences by Seafarers **91**
113. Uniform....91
114. Conduct endangering ship, persons, etc.....92
115. Disobedience....93
116. False statements for the purpose of obtaining a certificate....94
Discipline and Code of Conduct **94**
117. Breaches of Code of Conduct....94
Disqualification of Seafarers **94**
118. Fitness or conduct of a seafarer....94
119. Inquiry into fitness or conduct of a seafarer....95
120. Rehearings and appeal from inquiry....95
121. Failure to deliver cancelled or suspended certificate....96
Civil Liability of Seafarers **96**
122. Civil liability for absence without leave....96
123. Civil liability for smuggling....96
124. Civil liability for fines under immigration laws....96
Documentation **97**
125. Official and other log books....97
126. Handing over of documents by master....97

PART 6 - PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

Collision Regulations, Distress and Safety **98**
127. Definitions in Part 6....98
128. Force of law of Collision Convention....98
129. Application of this Part....98
130. Vessels to comply with Collision Convention....99
131. Signals of distress....99
132. Exemptions....99
133. Detention of ships....100
134. Persons to comply with Collision Convention....100
135. Collision liability....100
136. Inspection to enforce compliance with collision regulations....101
137. Duty to render assistance following collision....101
138. Offence....102
139. Master to notify hazards to navigation....102
140. Master to proceed moderately in danger area....103
141. Duty to assist ships in distress....104
142. Right to requisition ships when in distress....104
143. Duty to assist persons in danger at sea....104
144. Application of duties imposed by sections 141 to 143 and penalties for failure to comply and salvage rights....104
145. Reports of accidents to ships....105
146. Apprehended loss of ship....106
147. Record of boat drill to be kept in official log book....106
148. Collision regulations....106
Aids to Navigation and Charts and Publications **107**
149. Definitions and application....107
150. Establishment and management of aids....107
151. Nautical publications, charts and other information....107
152. Prosecution of offences relating to aids....108
153. Detention of ships....108
154. Fire or lights detrimental to navigation....108
155. Characteristics of aids....108

PART 7 - SAFETY OF LIFE AT SEA AND MARITIME SECURITY

General **109**
156. Definitions in Part 7....109
157. Force of law of Safety Convention....111
158. Application of this Part....111
159. Exemptions....111
160. Safety at sea regulations....112
161. Regulations providing for exemptions....112
Surveys and Certifications **112**
162. Surveyor's duties....112
163. Surveyor to report to Chief Executive Officer....113

164. Responsibilities of owner and master....113
165. Procedure to be adopted when the ship, including its structure, machinery and equipment is deficient....113
166. Issue of certificates....114
167. Forms of certificates....114
168. Duration and validity of certificates....114
169. Issue and duration of exemption certificates....114
170. Extension and other provisions....115
171. Issue and endorsement of certificates by another government....116
172. Ships not registered in the Islands and to which the Safety Convention applies....116
173. Cancellation of a certificate....116
174. Posting-up of certificates....117
175. Prohibition on proceeding to sea without the appropriate documentation....117
176. Limit on the number of passengers on passenger ships....118
177. Offences....118
178. Power to detain....118
Miscellaneous 119
179. Penalty for non-compliance with conditions of exemption certificates....119
180. Inspection of ships holding Safety Convention certificates....119
181. Ships to carry stability information....119
182. Local safety certificates regulations....120
Safety management and maritime security 120
183. Application of the ISPS Code....120
184. Exemptions....120
185. Maritime security regulations....120
186. Responsibility for ship security....120
187. Responsibility for setting security levels....121
188. Alternative security agreements....122

PART 8 - SAFETY OF SUBMERSIBLES

General 122
189. Definitions in Part 8....122
190. Application of this Part....123
Restriction on operation 123
191. Restriction on operation of submersible craft....123
192. Register of submersible craft....124
193. Requirements for registration of submersible craft....124
194. Grounds for refusing registration....125
195. Notification of changes affecting submersible craft and amendment of particulars....125
196. Termination of registration....126
197. Display of registration number....127
Regulations for construction and operation of submersible craft 128
198. Regulations for construction, equipment, etc., of submersible craft....128
199. Issue, duration, extension, suspension, etc., of safety certificates....128
Inquiries and Investigations, Offences and Legal Proceedings in Relation to Submersible Craft 129
200. Inquiries and investigations....129
201. Offences....129

202. Service of documents and notices in proceedings....130
203. Detention....131

PART 9 - LOAD LINES

General **132**
204. Definitions in Part 9....132
205. Force of law of 1966 Convention and 1988 Protocol....134
206. Application....134
207. Load line regulations....135
208. Application of Annexes to 1966 Convention and 1988 Protocol....135
Cayman Islands Ships **135**
209. General compliance....135
210. Obligations of Assigning Authority....136
211. Exemptions....137
212. Equivalents....137
213. Repairs, alterations and modifications....138
214. Zones and areas....138
215. Submersion of load lines....138
216. Initial, renewal and annual surveys....139
217. Maintenance of conditions after survey....139
218. Issue of Convention certificates....139
219. Issue or endorsement of International Load Line Certificates by another Government and on behalf of other Contracting Governments....139
220. Form of Convention certificates....140
221. Duration and validity of an International Load Line Certificate....141
222. Extension of periods of validity of an International Load Line Certificate....141
223. Duration and validity of an International Load Line Exemption Certificate....143
224. Procedure to be adopted when a ship is deficient....143
225. Cancellation of International Load Line Certificates and surrender of Convention certificates....144
226. Acceptance of Convention certificates....145
227. Control of non-Cayman Islands ships holding a valid Convention certificate....145
228. Authorisation of removal, etc., of appropriate marks....145
229. Record of conditions of assignment....146
230. Detention....146
231. Offences....146

PART 10 - CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

General **147**
232. Definitions in Part 10....147
233. Application....148
Carriage of Grain and Other Bulk Cargoes **148**
234. Bulk cargo regulations....148
235. Carriage of grain....148
236. Delivery of notice and offence....149
Dangerous Goods **149**

237. Dangerous goods regulations 149
238. Carriage and marking of dangerous goods 150
239. Offence relating to dangerous goods 150
240. Rejection and disposal of dangerous goods by ship 150
241. Forfeiture of dangerous goods 150

PART 11 - UNSAFE SHIPS

242. Power to detain unsafe ships 151
243. Any question relating to reasonable cause and compensation 151
244. Owner and master liable in respect of unsafe ship 152
245. Use of unsafe lighters, etc. 153
246. Owner liable for unsafe operation of ship 154

PART 12 - WRECK AND SALVAGE

247. Definitions in Part 12 155
Wreck **156**
248. Appointment and powers of Receiver of Wrecks 156
249. Fees of Receiver 156
250. Duty of Receiver where vessel in distress 157
251. Powers of Receiver in case of vessel in distress 157
252. Power to pass over adjoining land 157
253. Duties of finder, etc., of wreck 158
254. Provisions as respects cargo, etc. 159
255. Receiver to give notice of wreck 159
256. Claims of owners to wreck 160
257. Immediate sale of wreck in certain cases 160
258. Right of Government to unclaimed wreck 160
259. Notice of unclaimed wreck to be given to persons entitled 160
260. Disposal of unclaimed wreck 161
261. Effect of delivery of wreck, etc., under this Part 161
262. Offence of taking wreck to foreign port 161
263. Offence of interfering with wrecked vessel or wreck 162
264. Powers of entry, etc. 163
265. Release of goods from customs control 163
Salvage **163**
266. Force of law of Salvage Convention 163
267. Non-application to platforms and drilling units 163
268. Non-application to foreign state-owned vessels 164
269. Life salvage 164
270. Salvage of cargo 164
271. Services excluded from salvage remuneration 164
272. Conditions for salvage remuneration 165
273. Salvage contracts 165
274. Annulment or modification of contracts 165
275. Duties of salvor 165
276. Duties of owner and master 166
277. Powers of Receiver 166

278. Criteria for fixing salvage rewards 167
279. Responsibility for payment of reward 167
280. Quantum of reward 167
281. Special compensation 168
282. Services rendered under existing contract 168
283. Apportionment between salvors 168
284. Salvor's misconduct 169
285. Maritime lien 169
286. Duty to provide security 169
287. Interim payment 170
288. State-owned cargoes 170
289. Humanitarian cargoes 170
290. Determination of salvage dispute 170
291. Appeal in case of salvage disputes 170
292. Valuation of property salvaged 170
293. Detention of property liable to salvage 171
294. Sale of detained property 171
295. Apportionment of salvage by Receiver 172
296. Apportionment of salvage by Court 172
297. Salvor's right to interest 173
298. Application to the Government 173
299. Salvage regulations 173
300. Time limit for salvage proceedings 173
301. The common understanding regarding the reward and special compensation 174
302. Recourse for life salvage payment 174

PART 13 - CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS

303. Offences in connection with passenger ships 174
304. Power to exclude drunken passengers from certain passenger ships 176
305. Stowaways 176
306. Unauthorised presence on board 176
307. Master's power of arrest 176
308. Unauthorised persons: offences relating to safety 177
309. Passenger returns to be made by master 177
310. Returns of births and deaths in ships, etc. 177

PART 14 - LIABILITY AND COMPENSATION

Chapter 1 - General **179**
311. Definitions in Part 14 179
312. Force of law of Conventions 181
313. Saving for recourse actions 181
314. Exceptions from liability under Chapter 3, 4 and 7 181
315. Liability under Chapter 3, 4 and 7 182
316. Other financial security 182
317. Extinguishment of claims 182
318. Cabinet may make regulations for this Part 183

Chapter 2 - Limitation and Division of Liability for Maritime Claims 183
319. Definitions in this Chapter 183
320. Persons entitled to limit liability 183
321. Claims subject to limitation 183
322. Claims excepted from limitation 184
323. Conduct barring limitation 185
324. Counter claims 185
325. Limitation calculations 185
326. Limitation of liability of dock owners and the Port Authority 186
327. Limits for passenger claims 187
328. Conversion of special drawing rights 187
329. Aggregation of claims 187
330. Constitution of limitation fund 188
331. Distribution of fund 188
332. Bar to other actions 189
333. Governing law 189
334. Apportionment of liability for damage or loss 189
335. Loss of life or personal injuries: joint and several liability 190
336. Right of contribution for loss of life or personal injuries 190
337. Time limit for proceedings against owners or ship 191
338. Scope of application of Chapter 191
339. Exclusion of liability 192
Chapter 3 - Liability for oil pollution in cases of other ships 193
340. Scope of application of Chapter 193
341. Liability of registered owner 193
342. Two or more ships 194
343. Restriction of liability for oil pollution 194
344. Jurisdiction of Cayman Islands Court and registration of foreign judgments 194
345. Government ships 195
346. Limitation of liability 195
Chapter 4 - Liability for Bunker Oil Pollution 195
347. Definitions in this Chapter 195
348. Liability for pollution by bunker oil 196
349. Restriction of liability for bunker oil pollution 197
350. Compulsory insurance against liability for pollution from bunker oil 198
351. Issue of certificate by Chief Executive Officer 199
352. Rights of third parties against insurers 199
353. Jurisdiction of Cayman Islands Court and registration of foreign judgments 200
354. Government ships 201
355. Limitation of liability 201
356. Parties to the Bunkers Convention and references to territories of a country 201
Chapter 5 - Liability for Wreck Removal 202
357. Wreck removal regulations 202
Chapter 6 - Carriage of Passengers and Luggage by Sea 202
358. Definitions in this Chapter 202
359. Application 203
360. Liability of the carrier 204
361. Performing carrier 205
362. Valuables 205

363. Contributory fault 205
364. Limits of liability 205
365. Special drawing rights and conversion 206
366. Defences and limits for carriers, servants 206
367. Aggregation of claims 206
368. Loss of right to limit liability 207
369. Basis for claim 207
370. Notice of loss or damage to luggage 207
371. Time-bar for actions 207
372. Competent jurisdiction 208
373. Invalidity of contractual provisions 209
374. Application of other limitation regimes 209
375. Nuclear damage 209
376. Commercial carriage by state-owned ships 209
377. Carrier's obligation to give notice to passengers 209
378. Application of section 338(4) 210
379. Application of section 339 210
380. Athens Protocol regulations 210
Chapter 7 - Liability for Oil Pollution in case of Tankers 210
381. Definitions in this Chapter 210
382. Liability for oil pollution in case of tankers 210
383. Restriction of liability for oil pollution 212
384. Limitation of liability under section 382 212
385. Limitation actions 213
386. Restriction on enforcement after establishment of limitation fund 214
387. Concurrent liabilities of owners and others 214
388. Establishment of limitation fund outside the Islands 215
389. Compulsory insurance against liability for oil pollution 215
390. Issue of certificate by Chief Executive Officer 216
391. Rights of third parties against insurers 216
392. Jurisdiction of Cayman Islands Court and registration of foreign judgments 217
393. Government ships 218
394. References to territories of a country 218
Chapter 8 - International Oil Pollution Compensation Fund 218
395. Definitions in this Chapter 218
396. Contributions by importers of oil and others 219
397. Power to obtain information 221
398. Liability of the Fund 222
399. Limitation of Fund's liability under section 398 223
400. Jurisdiction and effect of judgments 224
401. Extinguishment of claims 225
402. Subrogation 225
403. Supplementary provisions as to proceedings involving the Fund 225
404. Fund Protocol regulations 226
Chapter 9 - Liability for Pollution by Hazardous and Noxious Substances 226
405. HNS Protocol regulations 226

PART 15 - MARITIME SECURITY

Piracy under the United Nations Convention on the Law of the Sea 1982 **226**
406. Definitions in this Part relating to piracy and armed robbery....226
407. Hijacking of ships....227
408. Seizing or exercising control of fixed platforms....227
409. Destroying ships or fixed platforms or endangering their safety....228
410. Other acts endangering or likely to endanger safe navigation....229
411. Offences involving threats....229
412. Ancillary offences....230
413. Interpretation....231

PART 16 - ENFORCEMENT OFFICERS AND POWERS

Surveyors, Inspectors and Inspectors of Marine Casualties **231**
414. Appointment of Officers....231
415. Powers of Surveyors....232
416. Powers of Inspectors....233
417. Inspection of marine casualties....235
418. Offences, etc. 235
Improvement Notices, Prohibition Notices and Detention Orders **236**
419. Improvement Notices....236
420. Prohibition Notices....237
421. Provisions supplementary to sections 419 and 420....238
422. Detention orders....238
423. References to arbitration....239
424. Compensation in connection with invalid prohibition notices and detention orders....240
425. Offences....240

PART 17 - INVESTIGATIONS AND INQUIRIES INTO MARINE CASUALTIES

426. Investigations of shipping casualties....242
427. Formal inquiry....242
428. Rehearings and appeals....243
429. Rules relating to inquiries and investigations....244
430. Inquiries into and reports on deaths and injuries....244

PART 18 - LEGAL PROCEEDINGS

Prosecution of Offences **245**
431. Time limit for summary offences....245
432. Time limit for summary orders....246
433. Offences by officers of bodies corporate....246
Jurisdiction **247**
434. Jurisdiction in relation to offences....247
435. Jurisdiction over ships lying off coasts....247
436. Jurisdiction in case of offences on board ship....247
437. Offences committed by Cayman Islands seafarers and other persons on board a Cayman Islands ship....248

438. Innocent passage 248
Detention of Ship and Distress on Ship **248**
439. Enforcing detention of ship 248
440. Payment of fines 249
Special Evidentiary Provisions **250**
441. Depositions of persons abroad admissible 250
442. Admissibility in evidence and inspection of certain documents 250
443. Admissibility of documents in evidence 250
444. Inspection and admissibility in evidence of copies of certain documents 251
445. Service of documents 252

PART 19 - SUPPLEMENTAL

Administration **253**
446. General functions of Minister and Chief Executive Officer 253
447. General power to dispense 254
448. Nautical assessors 254
449. Transmission of documents to Chief Executive Officer 254
450. Returns, etc., to Chief Executive Officer 255
451. Forms 255
452. Advisory committees 255
Financial Provisions **256**
453. Fees, regulations and fines 256
454. Expenses of the Customs and Control Office 256
455. Expenses charged on money provided out of the revenue of the Islands 256
456. Payments to be made into the revenue of the Islands 257
457. Regulations 257
458. Chief Executive Officer's discretion 258
459. Shipping notices and amendments to international agreements 259
Application of Act to certain descriptions of ships, etc. **259**
460. Application of Act to non-Cayman Islands ships 259
461. Application of Act to Government ships 259
462. Application of Act to ships chartered by demise to the Government 260
463. Application of Act to certain structures, etc. 261
Application of United Kingdom Legislation **261**
464. Application of United Kingdom legislation 261
465. Consultation with Secretary of State 261
466. Repeals and savings 261

SCHEDULE **263**
(section 56) 263

CAYMAN ISLANDS

MERCHANT SHIPPING BILL, 2023

A BILL FOR AN ACT TO REPEAL AND REPLACE THE MERCHANT SHIPPING ACT (2021 REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Merchant Shipping Act, 2023.

Interpretation

2. In this Act —

"**as extended to the Islands**" means as extended or applied by the United Kingdom to the Islands;

"**British citizen**", "**British Overseas Territories citizen**", "**British Overseas citizen**" and "**Commonwealth citizen**" have the same meanings as in the *British Nationality Act 1981 of the United Kingdom;*

"**British Overseas Territory**" means any of the following territories —

(a) Anguilla;

(b) British Antarctic Territory;

(c) Bermuda;

(d) British Indian Ocean Territory;

(e) British Virgin Islands;

(f) Cayman Islands;

(g) Falkland Islands;

(h) Gibraltar;

(i) Montserrat;

(j) Pitcairn Islands (including Henderson, Oeno and Ducie Islands);

(k) Saint Helena and Dependencies (Ascension Island and Tristan de Cunha);

(l) Turks and Caicos Islands;

(m) South Georgia and South Sandwich Islands; and

(n) Sovereign Base Areas on Cyprus;

"**British ship**" has the meaning given in section 1(1) of the *Merchant Shipping Act 1995 of the United Kingdom*;

"**Cayman Islands citizen**" means a British Overseas Territories citizen by virtue of a connection with the Islands, and, for the purposes of this Act, includes an individual who, under the laws of the Islands, possesses Caymanian status or is a permanent resident of the Islands;

"**Cayman Islands ship**" means a ship registered in the Islands under this Act, and "Cayman Islands vessel" and "Cayman Islands fishing vessel" shall be construed accordingly;

"**Cayman Islands waters**" mean the sea or other waters within the seaward limits of the territorial sea of the Islands;

"**Chief Executive Officer**" means the Chief Executive Officer appointed under section 9(1) of the *Maritime Authority Act (2013 Revision)*;

"**Collision Convention**" or "**COLREG**" means the *International Convention on Regulations for the Prevention of Collisions at Sea 1972* and the rules and annexes contained in that Convention, as amended, modified or replaced from time to time and as extended to the Islands;

"**commissioned military officer**" means a commissioned officer in His Majesty's land forces on full pay;

"**commissioned naval officer**" means a commissioned officer in His Majesty's Navy on full pay;

"**Consular officer**", in relation to a foreign country, means the officer recognised by His Majesty as a consular officer of that foreign country;

"**contravention**" includes failure to comply (and "**failure**" includes refusal);

"**Court**" means the Grand Court;

"**Crown Dependency**" means any of the Channel Islands or the Isle of Man;

"**discharge or escape**" in relation to pollution damage, means the discharge or escape of oil from the ship

"**fishing vessel**" means a vessel for the time being used or, intended to be used, for or in connection with fishing for commercial purposes but does not include fishing for sport for which a fee is paid;

"**foreign**", in relation to a ship, means a ship which is not a Cayman Islands ship;

"**Government**" means the Government of the Cayman Islands;

"**Government ship**" means a ship owned by the Government or held by a person on behalf of or for the benefit of the Government;

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

immediate family" means, in relation to an individual, the husband, wife or civil partner of the individual, or a relative of the individual, or of the individual's husband, wife or civil partner;

"international agreement" includes a treaty, convention and protocol;

"ISPS code" means the International Ship and Port Facility Security Code;

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

"**Maritime Authority**" means the Maritime Authority of the Cayman Islands as established under the *Maritime Authority Act (2013 Revision)*;

"**Maritime Labour Convention**" means the *Maritime Labour Convention 2006* as amended, modified or replaced from time to time and as extended to the Islands;

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

"**mile**" means an international nautical mile of 1,852 metres;

"**Minister**" means the Member of Cabinet responsible for merchant shipping and seafarers;

"**Organization**" means the International Maritime Organization;

"**owne**r", other than in Part 14, in relation to a ship, or "**shipowner**" means, in the registered owner and includes a demise charterer and a managing owner or a managing agent;

"**passenger**" means a person carried on a ship except —

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

(b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason

of any circumstance that neither the master, owner nor charterer, if any, could have prevented or forestalled; or

(c) a child under one year of age;

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

"**pleasure vessel**" means —

(a) a vessel which at the time it is being used is —

(i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner;

(ii) in the case of a vessel owned by a body corporate, one on which the persons on the vessel are employees, officers or shareholders (including beneficial owners of shares) of the body corporate, or their immediate family or friends; or

(iii) in the case of a vessel owned by a trust or other ownership arrangement, one on which the persons on the vessel are beneficiaries under the trust or beneficial owners of the ownership arrangement, or their immediate family or friends;

(iv) in private use; or

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

"**port**" includes place;

"**Port Authority**" includes all persons entrusted with the function of constructing, improving, managing, regulating, maintaining or lighting a harbour;

"**private use**" in relation to a pleasure vessel, means that the vessel is used on a private voyage or excursion, and during such use is not engaged in trade by transporting merchandise or carrying passengers for reward or remuneration (other than as a contribution to the actual cost of the vessel or its operation for the period of the voyage or excursion), and is not offered to the public for use;

"**public authority**" means any body of the Government and includes a ministry, portfolio, statutory authority, government company, the Office of the Ombudsman, the Office of the Director of Public Prosecutions, and the Audit Office;

"**Registrar of Shipping**" has the same meaning as in section 10 of the *Maritime Authority Act (2013 Revision)*;

"**registration regulations**" means regulations made under section 59;

"**relative**" means brother, sister, ancestor or lineal descendant;

"**ro-ro passenger ship**" means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;

"**STCW Convention**" means the *International Convention on Standards of Training, Certification and Watchkeeping 1978* as amended, modified or replaced and as extended to the Islands;

"**Safety Convention**" means the *International Convention for the Safety of Life at Sea 1974* as modified by the Protocols of 1978 and 1988 including its codes and any other instruments made mandatory under the *Safety Convention* and as amended, modified or replaced from time to time and as extended to the Islands;

"**safety regulations**" means regulations made under sections 160 or 182;

"**seafarer**" means any person, including a master, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on a ship.

"**ship**" includes every description of vessel used in or for navigation;

"**Shipping Master**" has the same meaning as in section 10 of the *Maritime Authority Act (2013 Revision)*;

"**surveyor of ships**" means a surveyor appointed under section 414, and the reference to requirements, restrictions or prohibitions under this Act includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act;

"**territorial sea**", in relation to the Islands, has the meaning given in the *Cayman Islands (Territorial Seas) Order 1989*;

"**Tonnage Convention**" means the *International Convention on Tonnage Measurement of Ships 1969*, as amended, modified or replaced from time to time and as extended to the Islands;

"**tonnage regulations**" means regulations made under section 47; and

"**wages**" includes overtime pay, leave pay due in respect of leave earned and any other emoluments.

PART 2 - REGISTRATION OF SHIPS

Registration

Cayman Islands ship

3. (1) A ship is a Cayman Islands ship for the purposes of this Part if the ship is registered in the Islands under this Part.

(2) A ship registered in the Islands under Part I of the *Merchant Shipping Act 1894 of the United Kingdom*, under the repealed *Merchant Shipping Act, 1988 (Amendment) Act, 1992* or under the repealed *Merchant Shipping Act (2016 Revision)* is deemed to be a ship registered in the Islands under this Act.

Qualifications for owning a Cayman Islands ship

4. (1) For the purposes of this Act, the following are persons qualified to be owners of Cayman Islands ships —

(a) British citizens;

(b) British Overseas Territories and Crown Dependencies citizens;

(c) British Overseas citizens;

(d) British subjects;

(e) persons who, under the *Hong Kong (British Nationality) Order 1986*, are British Nationals (Overseas);

(f) Cayman Islands citizens;

(g) persons, other than those referred to in paragraphs (a) to (f), who are nationals or citizens of a Member State of the European Union, European Economic Area or an approved country, including the overseas countries, territories or dependencies of such Member State or country;

(h) bodies corporate, shipping entities or foreign companies incorporated, established or registered in —

(i) the United Kingdom or any of its Overseas Territories or Crown Dependencies;

(ii) a Member State of the European Union or European Economic Area, including any overseas country, territory or dependency of such a Member State; or

(iii) an approved country or any overseas country, territory or dependency of such an approved country; and

(i) foreign companies as defined in section 183 of the *Companies Act (2023 Revision)* carrying on business within the Islands which comply with all the requirements of foreign companies under that Act.

(2) A person who is not qualified under subsection (1) to be an owner of a Cayman Islands ship may, nevertheless, be one of the owners of such a ship if —

(a) a majority interest in the ship, within the meaning of section 5, is owned by persons who are qualified to be owners of Cayman Islands ships; and

(b) the ship is registered in accordance with that section.

(3) In this section —

"**approved country**" means ——

(a) a country included in the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2)(a) of the *Proceeds of Crime Act (2020 Revision)* as amended from time to time; or

(b) a country whose citizens are persons qualified to own a ship registered in the United Kingdom;

"**shipping entity**" includes —

(a) a "**partnership"** and a **"limited partnership**" as defined in the *Partnership Act (2013 Revision)* and an "**exempted limited partnership**" as defined in the *Exempted Limited Partnership Act (2021 Revision)*; and

(b) any other entity similar to those referred to in paragraph (a),

established in any state or country referred to in subsection (1)(h) and whether or not the instrument of its creation and existence, expressly or by operation of law, confers or recognises its capacity under the law to sue and be sued in its own name or in the name of its lawful fiduciary or legal representative.

Entitlement of ship to be registered under this Act

5. (1) Subject to sections 7 and 8, this section has effect for the purpose of determining whether a ship is entitled to be registered in the Islands under this Act.

(2) Subject to subsection (3), a ship is entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of Cayman Islands ships by virtue of section 4(1).

(3) Subject to subsection (4), in the case of a ship where the person, or each of the persons, by whom the majority interest is owned is not resident in the Islands, the ship is entitled to be registered only if a representative person is appointed in relation to the ship.

(4) Where an application is made in respect of a ship which has more than one owner, or its shares are owned by more than one owner, and there is no requirement for the appointment of a representative person under subsection (3), the ship is only entitled to be registered if —

(a) either a representative person who is resident in the Islands is appointed; or

(b) one of those owners who is resident in the Islands is nominated as the managing owner,

and, in such a case, section 6(3), (4), (5), (6) and (7) shall apply with respect to the managing owner in the same manner as they apply with respect to the representative person.

(5) For the purposes of this section —

(a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to thirty-three or more or all of the sixty-four shares into which the property in the ship is divided, for the purpose of registration in accordance with section 12; and

(b) a body corporate shall be treated as resident in the Islands if it is incorporated in the Islands and has a place of business there.

Representative person

6. (1) Where the entitlement of a ship to be registered is, by virtue of section 5, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall —

(a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship; and

(b) ensure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the purposes of subsection (1) the prescribed requirements are —

(a) the representative person is either —

(i) an individual resident in the Islands; or

(ii) a body corporate incorporated in the Islands and having a place of business there; and

(b) such other requirements as Cabinet may, by regulations, prescribe.

(3) The owner of a ship in relation to which a representative person is for the time being appointed shall —

(a) on applying for the ship to be registered, notify the Registrar of Shipping of the name and address of the representative person; and

(b) in the event of a change in the identity, or in the address, of the representative person so appointed, notify the Registrar of Shipping of the name and address of the new representative person, or, of the new address, as soon as practicable after the change occurs,

and the Registrar of Shipping shall record any particulars notified to the Registrar of Shipping in pursuance of this section in the register kept by the Registrar of Shipping under this Act.

(4) A document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under this Act, or under any instruments in force under this Act shall, where the person to be served is the owner of a registered ship, be treated as served on that person if —

(a) delivered to any representative person for the time being appointed in relation to the ship;

(b) sent to any such representative person by post at the address notified or last notified to the Registrar of Shipping under subsection (3) in relation to that person; or

(c) left for any such representative person at that address.

(5) In addition to all other requirements of this section, a representative person shall —

(a) provide such information with respect to the ship in relation to which he or she is a representative person, or the owner of such ship; and

(b) carry out such instructions or directives with respect to the representative person's duties and responsibilities in relation to such ship or its owner,

as may be required by the Chief Executive Officer.

(6) (a) Subject to paragraph (b), a representative person who is appointed as such and whose name and address is notified to the Registrar of Shipping in accordance with subsection (3)(a), shall, for the purposes of this Act —

(i) remain as the representative person in relation to the ship for which the representative person was so appointed; and

(ii) be subject to all the requirements of this Act applicable to representative persons,

until such time as the Registrar of Shipping is notified in accordance with subsection (3)(b) of a change in the identity or address of the representative person.

(b) Paragraph (a) does not apply where the Chief Executive Officer is satisfied that it is not desirable or appropriate that the representative person to remain as such. representative person.

(7) A person who contravenes subsection (1)(b), (3)(b) or (5) commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Refusal of registration

7. (1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Chief Executive Officer may direct the Registrar of Shipping not to register a ship if the Chief Executive Officer is satisfied that having regard to —

(a) the condition of the ship so far as is relevant to safety or to a risk of pollution;

(b) the safety, health and welfare of persons employed or engaged in any capacity on board the ship;

(c) the possibility that the ship is being used for criminal or unlawful purposes; or

(d) the record of the owner's management and operational quality including in relation to the matters mentioned in paragraphs (a) to (c),

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

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

Termination of registration

8. (1) The Registrar of Shipping may, subject to subsection (5), terminate a ship's registration —

(a) where the Chief Executive Officer is satisfied that —

(i) having regard to the matters mentioned in section 7(1)(a), (b), (c) or (d), it would be detrimental to the interests of the Islands or of international shipping for a registered ship to continue to be registered;

(ii) a penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than three months and no appeal against the penalty is pending; or

(iii) a summons for any such contravention has been served on the owner of a registered ship and the owner has failed to appear at the time and place appointed and a period of not less than three months has elapsed since that time,

and the Chief Executive Officer so informs the Registrar of Shipping;

(b) if the annual tonnage fees of a registered ship have remained unpaid for a period of more than two years;

(c) if a registered ship is no longer entitled to remain registered;

(d) on application by the registered owner stating that the registered owner wishes to terminate the registration of the ship;

(e) upon a registered ship becoming a total loss or being otherwise destroyed; or

(f) if section 6(1)(b) is contravened.

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

(3) Where —

(a) the registration of a ship is terminated under subsection (1), the Registrar of Shipping shall notify all registered mortgagees of the closure of the ship's registration, and a mortgagee's interest in respect of the ship shall remain registered except where it is proved that the mortgagee was privy to the possibility of the ship being used for criminal purposes, in which case the registration of the mortgagee's interest in the ship shall be deleted; and

(b) the registration is terminated under subsection (1)(d) or (e), the Registrar of Shipping shall without delay issue a closure transcript to the owner of the ship.

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

(5) Where —

(a) the circumstances referred to in subsection (1)(a) apply, and it appears to the Registrar that subsection (1)(b), (c) or (f) apply, the Registrar may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, no later than twenty-one days after service of the notice, evidence sufficient to satisfy the Chief Executive Officer or the Registrar of Shipping, that the ship is eligible to remain on the register;

(b) at the expiry of the period of twenty-one days specified in paragraph (a), the Chief Executive Officer or the Registrar of Shipping is not satisfied in accordance with paragraph (a), the Registrar may —

(i) extend the notice and ask for further information or evidence; or

(ii) serve a final notice informing the owner or the representative person of the termination of the ship's registry, and such termination shall take effect seven days after the service of that notice;

(c) the Registrar of Shipping serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for the mortgagee in the register;

(d) a ship's registration is terminated under this subsection —

(i) the owner shall, immediately on being notified of the termination of the registration of the ship, surrender its certificate of registry forthwith to the Registrar; and

(ii) the Registrar shall issue a closed transcript after any outstanding fees payable to the Maritime Authority with respect to the ship have been paid to the Registrar's satisfaction.

(6) A person who —

(a) in connection with the making of any representations under subsection (5)(a), knowingly or recklessly furnishes information which is false in a material particular commits an offence and is liable —

(i) on summary conviction to a fine of five thousand dollars; or

(ii) on conviction on indictment to a fine of ten thousand dollars; or

(b) fails, without reasonable cause to surrender a certificate of registry when required to do so under subsection (4) or (5), commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Penal liability

9. (1) Where a body corporate commits an offence under this Act or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

(a) a director;

(b) manager;

(c) secretary or other similar officer of the body corporate; or

(d) a person who was purporting to act in any such capacity,

that person, as well as the body corporate, commit that offence and are liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body corporate.

Registrar of Shipping

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

Procedure for Registration

Register

11. (1) There continues to be a register for registration of ships, the registration of mortgages as referred to in section 74 and the registration of priority notices accepted under the provisions of section 75(2).

(2) The register for registrations of ships shall be so constituted as to distinguish, in separate parts, the registrations of —

(a) ships which are not pleasure yachts or demise chartered ships;

(b) pleasure yachts;

(c) demise chartered ships;

(d) ships under construction;

(e) submersible craft; and

(f) any other description of ships as may be prescribed by the Cabinet by Order,

and may otherwise distinguish between classes or description of ships and ports of registry in the Islands.

(3) Upon completion of the construction of a ship registered in the part of the register for ships under construction, the registration may be transferred to another part of the register.

(4) The registers shall be maintained by the Registrar of Shipping in accordance with this Part, the relevant provisions of Parts 4 and 8, the registration regulations and any directions given by the Chief Executive Officer.

(5) In this section, "**pleasure yacht**" includes a pleasure vessel and any vessel to which regulations made in respect of vessels in commercial use for sport or pleasure are stated to apply.

Entries in register in relation to the property in a ship

12. Entries in the register for registrations of ships in relation to property in a ship shall be made in accordance with the following provisions —

(a) the property in a ship shall be divided into sixty-four shares;

(b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship (however this rule shall not affect the beneficial title of any number of persons or of a company represented by or claiming under or through a registered owner or joint owner);

(c) except as provided otherwise in paragraph (e), a person is not entitled to be registered as owner of a fractional part of a share in a ship however any five or less persons may be registered as joint owners of a ship or of a share or shares in the ship;

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

(e) in the case of a ship wholly or partly owned by a shipping entity without a legal personality separate and distinct from that of its members, a person may be entitled to be registered as owner of a fractional part of a share in a ship provided that the sum of all the shares in the ship shall be sixty-four; and

(f) a body corporate shall be registered as owner by its corporate name.

Survey and measurement of ships

13. (1) Subject to subsection (4), every ship shall, before registration, be measured by a surveyor of ships appointed under section 414 and its tonnage ascertained in accordance with the tonnage regulations made under this Act.

(2) Pursuant to subsection (1), the surveyor shall issue the certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may be required by the Chief Executive Officer and the certificate shall be delivered to the Registrar of Shipping before registration.

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

(4) The ascertainment of tonnage and the delivery of the certificate of measurement referred to in subsection (2) shall not be required for a pleasure vessel of less than twenty-four metres in length if —

(a) the owner or an authorised person acting on behalf of the owner submits to the satisfaction of the Registrar and in accordance with the registration regulations, prior to registration, the particulars of the vessel as required under that subsection; and

(b) the Registrar reserves the right to require the ship to be inspected in accordance with subsection (1) in any case of doubt with respect to its particulars.

Marking of ship

14. (1) Every ship, other than a pleasure vessel, which is under twenty-four metres in length shall, before registration, be marked permanently and conspicuously to the satisfaction of the Chief Executive Officer as follows —

(a) that is —

(i) the name of the ship shall be marked on each of its bows; and

(ii) the name of the ship and the name of its port of registry shall be marked on its stern,

and in both cases in letters of a contrasting colour so as to be clearly visible, and the letters shall be of a length of not less than one decimetre, and of proportionate breadth;

(b) the ship's official number, any IMO Number assigned to the ship and net tonnage shall be permanently marked in a suitable location on the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;

(c) subject to paragraph (e), in the case of every ship built before the 1st May, 1988 —

(i) a scale of feet denoting its draught of water shall be marked on each side of the stem and of the stern post in Roman capital numerals or in figures of not less than six inches in length;

(ii) the lower line of such letters or figures to coincide with the draught line denoted thereby; and

(iii) those letters and figures shall be marked by being cut in and painted in contrasting colours so as to be clearly visible, or in such other way as the Chief Executive Officer may approve;

(d) in the case of every ship built after the 1st May, 1988, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on each side of its stem and its stern post in figures at two-decimetre intervals and at intervening two decimetre intervals and, if the scale is in metres and decimetres —

(i) the capital letter "M" shall be placed after each metre figure;

(ii) the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure;

(iii) the lower line of the figures, or figures and letters shall coincide with the draught line denoted thereby;

(iv) the figures and letters shall be not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Chief Executive Officer may approve; and

(e) every ship built before the 1st May, 1988 may comply with the requirements of paragraph (d).

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

(3) If the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship commits an offence and is liable on summary conviction to a fine of three thousand dollars.

(4) 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 the marks are altered in the manner provided by this Act.

(5) If —

(a) an owner or master of a registered ship neglects to keep the ship marked as required by this section; or

(b) if —

(i) a person conceals, removes, alters, defaces or obliterates; or

(ii) suffers a person under that person's control to conceal, remove, alter, deface or obliterate, any of the marks, except in the event referred to in subsection (4),

that owner, master or person commits an offence, and for each such offence is liable to a fine of three thousand dollars and, if a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

(6) It is a defence for an owner, master or other person referred to in subsection (5) to prove —

(a) that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) that the commission of the offence was for the purpose of escaping capture by an enemy.

(7) Where a ship proceeds to sea without being marked in accordance with this section, the owner commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(8) The Chief Executive Officer may exempt a class of ships from all or any of the requirements of this section.

Application for registration

15. (1) An application for registration of a ship shall be made —

(a) in the case of an individual —

(i) by the individual or the agent of the individual; or

(ii) by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one; or

(b) in the case of a body corporate, by its agent.

(2) The authority of an agent under subsection (1) shall be testified —

(a) if appointed by individuals, under the hands of the appointers; and

(b) if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal in accordance with section 84 of the *Companies Act (2023 Revision).*

Declaration of eligibility

16. (1) A person is not entitled to be registered as owner of a ship or of a share in the ship until the person, or, in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to the ship as described in the certificate of the surveyor, and which contains the following particulars —

(a) a statement of the person's qualifications to own a Cayman Islands ship, or in the case of a body corporate, of such circumstances of the constitution and business of the body corporate as proves it to be qualified to own a Cayman Islands ship;

(b) in the case of a foreign ship, a statement of its foreign name;

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

(d) a declaration that, to the best of the person's knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Cayman Islands ships, subsection (1)(a) has effect only in relation to persons who are so qualified.

Evidence of title on first registry

17. On the first registration of a ship evidence of title shall be produced to the Registrar of Shipping as specified in the registration regulations.

Entry of particulars in register

18. When the requirements of this Act which are preliminary to registration have been complied with, the Registrar of Shipping shall register the ship in accordance with the registration regulations by entering, in the register, particulars respecting the ship as specified in the registration regulations.

Documents to be retained by Registrar of Shipping

19. On the registration of a ship, the Registrar of Shipping shall retain in the possession of the Registrar of Shipping such documents as are specified in the registration regulations.

Port of registry

20. The port of registry of a ship registered under this Act and the port to which it belongs shall be one of the following ports —

(a) George Town;

(b) The Creek;

(c) Bloody Bay; or

(d) any other port as may be prescribed by the Cabinet by Order,

and the Registrar may, on application, allow a ship which is registered in one of the ports to transfer its registration to another of the ports mentioned in this section but the ship shall be registered in one port only at any one time.

Certificate of Registry

Certificate of registry

21. (1) On completion of the registration of a ship, the Registrar of Shipping shall issue a certificate of registry in respect of the ship.

(2) A certificate of registry may be issued for an indefinite period or for a specified period at the discretion of the Registrar of Shipping, and where a certificate is issued for a specified period —

(a) it may be extended or re-issued at the end of such period for a further specified period; or

(b) replaced with a certificate of registry valid for an indefinite period, in the Registrar's discretion.

(3) A certificate of registry issued for a specified period or extended or re-issued for a further specified period may be issued on such terms and conditions as the Registrar of Shipping may specify.

(4) A certificate of registry issued for a specified period, or extended or renewed for a further specified period, shall become invalid at the end of such period

unless further extended or renewed and, upon the certificate of registry becoming invalid, the registration of the ship shall be deemed to be terminated.

(5) In the event that the registration of a ship is terminated in accordance with this section, section 8(3)(a) shall apply with respect to any registered mortgages relating to the ship.

Custody of certificate

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

(2) If a person, whether interested in the ship or not, refuses on request to surrender the certificate of registry when the certificate is in the person's possession or under the person's control —

(a) to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship; or

(b) to the Registrar of Shipping,

a court of competent jurisdiction, may summon the person so refusing to appear before the court, and to be examined on such refusal, and unless it is proved to the satisfaction of that court that there was reasonable cause for the refusal, that person commits an offence and is liable on summary conviction to a fine of three thousand dollars.

(3) If it is shown to the court under subsection (2) that the certificate is lost, the person summoned in accordance with that subsection shall be discharged and the court shall certify that the certificate of registry is lost.

(4) If the person summoned by the court does not appear, or the summons of the court cannot be served, the court shall certify the fact and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit.

Penalty for use of improper certificate

23. If the master or owner of a ship uses or attempts to use for its navigation a certificate of registry which is not legally issued in respect of the ship, the master or owner of a ship commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars, and the ship is subject to forfeiture under this Act.

Power to issue a new certificate

24. The Registrar of Shipping may, with the approval of the Chief Executive Officer, and upon the surrender to the Registrar of Shipping of the certificate of registry of a ship, issue a new certificate.

Duplicate certificates

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

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

(3) A person who fails, without reasonable cause, to surrender a certificate of registry when required to do so by subsection (2) commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Endorsement of change of ownership

26. (1) Whenever a change occurs in the registered ownership of a ship, the Registrar of Shipping shall endorse the change on the certificate of registry or issue a new certificate of registry.

(2) The master shall, for the purpose of an endorsement by the Registrar of Shipping in accordance with subsection (1), deliver the certificate of registry to the Registrar as soon as is practicable after the change.

(3) If the master fails to deliver, to the Registrar of Shipping, the certificate of registry as required by this section the master commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Demise Charter Registration

Registration of ships chartered by demise to a qualified person

27. (1) Subject to subsection (3), a ship of twenty-four metres or more in length is entitled to be registered under this Act in the Islands if —

(a) the ship is operated under a charter by demise which complies with the requirements set out in subsection (2);

(b) the charterer is a person qualified to be an owner of a Cayman Islands ship by virtue of section 4;

(c) the requirements corresponding to those imposed on the owner of a majority interest in the ship by section 5(3) and (4) (b) with respect to entitlement to registration, are satisfied by the charterer;

(d) the ship is registered in a registry other than that of the Islands with respect to the rights and obligations referred to in section 31; and

(e) a provision substantially to the same effect as that of a dispensation under section 32 is granted in respect of the ship by the registry referred to in

paragraph (d), where such provision is required under the law of the country of that registry.

(2) The requirements referred to in subsection (1)(a) are that —

(a) the charter is in writing;

(b) the demise effected by the charter is made —

(i) by the owner of the ship or by a charterer with the written consent of the owner of the ship;

(ii) to a charterer who has a single legal personality; and

(iii) for a fixed period of two years or more or such lesser period as may be allowed by the Chief Executive Officer; and

(c) under the terms of the charter the operation, management and control of the ship, including responsibility for the engagement or employment of the master and crew of the ship, is vested in the charterer.

(3) Without prejudice to subsection (4), the Registrar of Shipping may refuse to register a ship which is entitled to be registered under subsection (1) if —

(a) the Registrar of Shipping is not satisfied that —

(i) the owner of the ship has consented to the registration of the ship in the Islands; or

(ii) a mortgagee of the ship has consented to the registration of the ship in the Islands;

(b) the tonnage of the ship cannot be ascertained in accordance with the tonnage regulations;

(c) the ship cannot be marked in accordance with section 14;

(d) the Registrar of Shipping reasonably believes that the ship would be precluded by some other law to which it is subject from flying the Islands' national colours in accordance with section 64;

(e) the charter by demise has an unexpired period of less than two years at the date when the application to register the ship is made; or

(f) it is not in the interests of the Islands that the ship should be registered in the Islands.

(4) Sections 6, 7 and 8 shall apply in respect of a ship entitled to be registered in the Islands under subsection (1) as if the ship was entitled to be registered under section 5.

Consequences of registration under section 27(1)

28. (1) Where a ship is registered under section 27(1) it shall be a Cayman Islands ship for the purposes of this Act.

(2) Where a ship is registered under section 27(1) it shall not fly any colours other than the Islands' national colours specified in section 64.

Application of this Act where a ship is registered under section 27

29. (1) Where an application is made to register a ship under section 27(1), or a ship has been registered under section 27(1) —

(a) this Part shall apply to the ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2); and

(b) any act or thing as is mentioned in this subsection, required to be done or not done under this Act by an owner of such a ship shall be required to be done or not done by the charterer, and —

(i) the charterer shall be liable for doing or omitting to do such act or thing as if the charterer were the owner of the ship; and

(ii) a reference to the word "owner" in this Act shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to "charterer" and the words "registered owner" and "registered ownership" shall be construed accordingly.

(2) The modifications and adaptations to this Part referred to in subsection (1) are as follows —

(a) paragraphs (a) to (e) of section 12 does not apply;

(b) the ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of the ship under section 13 if there is in force in respect of the ship an International Tonnage Certificate (1969), and, in such case, the tonnage of such ship shall be deemed to have been ascertained and, upon registration, registered in accordance with the tonnage regulations;

(c) the declaration required by section 16 shall include in place of the statements referred to in paragraphs (c) and (d) of that section —

(i) a statement that the ship is subject to a charter by demise; and

(ii) that the person on whose behalf the declaration is made is the charterer of the ship under that charter

and there shall be attached to the declaration and produced to the Registrar of Shipping a certified copy of that charter by demise;

(d) section 17 shall not apply;

(e) in place of the particulars required to be entered in the register under section 18 the following particulars shall be entered —

(i) the name of the charterer as if the charterer were the owner of the ship with such annotation as may be necessary to show that the ship is entitled to be registered under section 27(1);

(ii) the name and address of the owner or owners determined in accordance with paragraphs (a) to (e) of section 12;

(iii) the name and address of any person who has been granted a mortgage of the ship or a share in the ship by any owner whose name is or is to be noted on the register under subparagraph (ii);

(iv) such details of the terms of any mortgage referred to in subparagraph (iii) as the Registrar of Shipping shall require to be noted; and

(v) the previous name, if any, of the ship;

(f) the Registrar of Shipping shall retain in the possession of the Registrar of Shipping, in addition to the surveyor's certificate issued under section 13, the certified copy of the charter by demise and any certified copy of a transfer referred to in section 30(1)(c) produced to the Registrar of Shipping;

(g) a certificate of registry issued by the Registrar of Shipping under section 21 shall be issued for a fixed period of time expiring on the date upon which the charter by demise shall come to an end by effluxion of time;

(h) a ship shall cease to be entitled to be registered within the meaning of section 8(1)(c) upon the expiry of the fixed period specified in the certificate of registry or, if sooner, upon either —

(i) the termination of the charter by demise;

(ii) the transfer by the charterer of the charterer's rights and obligations under the charter in circumstances which cause the registration to cease under section 30;

(iii) the closure or annulment of the registry referred to in section 27(1)(d), in respect of the ship; or

(iv) the revocation or withdrawal of the dispensation referred to in section 27(1)(e); and

(i) sections 52, and 66 to 80 shall not apply.

Transfer of rights and obligations of charterer under the charter by demise

30. (1) Where a ship is registered under section 27(1) and the charterer transfers the charterer's rights and obligations under obligations of the charter by demise to another person so that the charterer is no longer under a contractual obligation to the owner of the ship in respect of the operation, management and control of the ship, the registration shall cease upon such transfer unless —

(a) the transferee is qualified to own a Cayman Islands ship;

(b) prior to the execution of the transfer, the transferee, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, makes and signs a declaration referring to the ship and containing a statement —

(i) of the qualification of the transferee to own a Cayman Islands ship; or

(ii) if the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Cayman Islands ship; and

(c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar of Shipping.

(2) In subsection (1), the word "**transferee**" means the person to whom the charterer has transferred the charterer's rights and obligations under the charter by demise.

Rights and obligations relating to interests in ships registered under section 27(1)

31. Where a ship is registered under section 27(1) —

(a) the rights and proprietary interests of the owner in respect of the ship; and

(b) the rights and obligations of the parties to a contract, bill of sale, mortgage, charge or other instrument creating or disposing of a legal or equitable interest in the ship,

whether existing at the date of registration of the ship under section 27(1) or created thereafter, shall not be affected by such registration or governed by this Act.

Dispensations for ships chartered by demise and registered outside the Islands

32. (1) Where the Chief Executive Officer is satisfied that it is proper for the Chief Executive Officer to do so, the Chief Executive Officer may grant to the owner of a ship of twenty-four metres or more in length registered in the Islands under this Act a dispensation under this section.

(2) The Chief Executive Officer shall not grant a dispensation under subsection (1) unless the Chief Executive Officer is satisfied —

(a) that the ship is subject to a charter by demise pursuant to which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;

(b) that a registered mortgagee of the ship has consented to the dispensation being granted;

(c) that, in substitution of the registration of the ship in the Islands, the ship is intended to be registered under the law of a country outside the Islands; and

(d) that upon registration under the law of a country outside the Islands, the ship will become subject to laws which implement and apply to the ship

such provisions of generally accepted international regulations to those which apply to a Cayman Islands ship of its description.

(3) Where the Chief Executive Officer has granted to the owner of a ship a dispensation under subsection (1), with effect from the date upon which the conditions set out in subsection (4) have been complied with, sections 62(4) and 64 shall not apply to the ship, and section 62(1) shall apply to the ship as though the ship was not a Cayman Islands ship.

(4) The conditions referred to in subsection (3) are that —

(a) the owner has delivered to the Registrar of Shipping —

(i) a certified copy of the charter by demise referred to in subsection (2)(a);

(ii) in exchange for a receipt, the certificate of registry issued under section 21; and

(iii) any certificate issued in respect of the ship under this Act;

(b) the owner, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has delivered to the Registrar of Shipping a declaration referring to the ship and containing a statement that —

(i) the ship is lawfully registered in a named country outside the Islands; and

(ii) the ship is subject to the jurisdiction of that country in respect of the enforcement of such provisions referred to in subsection (2)(d) as apply in respect of the ship by virtue of its registration in the Islands; and

(c) the Registrar of Shipping has received confirmation from the administration of the country outside the Islands in which the ship is registered that the ship is so registered and is subject to the jurisdiction of that country.

(5) The port of registry in the Cayman Islands shall no longer be the port of registry for a ship in respect of which a dispensation has been granted under this section, and the marking of the name of such port on its stern as provided in section 14(2) shall be removed.

Termination and revocation of dispensation granted under section 32

33. (1) A dispensation granted by the Chief Executive Officer under section 32 shall terminate automatically if —

(a) the ship ceases to be registered in the country named in the declaration made under section 32(4)(b); or

(b) the charter by demise terminates, whether upon expiry or otherwise.

(2) The Chief Executive Officer may revoke a dispensation granted by the Chief Executive Officer under section 32 —

(a) upon the application of a registered owner or registered mortgagee of the ship;

(b) if Chief Executive Officer is satisfied that a declaration made for the purpose of section 32(4)(b) is false or misleading;

(c) at the request of the country named in the declaration made under section 32(4)(b); or

(d) if it is not in the interests of the Islands that the dispensation should continue.

Flag to be used where a dispensation has been granted under section 32

34. (1) Where a dispensation granted under section 32 has taken effect, the ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made under section 32(4)(b).

(2) Without prejudice to section 32(3), where a ship flies colours in contravention of subsection (1) the registered owner commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Interim Registration in the Course of Transfer of Ownership

Registration during the transfer of ownership

35. (1) This section applies where —

(a) there is in existence a written contract for the transfer of a ship or a share in a ship;

(b) under the terms of that contract, the owner has agreed —

(i) to transfer the ship or a share in the ship to a person qualified to own a Cayman Islands ship and who intends to register the ship in the Islands; and

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

(c) upon the execution of the bill of sale, the ship will be entitled to be registered in the Islands provided the requirements of section 5 are satisfied.

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

(a) enter in the register the particulars referred to in section 18 subject to the modifications set out in subsection (3); and

(b) issue to the transferee a certificate of registry which is valid for a period of twenty-one days from its date of issue.

(3) The modifications referred to in subsection (2)(a), are that —

(a) the name and other particulars required to be entered under any regulations which may be made relating to the registration of ships shall be the name and other particulars of the transferee of the ship or of the share therein; and

(b) there shall also be entered a note that the registration is conditional upon a bill of sale transferring the ship or the share in the ship to the person or persons named in the register being produced to the Registrar of Shipping within twenty-one days.

(4) The Registrar of Shipping shall only be satisfied that it is proper for the Registrar of Shipping to make the entry in the register and issue a certificate of registry under subsection (3) if —

(a) sections 13, 14, 15 and 17 and section 18, as modified by subsection (3), have been complied with;

(b) the transferee, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration, referring to the ship as described in the surveyor's certificate issued under section 13, and containing the following particulars —

(i) if the transferee is a person qualified to own a Cayman Islands ship, a statement of the qualifications of the transferee to own a Cayman Islands ship, or in the case of a body corporate, of such circumstances of the constitution and the business of the body corporate as prove it to be qualified to own a Cayman Islands ship;

(ii) if the ship is a foreign ship, a statement of the ship's foreign name;

(iii) a statement that there is in existence a written contract for the transfer of the ship or a share in the ship;

(iv) a statement that the owner has agreed —

(A) to transfer the ship or a share in the ship to the transferee;

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

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

(v) a statement that, to the best of the transferee's knowledge and belief, upon the execution of the bill of sale a majority interest in the ship will be owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered;

(c) there is produced to the Registrar of Shipping a certified copy of the contract referred to in the declaration made under paragraph (b); and

(d) in the case of a Cayman Islands ship, the existing certificate of registry is delivered to the Registrar of Shipping upon the issue of the certificate of registry under this section.

(5) Where a ship is registered under subsection (2), the transferee shall, within twenty-one days after the date of issue of the certificate of registry issued under subsection (2)(b), deliver to the Registrar of Shipping —

(a) a declaration made in accordance with section 16; and

(b) a bill of sale executed under the contract, a certified copy of which has been produced to the Registrar of Shipping under subsection (4)(c),

and thereupon the Registrar of Shipping shall make the entries in the register required by section 18 and issue a certificate of registry under section 21.

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

Consequences of registration under section 35

36. (1) Where a ship is registered under section 35 it shall be deemed to be a Cayman Islands ship for the purposes of this Act.

(2) Where a ship is registered under section 35 it shall not hoist any colours other than the Islands' national colours specified in section 64.

Provisions relating to application of this Act where a ship is registered under section 35

37. Where a certificate of registry has been issued in respect of a ship under section 35(2) —

(a) this Part, except sections 44 and 45, shall apply to the ship and its registration; and

(b) any act or thing required to be done or not done under this Act by the owner of a ship shall be deemed to be required to be done or not done by the transferee, and —

(i) the transferee shall be liable for doing or omitting to do such act or thing as if the transferee were the owner of the ship; and

(ii) a reference to "owner" in this Act shall, in the case of such a ship as is mentioned in this section, be deemed to be a reference to

"transferee", and the words "registered owner" and "registered ownership" shall be construed accordingly.

Definition of transferee in this Part

38. In sections 35 and 37 "**transferee**" means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 35(1).

Name of Ship

Rules as to name of ship

39. (1) A ship shall not be described by a name other than that which it is for the time being registered.

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

(3) Application for permission under subsection (2) shall be made by the owner of the ship, or by a representative of the owner of a ship in writing and, if the Registrar of Shipping is of the opinion that the application is reasonable, the Registrar of Shipping may grant permission, and may thereupon require notice of the permission to be published in such form and manner as Registrar of Shipping thinks fit.

(4) On the grant of permission under subsection (3), the ship's name shall forthwith be altered in the register, in the ship's certificate of registry and on its bows and stern.

(5) If it is shown to the satisfaction of the Registrar of Shipping that the name of a ship has been changed without the permission of the Registrar of Shipping, the Registrar of Shipping shall direct that that its name be altered to that which it bore before the change, and the name shall be altered in the register, in the ship's certificate of registry and on its bows and stern accordingly.

Offences

40. A person who —

(a) acts, or suffers a person under the first mentioned person's control to act, in contravention of section 39, or

(b) omits to do, or suffers a person under the first mentioned person's control to omit to do, anything required by that section,

commits an offence and is liable on summary conviction to a fine of three thousand dollars, and, except in the case of an application being made under section 39 with respect to a foreign ship which, not having at any previous time been registered as a Cayman Islands ship, has become a Cayman Islands ship, the ship may be detained until there is compliance with that section.

Registration of Alterations

Registration of alterations

41. When a registered ship is so altered that it does not correspond with the particulars relating to its tonnage or description contained in the register, the Registrar of Shipping shall, on application being made by or on behalf of the owner of the ship, and on receipt of a certificate from a qualified surveyor stating the particulars of the alteration cause the alteration to be registered.

Offences

42. If default is made in registering an alteration of a ship as provided in section 41, the owner of the ship commits an offence and is liable on summary conviction to a fine of three thousand dollars and, in addition, to a fine of one hundred dollars for every day during which the offence continues after conviction.

Procedure for registration of alterations

43. (1) For the purpose of the registration of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar of Shipping and the Registrar shall, in the discretion of the Registrar of Shipping, either —

(a) retain the certificate of registry and issue a new certificate of registry containing a description of the ship as altered; or

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

(2) The particulars of the alteration, and the fact of the new certificate having been issued, or endorsement having been made, shall be entered by the Registrar of Shipping in the register.

Transfer of Registration between the Islands and the United Kingdom or a Crown Dependency or British Overseas Territory

Transfer of registration from the Cayman Islands to the United Kingdom, a Crown Dependency or a British Overseas Territory

44. (1) Subject to subsection (2), the registration of a ship under this Part may be transferred from the Cayman Islands to the United Kingdom, a Crown Dependency or a British Overseas Territory, as applicable, (referred to in this section as "the intended country of registration"), on application being made by declaration in writing to the Registrar of Shipping by all persons appearing in the Cayman Islands register to be interested in the ship as owners or mortgagees.

(2) A transfer under subsection (1) shall not in any way affect the rights of those persons or any of them specified in subsection (1), and those rights shall, in all respects, continue in the same manner as if the transfer had been effected.

(3) On an application under subsection (1), the Registrar of Shipping shall notify the registrar in the intended country of registration and shall send to that registrar —

(a) a copy of all particulars relating to the ship; and

(b) the names of all persons appearing in the register to be interested in the ship as owners or mortgagees.

(4) The ship's certificate of registry shall be surrendered to the registrar in the intended country of registration, either directly by the person specified in subsection (1) or through the Registrar of Shipping.

(5) Where an application is made under this section —

(a) the Registrar of Shipping shall not proceed to deal with the application unless the Registrar of Shipping is satisfied that laws in force in the intended country of registration do not preclude such transfer of registration; and

(b) a certificate issued by the registrar in the intended country of registration and stating that the registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of this subsection of the matters stated in such certificate.

(6) Where the registrar in the intended country of registration issues a new certificate of registry in pursuance of any such application mentioned in subsection (3), the ship in question shall be considered as registered in that country, and the name of the Cayman port of registry shall be removed from the ship's bow and stern.

(7) The Registrar of Shipping shall, on being notified by the registrar of the intended country of registration of the issue of the new certificate of registry, terminate the registration of the ship in the register.

Transfer of registration from the United Kingdom, a Crown Dependency or a British Overseas Territory to the Cayman Islands

45. (1) Where a ship is registered in the United Kingdom, a Crown Dependency or a British Overseas Territory, as applicable, (referred to in this section as "the existing country of registration"), the registration of that ship may, subject to subsections (5) and (7), be transferred to the Cayman Islands, if —

(a) an application to the registrar of the existing country of registration has been made for the purpose by a declaration in writing by all the persons appearing on the register to be interested in the ship as owners or mortgagees; and

(b) the documents mentioned in subsection (2) have been transmitted to the Registrar of Shipping.

(2) The documents referred to in subsection (1) are —

(a) a notice of the application for transfer made to the registrar of the existing country of registration;

(b) a copy transmitted by the registrar of the existing country of registration of all the registered particulars of the ship and the names of all the persons appearing on the register to be interested in the ship as owners or mortgagees; and

(c) the ship's certificate of registry.

(3) On receipt of the documents mentioned in subsection (2), the Registrar of Shipping shall, subject to subsection (5) —

(a) enter in the appropriate part of the register all the particulars and names so transmitted; and

(b) issue a new certificate of registry,

and accordingly the ship in question shall be considered as registered in the Cayman Islands and the name of the port of registry to which the ship belongs in accordance with section 20 shall be substituted for the name of the former port of registry on the ship's stern.

(4) The Registrar of Shipping shall notify the registrar of the existing country of registration of the issue of a new certificate of registry.

(5) Where the entitlement of a ship to be registered is, under section 5, subject to any condition specified in that section being satisfied, the registration of the ship shall not be transferred to the Cayman Islands under this section unless it appears to the Registrar of Shipping that the condition is satisfied.

(6) A transfer of registration under this section shall not in any way affect the rights of any of the persons mentioned in subsection (1)(a), and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(7) Section 7 shall apply, with any necessary changes, to this section.

Tonnage Measurement

Tonnage of ships of foreign countries adopting tonnage regulations

46. (1) Where it appears to the Chief Executive Officer that the Tonnage Convention is in force in a foreign country, the Chief Executive Officer may apply that convention to the ships of such country as provided in this section.

(2) The Chief Executive Officer may order that ships of the foreign country shall, without being re-measured in the Islands, be treated as being of the tonnage denoted by their certificates of registry or other national documents, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a Cayman Islands ship is treated as being the tonnage of that ship.

(3) Where the Chief Executive Officer orders a ship to be treated as provided in subsection (2), any space shown in the ship's certificate of registry or other national documents as deducted from the tonnage shall, if a similar deduction in the case of a Cayman Islands ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions,

(4) Subsection (3) does not apply unless a surveyor of ships certifies to the Chief Executive Officer that the construction and equipment of the ship as respects that space do not comply with the standard which would be required if the ship were a Cayman Islands ship.

(5) An order under subsection (2) may —

(a) operate for a limited time; and

(b) be subject to such conditions and qualifications, if any, as the Chief Executive Officer may consider necessary.

(6) If it appears to the Chief Executive Officer that the tonnage of a foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, the Chief Executive Officer may order further that any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the tonnage regulations.

Force of law of Tonnage Convention and tonnage regulations

47. (1) The *Tonnage Convention* has the force of law in the Islands.

(2) The Cabinet may make regulations as may appear to it to be necessary to give effect to the *Tonnage Convention* and for the determination of the tonnage of ships generally.

(3) The measurement and survey of ships shall be undertaken in such circumstances and by persons appointed by such organisations as may be authorised for the purpose by the Chief Executive Officer.

(4) Whenever the tonnage of a ship has been determined in accordance with the tonnage regulations it shall be used in any subsequent registration unless —

(a) any alteration is made in the form or capacity of the ship; or

(b) it is discovered that the tonnage of the ship has been erroneously computed;

and in any such case the ship shall be re-measured and its tonnage determined in accordance with this Act and regulations relating to tonnage.

(5) The Chief Executive Officer or persons appointed by organisations as may be authorised by the Chief Executive Officer, may issue certificates of the tonnage of a ship or of the tonnage which is to be taken as the tonnage of a ship not

registered in the Islands, and for the cancellation and surrender of certificates in such circumstances as the Chief Executive Officer may determine.

(6) A person fails to surrender a certificate as required by this section commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Unregistered Ships

Liabilities of unregistered ships

48. (1) Where a ship —

(a) is twenty-four metres or more in length;

(b) has a majority interest which is owned by citizens of the Islands or a body corporate established under the law of the Islands and having a place of business in the Islands; and

(c) is not registered in the Islands or elsewhere,

then, notwithstanding that the ship is not entitled to any benefit, privilege, advantage or protection usually enjoyed by a Cayman Islands ship, the ship shall, for the purposes mentioned in subsection (2), be dealt with in the same manner in all respects as if the ship were a Cayman Islands ship.

(2) The purposes referred to in subsection (1) are —

(a) payment of dues, fees or other charges;

(b) liability to fines and forfeiture; and

(c) punishment of any offences punishable under this Act.

Application of this Act to unregistered ships

49. (1) Subject to subsection (2), section 90 to 103, 105, 109, 110, 114(6), 122 to 124, 305, 306 and 430 shall apply to seagoing ships of twenty-four metres or more in length —

(a) in which a majority interest is owned by —

(i) citizens of the Islands; or

(ii) a body corporate established under the law of the Islands and having a place of business in the Islands; and

(b) which are not registered in the Islands or elsewhere.

(2) In the application of section 92 to ships described in subsection (1), for the reference to a ship ceasing to be registered in the Islands, there shall be substituted a reference to its ceasing to be entitled to be so registered.

(3) Subject to subsection (4), sections 101 to 103, 122 to 124 and 430 shall apply to seagoing ships less than twenty-four metres in length described in subsection (1).

(4) In the application of section 430 to ships described in subsection (3), where —

(a) a person dies in a ship described in subsection (3); or

(b) the master or a seafarer of such a ship dies in a country outside the Islands,

an inquiry into the cause of death shall be held only if the Chief Executive Officer so directs.

Miscellaneous

Termination of overseas registration

50. (1) Where a ship is entitled to be registered in the Islands under section 5 and the ship is so registered, the ship shall not be registered under the law of a country outside the Islands except pursuant to a dispensation granted under section 32.

(2) Where a ship is entitled to be registered in the Islands under section 27(1) and the ship is so registered, the ship shall not be registered under the law of a country outside the Islands.

(3) Where a ship is registered under the law of a country outside the Islands in contravention of subsection (1) or (2), the registered owner is, subject to subsection (4), commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(4) It is a defence for a person charged with an offence under this section to prove that the person had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1) or (2) as may be applicable.

Requirement for insurance cover

51. (1) Every Cayman Islands ship shall carry insurance cover against risks of loss or damage to third parties.

(2) Notwithstanding any other provision of this Act, every ship anchoring in or trading in or from Cayman Islands waters or entering a port in the Cayman Islands shall carry insurance cover against risks of loss or damage to third parties and against wreck removal expenses in an amount satisfactory to the Receiver of Wreck.

(3) If a ship is in contravention of this section, the owner commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Trusts, equitable interests and liabilities of beneficial interests

52. (1) Subject to subsection (2), no trust, express, implied or constructive, shall be registered by the Registrar of Shipping.

(2) Where, on the bankruptcy of a registered owner or mortgagee, the title of a registered owner or mortgagee is transmitted to the registered owner's or

mortgagee's trustee in bankruptcy, that person may be registered as the owner or mortgagee of a Cayman Islands ship or a share in the ship, provided the ship remains entitled to be registered as a Cayman Islands ship under section 5.

(3) In this Part, the expression "**beneficial interest**" includes interests arising under contract and other equitable interests, and without prejudice to —

(a) the provisions of this Act for preventing trusts being entered in the register or received by the Registrar of Shipping;

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

(c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Cayman Islands ships,

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

(4) Where a person is beneficially interested, otherwise than by way of mortgage, in a ship or share in a ship registered in the name of another person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other law on the owners of ships or shares therein; and proceedings may be taken for the enforcement of any such penalties against both or either of the parties, with or without joining the other of them.

Registrar of Shipping may dispense with declaration or evidence

53. (1) When, under this Part —

(a) a person is required to make a declaration on behalf of himself or herself or of a body corporate; or

(b) any evidence is required to be produced to the Registrar of Shipping,

and it is shown to the satisfaction of the Registrar of Shipping that, from any reasonable cause, that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar of Shipping may, with the approval of the Chief Executive Officer, on the production of such other evidence and subject to such terms as Registrar of Shipping may reasonably think fit, dispense with the declaration or evidence.

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

Returns to be made by Registrar of Shipping

54. The Registrar of Shipping shall, if requested by the Registrar General of Shipping and Seafarers of the United Kingdom, transmit to the Registrar General of Shipping and Seafarers of the United Kingdom a full return, at such times and in such form as the said Registrar General may direct, of all —

(a) registries;

(b) transfers;

(c) transmissions;

(d) mortgages; and

(e) other dealings with ships,

which have been registered by or communicated to Registrar of Shipping in the capacity as Registrar of Shipping, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the said Registrar General.

Evidence of certificate of registry and other documents

55. (1) Any person, on payment of the prescribed fee, may, on application to the Registrar of Shipping at a reasonable time during the office hours of the Registrar of Shipping, inspect the register.

(2) The following documents are admissible in evidence in the manner provided by this Act —

(a) a certificate of registry under this Act purporting to be signed by or on behalf of the Registrar of Shipping;

(b) an endorsement on a certificate of registry purporting to be signed by or on behalf of the Registrar of Shipping; and

(c) every declaration made under this Part.

(3) Any person is entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar of Shipping, of any information contained in an entry in the register.

(4) Any person is entitled, on payment of the prescribed fee, to obtain a certified copy of the information entered in the register in respect of the registration of a ship, together with a statement certified by the Registrar of Shipping showing who is, for the time being, the owner of the ship.

(5) Section 443(5) applies to a document supplied under subsection (3) or (4) in the same way as it applies to a document to which that section applies.

(6) In subsections (1), (3) and (4), the words "**prescribed fee**" means the fee fixed by the Chief Executive Officer for the purposes of those subsections and notified to the public by publication in the Gazette.

Forms of documents

56. (1) The instruments and documents referred to in the Schedule shall, subject to subsection (3), be in the form prescribed by the Chief Executive Officer or as near thereto as circumstances permit.

(2) The Registrar of Shipping is not be required to receive and enter in the register —

(a) a bill of sale,

(b) a mortgage; or

(c) any other instrument of the disposal or transfer of any ship or share, or any interest in the ship,

which is made in any form other than that for the time being required under this Part, or which contains any particulars other than those contained in the form.

(3) In this section —

(a) references to the word "**form**" include references to alterations made to the form as considered necessary; and

(b) public notice of the alteration referred to in paragraph (a) shall be given.

Forgery of documents

57. A person who forges or fraudulently alters —

(a) any entry or endorsement in the register; or

(b) any other document made by, under or by virtue of this Part, or any entry or endorsement in or on such other document made by, under or by virtue of this Part,

commits an offence and is liable —

(i) on summary conviction, to a fine of five thousand dollars and to imprisonment for eighteen months; or

(ii) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for three years.

False declarations

58. (1) A person who, in the case of a declaration made in the presence of or produced to the Registrar of Shipping under this Part, or in a document or other evidence produced to the Registrar —

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

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

commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(2) A person who wilfully makes a false declaration relating to —

(a) the qualification of that person, of any other person or of any body corporate to own a Cayman Islands ship or any share in the ship; or

(b) with respect to the entitlement of a ship to be registered,

commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars, and the ship or share in the ship is subject to forfeiture under this Act to the extent of the interest in the ship of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or body corporate on behalf of whom the declaration is made.

Registration regulations

59. (1) The Cabinet may make such regulations as may appear to it to be necessary for the registration of ships as Cayman Islands ships.

(2) Regulations made under this section may make a contravention of the regulations an offence punishable on summary conviction with a fine of twenty-five thousand dollars or such lesser amount as may be prescribed.

Certified copy of entry in register to be evidence

60. A document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the Registrar of Shipping shall be evidence of the matters stated in the document.

PART 3 - NATIONAL CHARACTER AND FLAG

National character of ship to be declared before clearance

61. (1) A customs and border control officer shall not grant clearance for a ship until the master of the ship has declared to the officer the name of the nation to which the master claims that the ship belongs and the officer shall thereupon write that name on the clearance.

(2) If the master of the ship attempts to proceed to sea without such clearance, the ship may be detained until the declaration is made.

Offences relating to Cayman Islands character of ship

62. (1) If the master or owner of a ship which is not a Cayman Islands ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Cayman Islands ship then, except as provided by subsections (2) and (3), the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 63.

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

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

(4) If the master or owner of a Cayman Islands ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 63.

(5) Without prejudice to subsections (1) and (4), those subsections apply in particular to acts or deliberate omissions as respects —

(a) the flying of a national flag;

(b) the carrying or production of certificates of registry or other documents relating to the nationality of the ship; and

(c) the display of marks required by the law of any country.

Penalties

63. (1) A person who commits an offence under section 62 is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for two years.

(2) This section and section 62 apply to acts committed outside, as well as to acts committed within, the Islands.

National colours and penalty for carrying improper colours or not showing colours

64. (1) The red ensign bearing the Islands' coat of arms usually worn by merchant ships, or without the coat of arms, is declared by this Act to be the proper national colours for all Cayman Islands ships except in the case of —

(a) His Majesty's ships, or

(b) in the case of any other ship for the time being allowed to wear any other national colours under a warrant from His Majesty or from the Admiralty.

(2) If —

(a) any distinctive national colours, except a red ensign or the Union Jack with a white border;

(b) any colours usually worn by His Majesty's ships or resembling those of His Majesty; or

(c) the pennant usually carried by His Majesty's ships or any pennant resembling that pennant,

are hoisted on board any Cayman Islands ship without warrant from His Majesty or from the Admiralty, the master of the ship, the owner, if on board the ship, and every other person hoisting the colours or pennant, commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars.

(3) A commissioned officer on full pay in the military or naval service of His Majesty, any officer of customs in His Majesty's dominions or a British consular officer may board a Cayman Islands ship on which any colours or pennants are hoisted contrary to this section and seize the colours or pennant, and the colours or pennant shall be forfeited to His Majesty.

(4) A Cayman Islands ship shall hoist the proper national colours —

(a) on a signal being made to it by one of His Majesty's ships, including any vessel under the command of an officer of His Majesty's navy on full pay;

(b) on entering or leaving any foreign port; and

(c) if the ship is of fifty gross tonnage or upwards, on entering or leaving a port in the Islands.

(5) If default is made on board any ship to which subsection (4) applies, the master of the ship commits an offence and is liable on summary conviction to a fine of three thousand dollars.

(6) This section, with respect to colours worn by merchant ships, shall not affect any other power of the Admiralty in relation to merchant ships.

Proceedings on forfeiture of a ship

65. (1) Where a ship has either wholly, or as to any share in it, become liable to forfeiture under this Act —

(a) a commissioned naval or military officer; or

(b) a person appointed by the Minister for the purposes of this section,

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

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

(a) adjudge the ship and its equipment to be forfeited to the Government; and

(b) make such order in the case as seems just.

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

(4) If the Court is not satisfied in accordance with subsection (3), the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

PART 4 - PROPRIETARY INTERESTS IN REGISTERED SHIPS

General

Rights of owners and mortgagees

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

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

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

Transfers and Transmissions

Transfers

67. (1) A transfer of a registered ship, or a share in the ship, shall be effected by a bill of sale.

(2) A bill of sale shall —

(a) contain the description of the ship as is contained in the surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the Registrar of Shipping; and

(b) be executed by the transferor in the presence of, and attested to by, a witness or witnesses.

Declaration of transfer

68. (1) Where a registered ship or a share in the ship is transferred under section 67(l), the transferee shall not be entitled to be registered as owner of the ship until the transferee, or, in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration (in this Act called a "declaration of transfer") referring to the ship, which shall contain —

(a) a statement of the qualification of the transferee to own a Cayman Islands ship, or if the transferee is a body corporate, of such circumstances of the constitution and business of the body corporate as prove it to be qualified to own a Cayman Islands ship; and

(b) a statement that, to the best of the knowledge and belief of the transferee, a majority interest in the ship is owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Cayman Islands ships, subsection (1)(a) has effect only in relation to persons who are so qualified.

Registration of transfer

69. (1) Every bill of sale for the transfer within the Cayman Islands Shipping Registry of a registered ship or of a share in the ship, when executed, shall be produced to the Registrar of Shipping, with the declaration of transfer; and upon being satisfied that the ship remains entitled to be registered in the Islands, the Registrar shall —

(a) enter in the register the name of the transferee as owner of the ship or share; and

(b) endorse on the bill of sale the fact of that entry having been made, with the date and time of the entry.

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

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

Transmission of property in ship

70. (1) Where the property in a registered ship or share in the ship is transmitted to a person by any lawful means other than a transfer under section 67 and a majority interest remains in the ownership of a person qualified to be an owner of a Cayman Islands ship —

(a) that person to whom the property is transmitted shall—

(i) authenticate the transmission by making and signing a declaration (in this Act called a "declaration of transmission") which identifies the ship and contains the several statements required to be contained in a declaration of transfer as provided in this Act, or as near thereto as circumstances permit; and

(ii) provide a statement of the manner in which the property has been transmitted;

(b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is acceptable by the Court as proof of the title of persons claiming under a bankruptcy;

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract from the instrument of representation; and

(d) if the transmission was consequent upon an order of a court, a copy of the order or judgment of that court.

(2) The Registrar of Shipping, on receipt of the declaration of transmission so accompanied, and upon being satisfied that the ship remains entitled to be registered in the Islands, shall enter in the register —

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

(b) where there is more than one such person, the names of all those persons in the register.

(3) The persons referred to in subsection (2)(b) , however numerous, shall, for the purpose of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale on transmission to unqualified person

71. (1) Where the property in a registered ship or share in a ship is transmitted to a person by any lawful means other than a transfer under section 67, but, as a result of the transmission, a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of a Cayman Islands ship, the Court may, on an application by or on behalf of that person —

(a) order a sale of the property so transmitted; and

(b) direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the Court directs.

(2) The Court may require any evidence in support of the application under subsection (1) as it thinks necessary, and —

(a) may make the order on any terms and conditions it thinks just; or

(b) may refuse to make the order; and

(c) generally may act in the case as the justice of the case requires.

(3) Every application for sale under subsection (1) shall be made within four weeks after the occurrence of the event on which the transmission has taken place, or within such further time, not exceeding in the whole one year from the date of the occurrence, as the Court allows.

(4) If an application under subsection (1) is not made within the times specified under subsection (4), or if the Court refuses an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

Transfer of ship on sale by order of court

72. (1) Where the Court, whether under this Act or otherwise, orders the sale of a ship or share in a ship, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if the person were the registered owner thereof.

(2) The Registrar of Shipping shall deal with any application relating to the transfer of the ship or share in the ship made by the person named under subsection (1) as if that person were the registered owner.

Powers of court

73. The Court may, if it thinks fit without prejudice to the exercise of any other power of the Court, on the application of any interested person, make an order prohibiting for a time specified, any dealing with a ship or any share in the ship, and the Court may —

(a) make the order on any terms or conditions it thinks just;

(b) refuse to make the order; or

(c) discharge the order when made, with or without costs; and

(d) generally act in the case as the justice of the case requires,

and the Registrar of Shipping, without being made a party to the proceedings, shall, on being served with the order or an official copy, obey the order.

Mortgages

Mortgage of ship or share

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

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

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

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

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

(6) Where it is stated in the mortgage instrument that it is prohibited to transfer the ownership of a ship or terminate the registration of the ship in the manner provided in section 8(1)(d) without the prior written consent of the mortgagee, the Registrar of Shipping shall make a note in the register to such effect, and —

(a) the Registrar shall not record a transfer of ownership of the ship or terminate the ship's registration, as may be applicable, unless the appropriate consent in writing of the holder of the mortgage is produced to the Registrar of Shipping; and

(b) any recording in the register of a transfer of ownership or a termination of the ship's registration in the circumstances referred to in this subsection is null and void.

(7) For the purposes of subsection (1), the word "**ship**" includes a ship under construction.

(8) A mortgage in respect of a ship under construction shall be entered in the register referred to in section 11(1), however, upon the registration of the ship under construction being transferred to another part of the register as provided in section 11(3), the entries relating to the mortgage, unless the mortgage is discharged, shall in like manner be transferred to the same part of the register.

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

Priority of mortgages

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

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

Entry of discharge of mortgage

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

(2) If, for any reason accepted by the Registrar of Shipping, the registered mortgage cannot be produced to the Registrar of Shipping, the Registrar of Shipping may, on being satisfied that the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

Protection of undischarged mortgage

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

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

Mortgagee not owner and mortgagee's power of sale

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

(2) Subject to subsection (3) and an order of a court of competent jurisdiction, every registered mortgagee has the power, in accordance with the terms of the mortgage, if the mortgage money or any part of it is due, to sell the ship or share

in respect of which mortgagee is registered, and to give valid receipts for the purchase money.

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

Mortgage not affected by bankruptcy

79. A registered mortgage of a ship or a share in a ship shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the registration of the mortgage, notwithstanding —

(a) that the mortgagor at the commencement of the bankruptcy had the ship or share in the mortgagor's possession;

(b) any order; or

(c) disposition; or

(d) the mortgagor was the reputed owner of the ship,

and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the bankrupt or of any trustee or assignee on their behalf.

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

80. (1) A registered mortgage of a ship or share in a ship may be transferred to any person, and on production of the instrument effecting the transfer the Registrar of Shipping shall —

(a) record it by entering in the register the name of the transferee as mortgagee of the ship or share in the ship; and

(b) shall enter and sign on the instrument of transfer a statement to the effect that it has been registered by the Registrar of Shipping, and the statement shall contain the date and time of the registration.

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

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

PART 5 - MASTERS AND SEAFARERS

General

Definitions in Part 5

81. (1) In this Part —

"**relief and maintenance**" includes —

(a) reasonable provisions for food and lodging; and

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

"**return**", in relation to a seafarer, means repatriation of the seafarer in accordance with regulations made under this Part; and

(2) For the purposes of this Part —

(a) a seafarer is discharged from a ship when the seafarer's employment in that ship is terminated;

(b) a seafarer discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there; or

(c) if the shipowner —

(i) fails to cover the cost of the seafarer's repatriation;

(ii) has left the seafarer without the necessary maintenance and support; or

(iii) has otherwise unilaterally severed the shipowner's ties with the seafarer including failure to pay contractual wages for a period of at least two months,

the seafarer shall be deemed to have been abandoned.

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

(4) A reference to regulations made under this Part includes a reference to regulations relating to masters and seafarers made under a previous version of this Act.

Force of law of the Maritime Labour Convention and STCW Convention

82. (1) Subject to relevant provisions of this Part, the *Maritime Labour Convention* and the *STCW Convention* have the force of law in the Islands and in relation to Cayman Islands ships.

(2) For the purposes of application of Article II paragraph 1(a) of the *Maritime Labour Convention*, the Chief Executive Officer is the competent authority.

(3) Within the context of the *Maritime Labour Convention*, seafarers' organisations and collective bargaining rights are recognized under this Act.

Application of this Part

83. (1) This Part applies to ships which are seagoing ships and to seafarers employed in seagoing ships.

(2) This Part does not apply to ships operating solely in the ports of the Cayman Islands and Cayman Islands waters.

Regulations made under this Part

84. The Cabinet may make such regulations as may appear to it to be necessary in respect of the matters in this Part

Minimum requirements for seafarers to work on a ship

Young persons

85. A person under sixteen years of age shall not be employed in a Cayman Islands ship.

Production of certificates and other documents of qualifications

86. (1) A person who —

(a) serves or is engaged to serve in any ship to which this section applies; and

(b) holds any certificate or other document which is evidence that the person is qualified for the purposes of regulations made under this Part,

shall, on demand by any surveyor of ships and, if the person is not the master, to the master of the ship, produce the certificate or other document.

(2) A person who, without reasonable excuse, fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars.

Crew's ability to communicate and knowledge of English

87. Subject to regulations made under this Part, where in the opinion of the Shipping Master or a surveyor of ships —

(a) the crew of a ship are unable to communicate effectively in a common language or languages for the discharge of their duties; or

(b) the master or officers of a ship do not have the proficiency in the English language necessary to discharge their duties,

the ship may be detained.

Unqualified seafarer going to sea as qualified person

88. (1) A person who goes to sea as a qualified seafarer of any description without being such a qualified seafarer commits an offence and is liable —

(a) on summary conviction to a fine of ten thousand dollars; or

(b) on conviction on indictment, to a fine of twenty thousand dollars.

(2) In subsection (1), the word "**qualified**" means qualified for the purposes of regulations made under this Part.

Special certificates of competence

89. The Chief Executive Officer may issue documents certifying the attainment of any standard of competence relating to ships or their operation, even if the standard is not among those prescribed or specified in regulations made under this Part.

Conditions of Employment

Seafarers' employment agreements

90. (1) Subject to subsection (3) and regulations made under this Part, an agreement shall be made in writing between each person employed as a seafarer in a Cayman Islands ship and the person employing the seafarer, and shall be signed both by the seafarer and by or on behalf of the employer.

(2) The agreement referred to in subsection (1) shall at a minimum contain the following provisions —

(a) the amount of wages and method of payment;

(b) the production of monthly wage accounts;

(c) any wage deductions permitted by this Act;

(d) entitlement to repatriation and medical expenses;

(e) entitlement to leave;

(f) notice period required;

(g) the agreed place for the return of the seafarer; and

(h) the governing law.

(3) The Chief Executive Officer may provide for exemptions from the requirements of this section with respect to such descriptions of ships or seafarers as Chief Executive Officer may specify, and may grant other exemptions in respect of seafarers employed otherwise than under an agreement referred to in subsection (1) where Chief Executive Officer is satisfied that they will be adequately protected.

(4) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section, the master and the shipowner commit an offence and are liable on summary conviction to a fine of twenty thousand dollars.

(5) No right or obligation under this Act shall be capable of being renounced by any agreement made under this section or regulations made under this Part.

List of crew

91. The master of every Cayman Islands ship shall make and maintain a list of the persons employed in the ship and the list shall contain such particulars as may be provided for in regulations made under this Part.

Discharge of seafarer when the ship ceases to be registered in the Islands

92. Where a Cayman Islands ship ceases to be registered, any seafarer employed in the ship shall be discharged from the ship unless the seafarer consents in writing to continue employment in the ship; and sections 93 to 95 shall apply in relation to the seafarer's wages until the ship ceased to be registered as a Cayman Islands ship as if that ship had remained a Cayman Islands ship.

Payment of seafarers' wages

93. (1) Where a seafarer employed in a Cayman Islands ship leaves the ship on being discharged from it, then, except as provided by this Part, or any regulations made under this Part, the wages due to the seafarer shall be paid to the seafarer —

(a) in full at the time when the seafarer is so discharged; or

(b) at the seafarer's next scheduled payment of wages according to the agreement under section 90.

(2) If the amount shown in the account delivered to a seafarer under section 94(1) as being payable to the seafarer under subsection (1) is replaced by an increased amount shown in a further account delivered to the seafarer under section 94(2), the balance shall be paid to the seafarer within one calendar month of the time of discharge.

(3) Subject to subsection (7), where any amount which is payable under subsection (1)(a) or (2) is not paid the seafarer shall be entitled to wages at the rate last payable for every day on which it remains unpaid during the period of fifty-six days following the seafarer's discharge; and if any amount payable under this subsection remains unpaid after the end of that period it shall carry interest at the rate of twenty per cent per annum.

(4) For the purposes of this section, any amount of wages shall, if not paid to the seafarer in cash, be taken to have been paid to a seafarer when paid in accordance with an agreement under section 90.

(5) Subject to sections 98, 99, 101, 103, 104, 105, 122, 123, 124, and regulations made under this Part, a seafarer's wages shall not be subject to forfeiture by the shipowner, master or employer of the seafarer.

(6) Where wages are paid in a currency not specified in an agreement under section 90, the rate of exchange shall be at the prevailing market rate or the official published rate most favourable to the seafarer and shall be noted in the monthly account of wages referred to in section 94.

(7) Any amount unpaid under subsection (3) shall not be payable where the Shipping Master decides the amount was not paid was due to —

(a) a dispute as to liability referred to the Shipping Master under section 95;

(b) the act or default of the person claiming the amount; or

(c) any other cause, not being the wrongful act or default of the person liable to make the payment or the servant or agents of that person.

Account of seafarers' wages

94. (1) Subject to subsection (4) and any regulations made under this Part, the master of every Cayman Island ship shall ensure the production of a monthly account of wages to every seafarer employed in the ship and of any deductions to which the wages are subject.

(2) If the amounts stated in the account require adjustment, the persons who employed the seafarer shall deliver to the seafarer a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of the seafarer's wages is payable to the seafarer.

(3) An additional account shall be delivered by the master to the seafarer not later than twenty-four hours before the time of discharge or, if the seafarer is discharged without notice or at less than twenty-four hours' notice, at the time of discharge.

(4) Where a seafarer is employed under an agreement under section 90 relating to more than one ship, any account which, under subsections (1) to (3), would be required to be delivered to the seafarer by the master shall instead be delivered to the seafarer by the persons employing the seafarer on or before the termination of the seafarer's employment under that agreement.

(5) A person who fails, without reasonable excuse, to comply with subsections (1) to (4) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Power of Shipping Master to decide disputes on wages

95. (1) Any dispute relating to the amount payable to a seafarer may be submitted by the parties to the Shipping Master for decision.

(2) When a dispute is submitted to the Shipping Master under subsection (1), the Shipping Master may decide —

(a) the amount, if any, payable to the seafarer; or

(b) whether by reason of the amount involved or for any other reason, that the matter ought not to be decided by the Shipping Master.

(3) Nothing in this section affects a seafarer's right to pursue a civil claim in the court for unpaid wages.

Restriction on assignment of and charge upon wages

96. (1) As respects the wages due or accruing to a seafarer employed in a Cayman Islands ship —

(a) the wages shall not be subject to attachment unless the court directs otherwise; and

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

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

Power of court to award interest on wages due

97. In any proceedings by a person employed in a ship for the recovery of any sum due to the person as wages, the court, unless it appears to it that the delay in paying the sum was due to —

(a) a reasonable dispute as to liability;

(b) the act or default of the person claiming the amount; or

(c) any other cause, not being the wrongful act or default of the persons liable to make the payment or the person's servants or agent,

may order the master of the ship to pay, in addition to the sum due, interest on it at the rate of twenty per cent per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

Allotment notes

98. Subject to section 99 and regulations made under this Part, a seafarer may allot to any other person or persons part of the wages to which the seafarer will become entitled through the seafarer's employment in a Cayman Islands ship or ships by way of an allotment note.

Right of person named in allotment note to sue in own name

99. (1) A person to whom a part of a seafarer's wages has been allotted by an allotment note issued under section 98 or in accordance with regulations made under this Part shall have the right to recover that part in the person's own name, and for that purpose shall have the same remedies as the seafarer has for the recovery of the seafarer's wages.

(2) In any proceedings brought by a person named in an allotment note under subsection (1) it shall be considered, unless the contrary is shown, that the seafarer is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

Protection of certain rights and remedies

100. (1) A seafarer's —

(a) maritime lien;

(b) remedies for the recovery of the seafarer's wages, including the seafarer's right to wages in case of the wreck or loss of the seafarer's ship; and

(c) any rights the seafarer may have or obtain in the nature of salvage,

shall not be capable of being renounced by any agreement.

(2) Subsection (1) does not affect such of the terms of any agreement made with the seafarer belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to the seafarer for salvage services rendered by that ship.

(3) The master of a ship shall have a maritime lien for all disbursements or liabilities properly made or incurred by the master of a ship on account of the ship.

Repatriation, relief and return of seafarers left behind or shipwrecked

101. (1) this section applies to any seafarer when the seafarer —

(a) is employed on a Cayman Islands ship and left behind or is taken to a country following a shipwreck; or

(b) is discharged from a Cayman Islands ship.

(2) The person who last employed the seafarer to whom this section applies shall make provision for —

(a) the seafarer's return;

(b) the seafarer's relief and maintenance until the seafarer's return; and

(c) such other provisions as may be required by regulations made under this Part.

Limit of employer's liability under section 101

102. Subject to regulations made under this Part, if the Shipping Master or the Chief Executive Officer is of the opinion that —

(a) the person who last employed the seafarer has made reasonable provision for the return of the seafarer under section 101; and

(b) the seafarer has unreasonably refused to be returned,

then the person who last employed the seafarer shall no longer be liable to provide for any matter arising out of an obligation imposed by section 101.

Recovery of expenses from employer incurred for relief and return

103. (1) Where expenses are incurred in respect of a matter for which the last employer of a seafarer is required to provide under section 101 are incurred by —

(a) the Government; or

(b) the seafarer,

the Government or seafarer may recover them from the person required to make such provision under section 101.

(2) Notwithstanding subsection (1), a seafarer shall not be entitled to recover any expenses that under the terms of the seafarer's employment were to be borne by the seafarer or where the seafarer would not have been left behind but for a deliberate act or omission on the seafarer's part.

Recovery of expenses from seafarers

104. Where —

(a) a seafarer has unreasonably refused to be returned and section 102 applies; and

(b) expenses have been incurred by the Government in relation to the return, relief and maintenance of that seafarer,

the Government may recover such expenses incurred from the seafarer.

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

105. (1) Subject to subsection (3), where a Cayman Islands ship is wrecked or lost, a seafarer whose employment in the ship is terminated because of the wreck or loss before the date contemplated in any agreement under which the seafarer is so employed, is entitled to wages at the rate payable under that agreement on the date of the wreck or loss for every day on which the seafarer is unemployed in the two months following that date.

(2) Subject to subsection (3), where a Cayman Islands ship is —

(a) sold; or

(b) ceases to be a Cayman Islands ship,

and a seafarer's employment in the ship is terminated because of the sale of the ship or its cessation in being a Cayman Islands ship, and not in accordance with any agreement under which the seafarer is so employed, then, unless it is otherwise provided in that agreement, the seafarer is entitled to wages at the rate payable under the agreement on the date on which the seafarer's employment is terminated for every day on which the seafarer is unemployed in the two months following that date.

(3) A seafarer is not entitled to wages under subsection (1) or (2) for the period which the seafarer was unemployed if it is shown that the seafarer was able to obtain suitable employment for that period but unreasonably refused or failed to take it.

Power to exempt from manning requirements

106. (1) Subject to the relevant provisions of the STCW Convention, the Chief Executive Officer may grant an exemption to a ship or a dispensation to a seafarer from any requirements of regulations made under this Part relating to safe manning of ships and certification and qualifications of seafarers.

(2) Subject to subsection (4), an exemption or dispensation granted under subsection (1) shall be confined to a particular period or to one or more particular voyages.

(3) An exemption granted under subsection (1) in relation to a trial being carried out in accordance with regulation I/13 of the STCW Convention may be also granted on the completion of that trial to a ship or a description of ships not involved in that trial, provided the requirements specified in regulation I/13.8 of the STCW Convention have been satisfied.

(4) An exemption applied to a ship or description of ships under subsection (3) need not be restricted to a particular period or to one or more particular voyages and may be granted for an indefinite period.

Prohibition on going to sea undermanned

107. Subject to section 106, if a Cayman Islands ship goes to sea, or attempts to go to sea, without carrying officers and other seafarers as it is required to carry pursuant to regulations made under this Part, the master commits an offence and is liable —

(a) on summary conviction, to a fine of twenty-five thousand dollars; or

(b) on conviction on indictment, to a fine of fifty thousand dollars,

and the ship may be detained.

Food and catering

Provision of food and water

108. Subject to any regulations made under this Part, seafarers employed in Cayman Islands ships shall be provided free of charge with food and drinking water which —

(a) are suitable in respect of quantity, nutritive value, quality and variety having regard to the number of seafarers on board and the character, nature and duration of the voyage;

(b) do not contain anything which is likely to cause sickness or injury to health; and

(c) are otherwise fit for consumption.

Complaints about food or water

109. (1) If three or more seafarers employed in a Cayman Islands ship consider that the food or water provided for the seafarers employed in that ship are not in accordance with the requirements of section 108 or are not in accordance with regulations made under this Part, they may complain to the master, who shall investigate the complaint.

(2) If the seafarers are dissatisfied with the action taken by the master as a result of the master's investigation or by the master's failure to take any action, the seafarers may complain to the Shipping Master, and the master shall make adequate arrangements to enable the seafarers to make their complaint as soon as the Shipping Master is aware of their intention to complain and the service of the ship permits.

(3) The Shipping Master shall investigate a complaint made under subsection (2) and may examine the food or water or cause them to be examined.

(4) A master who fails without reasonable excuse to comply with subsection (2) commits an offence and is liable on summary conviction to a fine of one thousand dollars.

(5) If the master is notified in writing by the Shipping Master that —

(a) any food or water provided have been found to be not as required by section 108 or by regulations made under this Part; and

(b) food and water are not provided as required within a reasonable time,

the shipowner and master commit an offence and are liable on summary conviction to a fine of fifteen thousand dollars unless it is shown that the failure to replace the food or water was not due to neglect or deliberate default.

Health Protection, Medical Care, Welfare and Social Security Protection

Expenses of medical care and other treatments

110. (1) If a seafarer, while employed in a Cayman Islands ship, receives any surgical or medical treatment or such dental or optical treatment, including the repair or replacement of any appliance, as cannot be reasonably postponed, the reasonable expenses of such treatment shall be borne by the shipowner.

(2) If a seafarer dies while employed in a Cayman Islands ship and is buried or cremated, the expenses of the seafarer's burial or cremation shall be borne by the shipowner.

Obligation of shipowners as to seaworthiness

111. (1) In every agreement under section 90 there shall be implied an obligation on the shipowner that at all times —

(a) the shipowner;

(b) the master; and

(c) every agent charged with —

(i) the loading of the ship;

(ii) the preparing of the ship for sea; or

(iii) the sending of the ship to sea,

shall, before and at the beginning of the voyage and during the voyage, use all reasonable means to ensure the seaworthiness of the ship.

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

Shipowner's relief from liability for unseaworthiness

112. No liability on the owner of a ship arises under section 111(1) in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Offences by Seafarers

Uniform

113. (1) Only a seafarer employed in a Cayman Islands ship may wear the uniform of the Merchant Navy according to the seafarer's rank and position on board.

(2) A seafarer employed in a Cayman Islands ship, being entitled to wear the uniform appropriate to a particular rank or position who wears the uniform

appropriate to some higher rank or position, commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Conduct endangering ship, persons, etc.

114. (1) This section applies to any seafarer —

(a) employed in a Cayman Islands ship; or

(b) employed in a foreign ship in a port in the Islands or within Cayman Islands waters.

(2) Subject to subsections (3) and (5), if a seafarer to whom this section applies does any act which causes or is likely to cause —

(a) serious damage to the seafarer's ship or its machinery and equipment;

(b) serious damage to any other ship or structure; or

(c) the death of or serious injury to any person;

commits an offence.

(3) An offence is only committed under subsection (2) if —

(a) the act was deliberate;

(b) the act amounted to a breach or neglect of duty; or

(c) the seafarer was under the influence of alcohol or narcotics at the time of the act.

(4) A seafarer who commits an offence under this section is liable —

(a) on summary conviction, to a fine of five thousand dollars; and

(b) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for two years.

(5) In proceedings for an offence under this section, it is a defence to prove —

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

(b) that at the time of the act alleged against the accused, the accused was under the influence of a drug taken by the accused for medical purposes and either —

(i) that the accused took it on medical advice and complied with any directions given as part of that advice; or

(ii) that the accused had no reason to believe that the drug would have the influence it had,

(c) the accused took all reasonable precautions to avoid committing the offence;

(d) the likelihood of the serious damage, death or injury in question could not reasonably have been foreseen by the accused or could not reasonably have been avoided by the accused; or

(e) that the accused could have avoided committing the offence only by disobeying a lawful command.

(6) Notwithstanding subsection (1), this section does not apply to a seafarer on board a ship other than a Cayman Islands ship that is exercising the right of innocent passage under the *United Nations Convention on the Law of the Sea 1982*.

(7) In this section —

"**act**" includes an omission;

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

"**duty**" —

(a) in relation to a seafarer means any duty to be discharged by the seafarer in the seafarer's capacity as such; and

(b) in relation to a master includes the master's duty with respect to the management of the ship and the master's duty with respect to the safe operation of the ship, its machinery and equipment;

"**serious damage**, in relation to a ship, includes the loss or destruction of that ship; and

"**structure**" means any fixed or movable structure of any description, other than a ship.

Disobedience

115. (1) A seafarer other than a master employed in a Cayman Islands ship who wilfully —

(a) disobeys a lawful command which is required to be obeyed; or

(b) impedes the progress of a voyage or the navigation of the ship,

at a time when the ship is at sea commits an offence.

(2) A seafarer who commits an offence under subsection (1) is liable —

(a) on summary conviction, to a fine of five thousand dollars; or

(b) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for two years.

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

False statements for the purpose of obtaining a certificate

116. A person who makes a statement which the person knows to be false, or recklessly makes a statement which is false in a material particular, for the purpose of obtaining for that person or another person a certificate or other document which may be issued under regulations made under this Part commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Discipline and Code of Conduct

Breaches of Code of Conduct

117. Seafarers employed in Cayman Islands ships shall be subject to the latest edition of the Code of Conduct for the Merchant Navy as approved by the Government of the United Kingdom.

Disqualification of Seafarers

Fitness or conduct of a seafarer

118. (1) If it appears to the Chief Executive Officer that a seafarer —

(a) is unfit to discharge the seafarer's duties, whether by reason of incompetence or misconduct;

(b) has been seriously negligent in the discharge of the seafarer's duties; or

(c) has failed to comply with section 137;

the Chief Executive Officer may give the seafarer notice in writing that the Chief Executive Officer is considering the suspension or cancellation of any certificate issued to the seafarer under this Act and the regulations.

(2) The notice under subsection (1) shall state the reasons why it appears to the Chief Executive Officer that the seafarer is unfit to be the holder of such a certificate and shall state that within a period specified in the notice the seafarer may make written representations to the Chief Executive Officer.

(3) After considering any representations made under subsection (2), the Chief Executive Officer shall decide whether or not to suspend or cancel the certificate, and shall give the seafarer written notice of Chief Executive Officer's decision.

(4) A seafarer has the right to require the seafarer's case to be dealt with under section 119.

(5) Where the Chief Executive Officer decides to suspend or cancel the certificate, the notice given under subsection (3) shall state —

(a) the date from which the cancellation is to take effect; or

(b) the date from which and the period for which the suspension is to take effect; and

(c) shall require the seafarer to deliver the certificate to the Chief Executive Officer not later than the date so specified,

unless, before that date, the seafarer has exercised the seafarer's right to require the seafarer's case to be dealt with by an inquiry under section 119.

(6) Where the seafarer requires the seafarer's case to be dealt with by an inquiry under section 119 the suspension or cancellation of a certificate shall not take effect, except as ordered in the pursuance of the inquiry.

Inquiry into fitness or conduct of a seafarer

119. (1) Where a seafarer has required the seafarer's case to be dealt with by an inquiry under this section, an inquiry shall be heard by a person appointed by the Minister.

(2) The person holding an inquiry under this section shall be assisted by one or more assessors.

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

(a) may, confirm the decision of the Chief Executive Officer, and cancel or suspend the certificate accordingly;

(b) may, where the decision was to cancel the certificate, suspend it instead;

(c) may, where the decision was to suspend the certificate, suspend it for a different period;

(d) may, instead of confirming the decision of the Chief Executive Officer, order no cancellation or suspension of the certificate;

(e) may make such order with regard to the costs of the inquiry as the person holding the inquiry thinks just; and

(f) shall make a report on the inquiry to the Minister,

and if the certificate is cancelled or suspended it shall be delivered forthwith to the person holding the inquiry or to the Chief Executive Officer.

(4) Any costs which a person is ordered to pay under subsection (3)(e) may be recovered from the person by the Government.

Rehearings and appeal from inquiry

120. (1) The Minister may order the whole or part of an inquiry held under section 119 to be reheard, and shall do so —

(a) if new or important evidence which could not be produced to the inquiry has been discovered; or

(b) if it appears to the Minister that a miscarriage of justice may have occurred.

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

(3) Any person who has been adversely affected by the decisions of an inquiry held under section 119 or a rehearing under this section may appeal to the Court.

Failure to deliver cancelled or suspended certificate

121. A person who fails to deliver a certificate as required under sections 118 or 119 commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars.

Civil Liability of Seafarers

Civil liability for absence without leave

122. (1) Subsections (2) and (3) shall apply with respect to the liability of a seafarer employed in a Cayman Islands ship to damages for being absent from the seafarer's ship at a time when the seafarer is required under the seafarer's contract of employment to be on board.

(2) If the absence of a seafarer was due to an accident, mistake or some other cause beyond the seafarer's control and the seafarer took all reasonable precautions to avoid being absent, the seafarer's absence shall not be treated as a breach of contract.

(3) Where subsection (2) does not apply, the seafarer's liability shall not be more than one month's basic wages in the seafarer's contract of employment.

Civil liability for smuggling

123. If a seafarer who is employed in a Cayman Islands ship is found in civil proceedings before a court in the Islands to have committed an act of smuggling, whether within or outside the Islands, the seafarer shall be liable to make good any loss or expense that the act has caused to any other person.

Civil liability for fines under immigration laws

124. (1) Subsection (2) applies where, at a time when a Cayman Islands ship is in the territory of any country outside the Islands, a seafarer employed in the ship is absent without leave in breach of the seafarer's contract and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention specified under subsection (2), a penalty is incurred under those laws by any person, the amount of the penalty may be recovered by the person from the seafarer.

Documentation

Official and other log books

125. (1) Subject to subsection (2), the master of every Cayman Islands ship shall make and maintain an official log book, in a form approved by the Chief Executive Officer, and the log book shall contain such particulars as may be provided for in regulations made under this Part.

(2) The Chief Executive Officer, may grant exemptions from the requirements of this section with respect to such descriptions of ships as the Chief Executive Officer, may specify.

(3) The entries in the official log book referred to in subsection (1) shall be made in English.

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

(5) Subject to subsection (6), the entries in the deck log book and engine room log book referred to in subsection (4) shall be made in English except where all persons making entries in those log books have a common language other than English in which case the entries may be made in that common language.

(6) The Chief Executive Officer, may require a log book or an extract of the log written in a language other than English to be translated officially into English by the shipowner.

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

(8) Subject to subsection (10), the master of a ship shall retain and preserve on board the ship all open and closed log books relating to that ship.

(9) Subject to subsection (10), a person who intentionally destroys, alters or renders illegible any entry in any log book commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(10) The master of a ship may dispose of a closed log book after a period of five years starting from the date of the latest entry in that log book.

Handing over of documents by master

126. (1) When a person ceases to be the master of a Cayman Islands ship the person shall deliver to the person's successor the documents relating to the ship and its crew which are in the person's custody.

(2) If, without reasonable excuse, a person fails to comply with subsection (1) the person commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

PART 6 - PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

Collision Regulations, Distress and Safety

Definitions in Part 6

127. (1) In this Part —

"**collision**" includes allision; and

"**UKHO**" means United Kingdom Hydrographic Office, an executive agency sponsored by the Ministry of Defence of the United Kingdom.

(2) In the *Collision Convention* —

"**date of entry into force of these Regulations**" in Rule 38 of that Convention means, in the case of a vessel registered outside the Islands, the date of entry into force of that Convention for the State whose flag the vessel is entitled to fly; and

"**high speed craft**" means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: 3.7∇ 0.1667 where ∇ = volume of displacement corresponding to the design waterline (m3), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect.

(3) The reference to the International Code of Signals in paragraph 3 of Annex IV to the *Collision Convention* is a reference to the International Code of Signals (1985) published by the Organization and the reference to the Merchant Ship Search and Rescue Manual in that paragraph is a reference to the manual of that name published in 1986 by the Organization; and such references include references to any document amending or replacing either of those publications.

Force of law of Collision Convention

128. The *Collision Convention* has the force of law in the Islands.

Application of this Part

129. (1) This Part applies to the following vessels —

(a) Cayman Islands ships wherever they are, and other ships while within the Islands or the Cayman Islands waters; and

(b) seaplanes registered in the Islands and on the surface of water anywhere, and other seaplanes on the surface of water in the Islands or the Cayman Islands waters.

(2) In this Part, the word "**ship**" includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water.

Vessels to comply with Collision Convention

130. (1) Subject to subsection (2), vessels to which this Part applies shall comply with the provisions of Rules 1 to 36 of and Annexes I to III to the *Collision Convention.*

(2) Nothing in this Part shall be taken to require compliance by a vessel or class of vessels, which by virtue of Rule 38 of the *Collision Convention* may be exempted from compliance with the Convention, with any of the provisions of that *Collision Convention* specified in paragraphs (a) to (h) inclusive of that Rule, at any time when, by virtue of that Rule, that vessel or class of vessels may be exempted from that provision.

Signals of distress

131. (1) The signals of distress which shall be used by vessels to which section 129 applies are those set out in Annex IV to the *Collision Convention*.

(2) A signal of distress shall not be used by a vessel unless the master of the vessel so orders.

(3) The master shall not order a signal of distress to be used by the vessel unless the master is satisfied —

(a) that the vessel is in serious and imminent danger, or that another ship or aircraft or person is in serious and imminent danger and cannot send that signal; and

(b) that the vessel in danger, whether the master's own or another vessel, or the aircraft or person in danger, as may be applicable, requires immediate assistance in addition to any assistance available at that time.

(4) The master of a vessel which has sent a signal of distress by means of radio or other means shall cause that signal to be revoked by all appropriate means as soon as the master of a vessel is satisfied that the vessel or aircraft to which or the person to whom the signal relates is no longer in need of assistance as provided in subsection (3).

Exemptions

132. The Chief Executive Officer may exempt any ship or description of ships from all or any of the provisions of the *Collision Convention* which relate to —

(a) the number, position, range or arc of visibility of lights or shapes;

(b) the disposition and characteristics of sound-signalling appliances,

if the Chief Executive Officer is satisfied that compliance with such provision is either impractical or unreasonable in the case of that ship or description of ships; and the exemption shall be in such terms as the Chief Executive Officer may specify and the Chief Executive officer may, subject to giving reasonable notice, alter or cancel the exemption.

Detention of ships

133. Where a ship does not comply with the requirements of this Part, the ship shall be liable to be detained.

Persons to comply with Collision Convention

134. (1) All owners and masters of ships to which this Part applies shall comply with the *Collision Convention* and shall not carry or exhibit any other lights or use any fog signals other than those as are prescribed by that Convention.

(2) Subsection (1) applies to the owners and pilots of seaplanes on the surface of water as it applies to the owners and masters of ships.

(3) Where any section of this Part is contravened, the owner of the vessel, the master and any person for the time being responsible for the conduct of the vessel commits an offence, and —

(a) is liable on summary conviction —

(i) in the case of any infringement of Rule 10(b)(i) (duty to proceed with traffic flow in lanes of separation schemes) of the *Collision Convention* to a fine of one hundred thousand dollars; and

(ii) in any other case, to a fine of fifty thousand dollars; and

(b) on conviction on indictment to a fine of one hundred thousand dollars or to imprisonment for a term of two years or to both.

(4) It is a defence for a person charged under this Part to show that the person took all reasonable precautions to avoid the commission of the offence.

Collision liability

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

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

(3) There is no presumption of fault against a ship for a contravention of the *Collision Convention* without proof of fault or negligence.

(4) If a collision is accidental or caused by force majeure, or if the cause of the collision is in doubt, the damages caused by the collision shall be borne by those

who have suffered them, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the collision.

(5) If a collision is caused by the fault of one of the vessels, liability to make good the damage shall attach to the one at fault.

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

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

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

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

Inspection to enforce compliance with collision regulations

136. (1) A surveyor or inspector may inspect a ship of any nationality in a port of the Islands to determine whether the ship is properly provided with lights and shapes and the means of making sound signals as required by this Part.

(2) If the surveyor or inspector finds that the ship is not so provided as required by subsection (1), the surveyor shall specify in writing the action required to rectify the deficiency and detain the ship until such deficiency is rectified to the surveyor's satisfaction.

Duty to render assistance following collision

137. (1) In every case of collision between ships, the master of each ship shall, if and so far as the master can do so without damage to the master's own ship, crew and passengers, if any —

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

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

(2) Subsection (1) does not apply to the masters of Cayman Islands ships and to the masters of foreign ships when in Cayman Islands waters.

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

Offence

138. A person who, being the master of a ship, fails without reasonable cause to comply with section 137 commits an offence and is liable upon conviction —

(a) in the case of a failure to comply with section 137(1)(a), to a fine of ten thousand dollars and to imprisonment for six months; and

(b) in the case of a failure to comply with section 137(1)(b), to a fine of five thousand dollars,

and, in either case, if the person is a certificated officer, an inquiry into the person's conduct may be held and the person's certificate cancelled or suspended.

Master to notify hazards to navigation

139. (1) The master of any Cayman Islands ship, upon encountering any of the dangers to navigation specified in subsection (2), shall send information of the dangers by any means of communication at the master's disposal to the appropriate shore based authorities via a coast radio station, as listed in the Admiralty List of Radio Signals Volume 1, and the information shall be repeated to any ships in the vicinity as may be practicable.

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

(a) dangerous ice;

(b) a dangerous derelict;

(c) a tropical storm;

(d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;

(e) winds of force 10 or above on the Beaufort scale for which no storm warning has been received; and

(f) any other direct danger to navigation.

(3) The information referred to in subsection (1) shall —

(a) be sent on the authority of the master of the ship in English, or by means of the International Code of Signal and where —

(i) it is transmitted by radio messages, it may be sent in one of the working languages of the International Telecommunication Union; and,

(ii) where language difficulties are encountered, the IMO Standard Communication Phrases may be used; or

(b) when sent on the authority of the master of the ship by means of radio, be preceded by the safety signal or code sequence as prescribed by the radio regulations, and be in a format permitted under those regulations.

(4) Every person in charge of a radio station in the Islands or on board any Cayman Islands ship shall, on receiving the signal prescribed in the regulations for indicating that a message is about to be sent under this section —

(a) refrain from sending messages for a time sufficient to allow other stations to receive the message; and

(b) if so required by the regulations made under subsection (1), transmit the message in the prescribed manner.

(5) A person who being a master, fails to comply with this section, commits an offence and is liable on summary conviction to a fine of five thousand dollars but it is a defence for a person so charged to show that the person took all reasonable precautions to avoid the commission of the offence.

(6) In this section —

"**Admiralty List of Radio Signals**" means the publication of that name published by the UKHO;

"**International Code of Signals**" means the publication of that name published by the Organization in 1985 and includes any document published by the Organization amending that publication;

"**radio regulations**" means the radio regulations annexed to, or regarded as being annexed to, the International Telecommunication Convention, 1992 and includes all amendments now in force; and

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

(7) A transmission of messages under this section shall be without charge.

Master to proceed moderately in danger area

140. (1) The master of a Cayman Islands ship, when ice is reported on or near the course of the ship, shall at night either proceed at a safe speed adapted to the prevailing circumstances or change the master's course so as to keep clear of the ice reported and of the area of danger.

(2) A master of a ship who fails to comply with this section commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Duty to assist ships in distress

141. (1) The master of a Cayman Islands ship, on receiving at sea a signal from any source that a ship or aircraft or a survival craft thereof is in distress, shall proceed with all speed to the assistance of the persons in distress, informing them, if possible, that the master is doing so, and if —

(a) the master is unable to do so; or

(b) in the special circumstances of the case the master considers it unreasonable or unnecessary to proceed to their assistance,

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

(2) The master of a ship shall be released from the duty imposed by subsection (1) as soon as the master is informed of the requisition of one or more ships, other than the master's ship under section 142, and that the requisition is being complied with by the ship or ships requisitioned.

Right to requisition ships when in distress

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

(2) The master of a ship shall be released from the duty imposed by section 141(1) and, if the master's ship has been requisitioned, from the duty imposed by subsection (1), if the master is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer required.

Duty to assist persons in danger at sea

143. The master of a ship shall, so far as the master can do so without serious danger to the master's ship and persons on the ship, render assistance to any person in danger of being lost at sea.

Application of duties imposed by sections 141 to 143 and penalties for failure to comply and salvage rights

144. (1) The duties imposed on the master of a ship by sections 141, 142 and 143 shall apply to the masters of Cayman Islands ships and to the masters of foreign ships when in Cayman Islands waters.

(2) A person who, being a master, fails to comply with section 141, 142 or 143 commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

(3) Compliance by a master with sections 141, 142 and 143 shall not affect the master's right, or the right of any other person, to salvage.

Reports of accidents to ships

145. (1) When a ship —

(a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; or

(b) has sustained any material damage affecting its seaworthiness or its efficiency, either in its hull or in any part of its machinery,

the owner or master of the ship shall, within twenty-four hours after the happening of the accident or causing of the damage or as soon as possible thereafter, transmit to the Chief Executive Officer, a report of the accident or damage.

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

(a) the name of the ship, the port to which the ship belongs, the official number, if any, of the ship and the place where the ship is located;

(b) the circumstances in which the accident or damage occurred; and

(c) the probable cause of the accident or damage.

(3) If the owner or managing owner, or if there is no owner or managing owner resident in the Islands, the representative person of the owner or the agent of any ship to which this section applies, has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1), that person shall satisfy himself or herself that the accident or damage has been reported to Chief Executive Officer by the master.

(4) Where any such owner, managing owner, representative person or agent has reason to believe that the accident or damage has not been so reported in accordance with subsection (3), that person shall, as soon as possible, send to the Chief Executive Officer notice in writing stating—

(a) the name of the ship, its official number and its port of registry or the port to which it belongs;

(b) that to the best of the person's knowledge and belief, the nature and extent of the accident or damage, the probable cause of the accident or damage and the location of the ship.

(5) A person who, being a master, owner, managing owner, representative person or agent, who fails, without reasonable cause, to comply with this section commits an offence and is liable on summary conviction to a fine of four thousand dollars.

(6) This section applies to all Cayman Islands ships and to all foreign ships carrying passengers between places in the Islands.

Apprehended loss of ship

146. (1) If the owner, managing owner or agent of any Cayman Islands ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost, the owner, managing owner or agent shall cause a reasonable search to be made for the ship and shall, as soon as may be convenient, send to the Chief Executive Officer a notice in writing signed by the owner, managing owner or agent and stating —

(a) the name of the ship, the port to which the ship belongs and the official number, if any, of the ship; and

(b) a report of the loss of the ship and the circumstances and probable cause of such loss.

(2) A person who, being the owner, managing owner or agent of a ship, fails without reasonable cause, to comply with this section within a reasonable period from the time when the owner, managing owner or agent has reason to believe that the ship has been lost, commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Record of boat drill to be kept in official log book

147. (1) The master of every Cayman Islands ship shall enter a statement in the official log book of every occasion on which life boat and fire drill is practised on board, and on which the appliances and equipment required to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination.

(2) Where in the case of —

(a) a passenger ship, lifeboat drill or fire drill was not practised in any week;

(b) any other ship, lifeboat drill or fire drill was not practised in any two weeks; or

(c) any ship, the said appliances and equipment were not examined in any such period as prescribed,

the master shall state the reasons therefor in the official log book.

Collision regulations

148. The Cabinet may make such regulations as appear to it to be necessary to give effect to the *Collision Convention* and to provide generally for the avoidance of collisions.

Aids to Navigation and Charts and Publications

Definitions and application

149. (1) For the purposes of this section and sections 150 to 155 —

"**aids to navigation**" and "**aids**" mean all lighthouses, buoys, beacons, radio aids, or any other light, signal or mark established to aid marine navigation, and includes all buildings, moorings and other works associated therewith; and

"**coastal area**" includes the coast of the Islands and all Cayman Islands waters except those within the limits of ports and harbours under the *Port Authority Act (1999 Revision)* and the approaches thereto.

(2) Sections 150 to 155 apply to the coastal areas of the Islands.

Establishment and management of aids

150. (1) There are established within the coastal areas of the Islands such aids to navigation as may be necessary to facilitate safe navigation.

(2) If it is proposed to establish or discontinue an aid, or alter the lighting characteristics or any other distinguishing features of an aid, the Port Director shall be consulted before any such proposal is carried into effect.

Nautical publications, charts and other information

151. (1) The UKHO may cause the publication and updating of information on aids to navigation and declare such publications, and any other publications, to be approved nautical publications.

(2) In any legal proceedings, the production of an approved nautical publication authenticated by the UKHO shall be prima facie evidence of the matters appearing therein.

(3) The Cabinet may make regulations specifying such charts, directions or information as appears to be necessary or expedient for the safe operation of ships.

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

(5) If a ship goes to sea or attempts to go to sea without carrying the charts, copies of directions or information which it is required to carry according to the regulations made under this section, the master and owner of the ship both commit an offence and are liable upon summary conviction to a fine of five thousand dollars.

Prosecution of offences relating to aids

152. A person who —

(a) contravenes section 150;

(b) wilfully or negligently damages, destroys or allows a ship to foul an aid;

(c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;

(d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of an aid; or

(e) trespasses on or without lawful excuse, is found in or on an aid, or on any land upon which an aid is situated,

commits an offence and, in addition to the expenses of making good any damage so occasioned, is liable on summary conviction to a fine of five thousand dollars.

Detention of ships

153. Where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of repairing or replacing the aid or rendering the aid effective again is paid.

Fire or lights detrimental to navigation

154. (1) No person shall show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of the Islands.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(3) The Chief Executive Officer may cause to be extinguished any fire or light in respect of which notice is given under this section where the person to whom the notice has been given fails to comply within the time specified in the notice.

(4) For the purpose of extinguishing false or unauthorised lights, an officer authorised by the Port Authority or by the Chief Executive Officer may enter the place where the light is situated and forthwith extinguish the same without causing unnecessary damage.

Characteristics of aids

155. The Chief Executive Officer may prescribe the system of lighting and other characteristics, and marks and features of aids, and, in doing so, shall take into account the International Association of Lighthouse Authorities' IALA Harmonised Buoyage "System B", or any other international system of buoyage which may replace it.

PART 7 - SAFETY OF LIFE AT SEA AND MARITIME SECURITY

General

Definitions in Part 7

156. In this Part —

"**anniversary date**" means the day and the month of each year which will correspond to the date of expiry of the relevant certificate;

"**cargo ship**" means any ship that is not a —

(a) passenger ship;

(b) ship of war;

(c) fishing vessel; or

(d) pleasure vessel;

"**Cargo Ship Safety Construction Certificate**", "**Cargo Ship Safety Equipment Certificate**", "**Cargo Ship Safety Radio Certificate**", "**Cargo Ship Safety Certificate**" and "**Passenger Ship Safety Certificate**" mean the certificates of those names issued under section 166;

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

"**company**" has the meaning given in Chapter 9 of the *Safety Convention*;

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

"**intentional unlawful act**" means a deliberate act which, by its nature or context, could harm vessels used for international or national maritime traffic, their passengers or cargoes or any port facilities whether or not actually used by such vessels;

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

"**maritime security**" means the combination of measures intended to protect shipping and port facilities against intentional unlawful acts;

"**Passenger Certificate**" and "**Cayman Islands Cargo Ship Safety Construction Certificate**" mean the certificates of those names issued under section 166;

"**port facility**" means a location where an interface between ships and ports takes place, and includes anchorages, waiting berths and approaches from seaward;

"**radio installation**" means any radio installation provided on board a ship in life saving appliances in compliance with the relevant regulations;

"**radio-navigational equipment**" means the equipment required by the relevant regulations;

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

"**Safety Convention Certificate**" means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention, and includes a Cargo Ship 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;

"**security level**" means the quantification of the degree of risk that a security incident will be attempted or will occur;

"**security incident**" means any suspicious act or circumstance threatening the security of —

(a) a ship, including a mobile offshore drilling unit and a high speed craft;

(b) a port facility;

(c) a ship or port interface; or

(d) a ship to ship activity;

"**ship or port interface**" means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provision of port services to or from the ship;

"**ship-to-ship activity**" means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

"**short international voyage**" means an international voyage —

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

(b) which does not exceed six hundred nautical miles in length between the last port of call and the final destination, no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master, owner nor charterer, if any, of the ship could reasonably have prevented or forestalled;

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

Force of law of Safety Convention

157. The *Safety Convention* has the force of law in the Islands.

Application of this Part

158. (1) This Part applies to —

(a) all Cayman Islands ships wherever they may be;

(b) all other ships engaged on international voyages while they are in Cayman Islands waters; and

(c) the companies that operate them.

(2) Unless expressly provided otherwise, this Part applies to ships to the extent of the application of the *Safety Convention* to that ship.

(3) Companies shall ensure that a ship to which this Part applies complies with the *Safety Convention* and from the point of view of safety of life, the ship is fit for the service for which it is intended.

(4) Notwithstanding that any provision of this Part or in the regulations is expressed to apply to ships that are not Cayman Islands ships while they are within any port in the Islands, such provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstances that neither the master, owner nor charterer, if any, of the ship could have prevented or forestalled.

(5) For the purposes of this Part, the classes for passenger ships not engaged on international voyages shall be defined in regulations to be made under this Part.

Exemptions

159. (1) The Chief Executive Officer, or such person as Chief Executive Officer may authorise for the purpose, may exempt any ship or class of ship from any safety requirements imposed by this Act or in the regulations, either absolutely or subject to such conditions as the Chief Executive Officer thinks fit.

(2) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Chief Executive Officer, if Chief Executive Officer is of the opinion that the ship complies with safety requirements not inferior to those imposed by this Act or in the regulations, may exempt the ship while engaged on that voyage.

(3) Without prejudice to subsection (1), any ship which embodies features of a novel kind may be exempted from any requirements imposed by this Act or in the regulations relating to —

(a) safety construction;

(b) life-saving appliances; and

(c) radio communications,

the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages;

(4) Notwithstanding subsection (3), a ship to which that subsection applies shall comply with safety requirements which, in the opinion of the Chief Executive Officer or such person as the Chief Executive Officer may authorise for the purpose —

(a) are adequate for the service for which it is intended; and

(b) are such as to ensure the overall safety of the ship,

and where any such exemption is granted, the Chief Executive Officer shall communicate to the Organization particulars of the exemptions and the reasons for the exemptions.

(5) The Chief Executive Officer or such person as the Chief Executive Officer may authorise for the purpose may, if the Chief Executive Officer considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to —

(a) safety construction;

(b) life-saving appliances; and

(c) radio communications,

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

Safety at sea regulations

160. The Cabinet may make such regulations as appear to it to be necessary to give effect to the *Safety Convention* and to provide generally for safety at sea.

Regulations providing for exemptions

161. Regulations made under section 160 may provide for the conditions under which an exemption may be granted in respect of section 159(3) for a ship or class of ships.

Surveys and Certifications

Surveyor's duties

162. (1) Surveyors shall carry out the inspection and survey of ships as required by Regulations 6 to 10 of Chapter I of the *Safety Convention* or under this Act or in the regulations.

(2) Renewal surveys on cargo ships specified in subsection (1) shall be carried out at intervals not greater than five years.

(3) The survey and inspections of ships, so far as regards the enforcement of this Part, shall be carried out by surveyors appointed under section 414.

(4) Notwithstanding subsection (1), the Chief Executive Officer may extend the period between the inspections required by regulation 10(a)(v) of Chapter I of the *Safety Convention* in exceptional circumstances.

(5) Any extension in terms of subsection (4) shall be for the shortest period that is practicable.

Surveyor to report to Chief Executive Officer

163. On completion of an inspection or survey required by section 162 the surveyor shall forward to the Chief Executive Officer a report of the surveyor's findings.

Responsibilities of owner and master

164. (1) The owner and master of every ship to which this Part applies shall ensure that —

(a) the condition of the ship and equipment is maintained in accordance with regulation 11(a) of Chapter I of the *Safety Convention*;

(b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a surveyor, except by direct replacement; and

(c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of the ship or its equipment —

(i) it is reported at the earliest opportunity to the Chief Executive Officer; and

(ii) if a Cayman Islands ship is in such a case in a port outside the Islands, it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to the Chief Executive Officer under subsection (1)(c)(i), the Chief Executive Officer shall determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

Procedure to be adopted when the ship, including its structure, machinery and equipment is deficient

165. (1) In any case where a surveyor determines that the condition of a ship or its equipment does not correspond substantially with the particulars on one or more of the certificates issued in accordance with this Part, the surveyor shall advise the owner or master of the corrective action which, in the surveyor's opinion, is required, and shall notify the Chief Executive Officer.

(2) If corrective action specified under subsection (1) is not taken within a reasonable period as a surveyor may specify, the surveyor, shall, at the end of that time, immediately notify the Chief Executive Officer who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and notice of any such suspension to the owner and to the surveyor, who in turn shall notify the master.

Issue of certificates

166. (1) When a survey or surveys to meet the requirements of this Part are satisfactorily completed the Chief Executive Officer, or any other person authorised by the Chief Executive Officer, shall issue a certificate or certificates specified in Regulation 12 of Chapter I of the *Safety Convention*.

(2) The certificates referred to in this section shall be supplemented by a record of equipment where required by the *Safety Convention*.

Forms of certificates

167. (1) A certificate issued under regulation 12(a)(i) of Chapter I of the *Safety Convention* shall indicate compliance with this Act and state —

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

(b) the number of passengers which the ship is fit to carry; and

(c) any condition with which the ship has to comply.

(2) A certificate issued under this Part shall be in the form prescribed by the *Safety Convention.*

Duration and validity of certificates

168. Certificates issued under this Part shall have the duration and validity specified by regulation 14 of Chapter I of the *Safety Convention*.

Issue and duration of exemption certificates

169. (1) When an exemption is granted to a ship in accordance with the relevant provisions of the *Safety Convention* applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under section 166.

(2) An Exemption Certificate shall be issued for a period not exceeding the duration and validity of the certificate to which it refers.

(3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificate to which it refers.

(4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

Extension and other provisions

170. (1) Notwithstanding section 168, if a Cayman Islands ship, at the time when a certificate issued under this Part expires, is not in the port in which it is to be surveyed, the Chief Executive Officer may extend the period of validity of the certificate, but the extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears to the Chief Executive Officer proper and reasonable to do so.

(2) A certificate shall not be extended for a period longer than three months and a ship to which the extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port without having obtained a new certificate.

(3) The Chief Executive Officer may extend a certificate issued to a ship engaged on short voyages which has not been extended under subsection (1) for a period of up to one month from the date of expiry stated on the certificate.

(4) The expiry date of a certificate issued under this Part may be only be determined in accordance with regulation 14(g) of Chapter I of the *Safety Convention* in special circumstances as determined by the Chief Executive Officer and set out in a Cayman Islands Shipping Notice.

(5) In the case of a ship that has transferred from the registry of another country to the Cayman Islands, the Chief Executive Officer, subject to such survey requirements that may be considered to be necessary, may issue one or more of the certificates prescribed by this Part for a period to be determined by the Chief Executive Officer, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the government of that other country if satisfied that —

(a) the ship has already been subjected to satisfactory initial, renewal, periodical, intermediate, annual and additional surveys, as appropriate;

(b) the certificate issued by or on behalf of the government of that country would have remained valid had the registry of the ship not been changed;

(c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and

(d) after any of the surveys referred to in subparagraph (a) have been complete, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the administration of that other country or the Chief Executive Officer except by direct replacement.

Issue and endorsement of certificates by another government

171. The Chief Executive Officer may request the government of a country to which the *Safety Convention* applies to survey a ship and, if satisfied that the requirements of that Convention are complied with,

(a) issue to the ship the certificates referred to in this Part; or

(b) authorise such issue,

and a certificate issued in accordance with the request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Chief Executive Officer.

Ships not registered in the Islands and to which the Safety Convention applies

172. (1) The Chief Executive Officer may, at the request of a government of a country to which the *Safety Convention* applies, survey a ship registered in that country and, if satisfied that the requirements of that Convention are complied with and that a survey has been satisfactorily completed under this Part, issue to the ship one or more of the certificates referred to in this Part.

(2) Where the Chief Executive Officer considers it appropriate, the Chief Executive Officer shall endorse the certificates specified in subsection (1) under the requirements of the Convention; and a certificate issued in accordance with such request shall contain a statement that it has been so issued and have the same effect as if it was issued by that government and not by the Chief Executive Officer.

(3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that —

(a) there is in force a certificate or certificates required by this Part;

(b) the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates; and

(c) the provisions of section 164 are being complied with.

Cancellation of a certificate

173. (1) The Chief Executive Officer may cancel a certificate issued under this Part where the Chief Executive Officer has reason to believe that —

(a) the certificate was issued on false or erroneous information; or

(b) since any survey required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Chief Executive Officer may require that a certificate issued under this Part which has expired or has been cancelled be surrendered as directed.

(3) No person shall —

(a) intentionally alter a certificate referred to in this Part;

(b) intentionally make a false certificate referred to in this Part;

(c) in connection with any survey required by this Part, knowingly or recklessly furnish false information;

(d) with intent to deceive, use, lend or allow to be used by another, a certificate referred to in this Part; or

(e) fail to surrender a certificate required to be surrendered under subsection (2).

(4) In this section the word "**certificate**" includes a document issued to a company.

Posting-up of certificates

174. The owner and master of every ship issued with a certificate under this Part shall ensure that it is readily available on board for examination at all times.

Prohibition on proceeding to sea without the appropriate documentation

175. (1) A Cayman Islands ship shall not proceed to sea unless it has been surveyed and there is in force the certificates required by this Part.

(2) A ship registered in a country to which the Safety Convention applies shall not proceed to sea from a port in the Islands unless there is in force such Safety Convention certificates that would be required if the ship was a Cayman Islands ship.

(3) The extension provisions in section 170 shall apply to certificates under subsection (2) as if the ship was a Cayman Islands ship and the government of the country in which the ship is registered was substituted for the Chief Executive Officer.

(4) A ship registered in a country to which the *Safety Convention* does not apply shall not proceed to sea from a port in the Islands unless the ship is in the possession of documentation which shows that —

(a) the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it were a Cayman Islands ship; or

(b) it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(5) Where a certificate is issued subject to conditions, or specifies sea areas in which a ship is certified to operate, the owner and master shall ensure that all conditions are complied with or, as applicable, that the ship only operates in the specified sea areas.

(6) The master of every ship shall produce to a customs and border control officer from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section; and until those

certificates are produced a clearance shall not be granted and the ship may be detained.

Limit on the number of passengers on passenger ships

176. The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on any certificate issued to the ship under this Part.

Offences

177. (1) If a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with section 175, the owner and the master of the ship each commit an offence and are liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

(2) A contravention of section 164(1) or 175(1) to (4) is an offence by both the owner and the master, and each commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

(3) A contravention of section 173(3) is an offence punishable on summary conviction by a fine of five thousand dollars and by imprisonment for six months.

(4) If a ship proceeds to sea without section 174 being complied with, the owner and the master each commit an offence and are liable on summary conviction to a fine of five thousand dollars.

(5) Any contravention of section 175(5) is an offence by the master and the master is liable on summary conviction to a fine of three thousand dollars.

(6) Any contravention of section 176 is an offence by both the owner and the master and each commits an offence and is liable on summary conviction to a fine of twenty thousand dollars, or on conviction on indictment to a fine of twenty thousand dollars and imprisonment for of two years.

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

Power to detain

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

Miscellaneous

Penalty for non-compliance with conditions of exemption certificates

179. Where an exemption certificate, issued in respect of a Cayman Islands ship, specifies conditions subject to which the certificate is issued and any of those conditions is not complied with, the owner and the master of the ship each commits an offences and is liable to a fine of five thousand dollars.

Inspection of ships holding Safety Convention certificates

180. (1) A non-Cayman Islands ship holding a valid Safety Convention certificate is subject to inspection by officers authorised by the Chief Executive Officer when it is in a Cayman Islands port.

(2) An inspection under subsection (1) shall be in accordance with Regulation 19 of Chapter I of the Safety Convention as far as the Chief Executive Officer considers that to be reasonable and practical.

(3) In the event of the inspection provided for in this section giving rise to intervention of any kind, the Chief Executive Officer shall immediately inform the ship's flag administration or diplomatic representative of the ship's flag State in writing of the intervention and of all the circumstances in which the intervention was deemed necessary.

(4) The requirement that the notification referred to in subsection (3) should be in writing is satisfied where the text of a notification is —

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

Ships to carry stability information

181. (1) Every Cayman Islands passenger ship, regardless of size, and every Cayman Islands cargo ship having a length of twenty-four metres and upwards, shall have on board such information about the ship’s stability as may be prescribed.

(2) The information required under subsection (1), a copy of which shall be sent to the Chief Executive Officer, shall be based on the determination of the ship’s stability by means of an inclining test of the ship but the Chief Executive Officer may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where a ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and the master each commit an offence and is liable on summary conviction to a fine of three thousand dollars.

Local safety certificates regulations

182. (1) The Cabinet may make regulations prescribing safety requirements and providing for the issue of certificates in respect of —

(a) fishing vessels;

(b) pleasure vessels;

(c) passenger ships not on international voyages; and

(d) cargo ships of five hundred gross tonnage and above not on international voyages.

(2) In making regulations respecting fishing vessels, the Cabinet shall have due regard to the *International Convention for the Safety of Fishing Vessels, 1977* as may be amended.

Safety management and maritime security

Application of the ISPS Code

183. The ISPS Code, including all of its related instruments, shall, unless excepted by or under this Act, apply to all Cayman Islands ships and to all other ships engaged on international or domestic voyages while they are in Cayman Islands waters.

Exemptions

184. The Chief Executive Officer may permit a Cayman Islands ship to implement security measures other than those required by the *Safety Convention* and Part A of the ISPS Code but only where the Chief Executive Officer is satisfied that those security measures are at least as effective in every respect as those prescribed by the *Safety Convention* and Part A of the ISPS Code.

Maritime security regulations

185. The Cabinet may make regulations prescribing such requirements and other matters as appear to it to be necessary to implement the provisions of the *Safety Convention* and the ISPS Code that relate to maritime security in relation to ships.

Responsibility for ship security

186. (1) The Chief Executive Officer shall be the national authority for the Islands, with responsibility for ship security in accordance with Regulation 13 of Chapter XI-2 of the *Safety Convention*.

(2) The Chief Executive Officer shall communicate to the Organization, and in accordance with the *Safety Convention* and the ISPS Code, in respect of the information relating to Cayman Islands ships that is required pursuant to Regulation 13 of Chapter XI-2 of the *Safety Convention*.

(3) The Chief Executive Officer shall provide advice and information on maritime security matters relating to any ship operating or intending to operate in Cayman Islands waters.

(4) The Chief Executive Officer shall identify the requirements for declarations of security.

(5) The Chief Executive Officer shall issue continuous synopsis records in accordance with the *Safety Convention*.

(6) The Chief Executive Officer may delegate any of the Chief Executive Officer's functions under this Act and the *Safety Convention* or the ISPS Code relating to the assessment, certification or verification of an individual ship and its security measures to a person with appropriate expertise in security matters and with appropriate knowledge of ship and port operations.

(7) The Chief Executive Officer may act as the agent of the government of another state which is a contracting party to the *Safety Convention*.

Responsibility for setting security levels

187. (1) The Governor, acting in the discretion of the Governor, shall set and amend the security levels to be operated on Cayman Islands ships in accordance with the procedures and guidelines specified in the *Safety Convention* and the ISPS Code and shall immediately in writing inform the Chief Executive Officer of such setting or amendment.

(2) On the setting or amendment of a security level in accordance with subsection (1), the Chief Executive Officer shall immediately inform the owners of all Cayman Islands ships of the security level to be operated, together with all other relevant information.

(3) When a risk of attack has been identified, the Governor, acting in the discretion of the Governor, shall advise the Chief Executive Officer of the current security level and the Chief Executive Officer shall inform the owner of the ships concerned of —

(a) the current security level;

(b) any security measures that should be put in place by the ships concerned to protect themselves from attack; and

(c) any other security measures that should be put in place.

Alternative security agreements

188. (1) The Cabinet may enter into an agreement on behalf of the Government with any other government which is a contracting government to the *Safety Convention*, which agreement provides for arrangements alternative to those prescribed in the *Safety Convention* and the ISPS Code to deal with short international voyages on fixed routes between ports within their respective territories.

(2) An agreement under subsection (1) shall not compromise the level of security of any ship or port not covered by the agreement, and no ship shall conduct ship-to-ship activities with a ship not covered by the agreement.

PART 8 - SAFETY OF SUBMERSIBLES

General

Definitions in Part 8

189. In this Part —

"**casualty**" means —

(a) loss or presumed loss or abandonment of, or damage to, submersible craft or supporting apparatus;

(b) loss of life or serious injury to any person occurring in the course of the launch, recovery, operation or support of a submersible craft or supporting apparatus; or

(c) any incident involving serious danger to the life or health of any person in a submersible craft;

"**diving bell**" means any compression chamber which is capable of being manned and is used or designed for use under the surface of the water in supporting human life, being a chamber in which an occupant is or may be subjected to a pressure of more than three hundred millibars above atmospheric pressure during normal operation;

"**owner**" means the owner of any submersible craft;

"**pressure hull**" means the pressure resistant structure of a submersible craft which is subject to pressure differential during service conditions;

"**register of submersible craft**" means the part of the register referred to in section 11(2) in which submersible craft are registered;

"**submersible craft**" means any type of manned mobile submersible apparatus, not being a diving bell, which is designed to maintain some or all of its occupants at or near atmospheric pressure including free, self-propelled,

tethered, towed or bottom contact propelled apparatus and atmospheric diving suits; and

"**supporting apparatus**" includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment used or designed to be used in connection with the operation of any submersible craft.

Application of this Part

190. (1) Subject to subsection (3), this Part applies to —

(a) any submersible craft which is operated within waters which are within the seaward limits of the territorial sea of the Cayman Islands;

(b) any submersible craft which is launched, recovered, operated or supported from a Cayman Islands ship; or

(c) any other craft which is registered in the register of submersible craft.

(2) This Part applies to any supporting apparatus which is used in connection with a submersible craft to which this Part applies.

(3) Except as provided in this Part, this Act and any orders, rules and regulations made under it shall not apply to any submersible craft registered in the register of submersible craft.

(4) The Chief Executive Officer may grant exemptions from all or any of the provisions of this Part or any regulations made under it (as may be specified in the exemption) for classes of cases or individual cases on such terms, if any, as the Chief Executive Officer may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Restriction on operation

Restriction on operation of submersible craft

191. (1) The owner of every submersible craft to which this Part applies shall cause it to be registered in the register of submersible craft under this Part, and have in force in respect of it a safety certificate issued under this Part.

(2) A submersible craft which is required under subsection (1) to be registered in the register of submersible craft and to have in force in respect of it a safety certificate issued under this Part shall not be launched, recovered, operated or supported unless it is so registered and has such a safety certificate in force in respect of it.

(3) Subject to subsection (4), a supporting apparatus shall not be —

(a) operated within waters which are within the seaward limits of the territorial sea of the Islands; or

(b) launched, recovered, operated or supported from a Cayman Islands ship.

(4) Subsection (3) does not apply where —

(a) the submersible craft which the supporting apparatus is used to support is registered in the register of submersible craft under this Part; and

(b) there is in force, in respect of such submersible craft and the supporting apparatus, a safety certificate issued under this Part.

Registration, etc., of Submersible Craft

Register of submersible craft

192. (1) Every submersible craft to which this Part applies by virtue of section 190(1)(a), (b) and (c) shall be registered in accordance with this Part.

(2) Without prejudice to the application of this Part to the registration of submersible craft, the relevant provisions of Parts II and IV and the registration regulations shall apply to submersible craft.

Requirements for registration of submersible craft

193. (1) A person who is the owner of a submersible craft which is required to be registered in the register of submersible craft under section 192(2) shall make an application in writing to the Registrar of Shipping for the registration of the submersible craft.

(2) Subject to subsection (5), the owner of a submersible craft shall —

(a) before making an application for registration, appoint an individual or a body corporate satisfying the prescribed requirements to be the representative person in relation to the submersible craft; and

(b) ensure that, as long as the submersible craft remains registered, an individual or body corporate satisfying those requirements is so appointed.

(3) For the purposes of subsection (2), the prescribed requirements are that the representative person is —

(a) an individual resident in the Islands; or

(b) a body corporate incorporated in the Islands and having its principal place of business in the Islands.

(4) Subsection (3) does not apply if the owner of the submersible craft is —

(a) an individual resident in the Islands; or

(b) a body corporate incorporated in the Islands and having its principal place of business in the Islands.

(5) Any application for the registration of a submersible craft shall contain the particulars specified in writing by the Chief Executive Officer and, where a

representative person is required to be appointed under this Part, the name and address of the representative person.

(6) There is payable, in respect of an application for the registration of a submersible craft, such fee as may be specified by the Chief Executive Officer.

(7) Upon receiving an application for the registration of a submersible craft which complies with the requirements of subsections (5) and (6), the Registrar of Shipping, if satisfied that the submersible craft may properly be so registered, shall, subject to section 194 —

(a) assign to the submersible craft a number; and

(b) shall register it in the register of submersible craft,

and the particulars set out in subsection (9) shall be entered with such registration.

(8) Upon the registration of a submersible craft, the Registrar of Shipping shall issue to the owner making the application for registration a certificate of registry, upon which shall be entered the particulars set out in subsection (9).

(9) The particulars to be entered in the register of submersible craft and upon the certificate of registry are —

(a) the number of the certificate of registry;

(b) the registration number assigned to the submersible craft;

(c) the names of the owner and operator of the submersible craft; and

(d) where registration is conditional upon the appointment of a representative person, the name and address of the representative person.

Grounds for refusing registration

194. The Registrar of Shipping may refuse to register a submersible craft if the Chief Executive Officer is satisfied that, having regard to —

(a) the condition of the submersible craft so far as relevant to its safety or to any risk of pollution; or

(b) the safety, health and welfare of persons employed or engaged in any capacity on board the submersible craft,

it would be inappropriate for the submersible craft to be registered.

Notification of changes affecting submersible craft and amendment of particulars

195. (1) A person who is registered as the owner of a submersible craft to which this Part applies shall forthwith inform the Registrar of Shipping in writing of —

(a) any change in the particulars contained in the certificate of registry of the submersible craft;

(b) any change in the identity, or in the address, of the representative person appointed in respect of the submersible craft; or

(c) the destruction of the submersible craft or the person's intention to withdraw the submersible craft from use.

(2) The Registrar of Shipping may cause the register to be amended, whenever it appears to the Registrar of Shipping necessary or appropriate to do so for giving effect to this Part or for bringing up to date or otherwise correcting the particulars entered on the register of submersible craft.

(3) Where the Registrar of Shipping has been notified by the owner that the submersible craft has been destroyed or that the owner intends to withdraw the submersible craft from use, the power to amend the particulars of registration under subsection (1) shall include a power to terminate the registration of the submersible craft.

Termination of registration

196. (1) Subject to subsection (3), where the Chief Executive Officer is satisfied of any of the matters set out in subsection (2), the Chief Executive Officer may direct the Registrar of Shipping to terminate the registration of a submersible craft.

(2) The matters of which the Chief Executive Officer shall be satisfied for the purposes of subsection (1) are —

(a) that there has been a change —

(i) in the ownership of the submersible craft; or

(ii) in the identity, or the address, of the representative person appointed in respect of the submersible craft,

which has not been notified to the Registrar of Shipping;

(b) if it is a condition of the registration of the submersible craft that a representative person be appointed, that no person is appointed to act in such capacity;

(c) that having regard to —

(i) the condition of the submersible craft so far as relevant to its safety or to any risk of pollution; or

(ii) the safety, health and welfare of persons employed or engaged in any capacity on board the submersible craft,

it is inappropriate for the submersible craft to continue to be registered;

(d) that any penalty imposed on the owner of the submersible craft in respect of a contravention of this Part, or of any regulations made under it, has remained unpaid for a period of more than three months and that no appeal against the penalty is pending;

(e) that any summons for any such contravention has been served on the owner of the submersible craft, and —

(i) the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question; and

(ii) a period of not less than three months has elapsed since that time; or

(f) that the submersible craft is being operated without the registration number assigned to it by the Registrar of Shipping under section 193(8) being displayed and marked in accordance with section 197.

(3) The Chief Executive Officer, before exercising the power conferred by subsection (1) to direct the Registrar of Shipping to terminate the registration of a submersible craft, shall —

(a) serve on the owner of the submersible craft or on the person for the time being appointed as representative person in relation to the submersible craft, a notice stating —

(i) that the Chief Executive Officer is satisfied, as mentioned in subsection (2)(a), (b), (c), (d), (e) or (f); and

(ii) that the Chief Executive Officer intends, after the end of the period of thirty days beginning with the date of service of the notice, to direct that the registration of the submersible craft in question be terminated unless the Chief Executive Officer is satisfied that it would be inappropriate to do so by any representations made to the Chief Executive Officer by or on behalf of the owner within that period; and

(b) have regard to any representations made to the Chief Executive Officer by the owner of the submersible craft within the period of thirty days specified in paragraph (a)(ii).

(4) Where the registration of any submersible craft has been terminated under this section, the Chief Executive Officer may subsequently, if the Chief Executive Officer is satisfied that it would be appropriate to do so, direct the Registrar of Shipping to restore the registration of the submersible craft.

Display of registration number

197. At any time when a submersible craft to which this Part applies is being operated, the owner or representative of the owner of the submersible craft shall ensure that the registration number assigned to it under section 193(8) is —

(a) displayed on a metal plate permanently affixed to the internal structure of the main pressure hull of the submersible craft; and

(b) conspicuously marked on the external structure of the submersible craft.

Regulations for construction and operation of submersible craft

Regulations for construction, equipment, etc., of submersible craft

198. The Cabinet may make regulations —

(a) specifying construction requirements for submersible craft and supporting apparatus to which this Part applies;

(b) specifying requirements for the carriage of equipment and stores by submersible craft and supporting apparatus to which this Part applies;

(c) requiring submersible craft and supporting apparatus to which this Part applies to be surveyed, and providing for the making of declarations of survey;

(d) specifying the criteria which are to be satisfied prior to the issue of a certificate under section 199;

(e) imposing penalties, on summary conviction, in respect of a contravention of any such regulations not exceeding, in respect of any one contravention, ten thousand dollars;

(f) prescribing obligations which any person concerned in the operation of submersible craft and supporting apparatus to which this Part applies must fulfil;

(g) prescribing the qualifications necessary to be held by any person concerned in the operation of a submersible craft and supporting apparatus to which this Part applies;

(h) for detaining any submersible craft or supporting apparatus in respect of which a contravention of any such regulations has or is suspected to have occurred and in relation to such submersible craft or supporting apparatus; and

(i) for applying sections 439 and 440 subject to such modifications as may be prescribed in the regulations.

Issue, duration, extension, suspension, etc., of safety certificates

199. (1) If the Chief Executive Officer is satisfied, on receipt of a declaration of survey in respect of a submersible craft and its supporting apparatus, that they comply with regulations made under section 198, the Chief Executive Officer may issue to the owner safety certificates in respect of the submersible craft and its supporting apparatus in forms to be prescribed by the Chief Executive Officer.

(2) Safety certificates issued under subsection (1) shall remain in force for two years or such shorter period as may be specified in the certificates or until suspended or revoked by the Chief Executive Officer, subject, in the case of a two year certificate, to an annual inspection at not less than nine nor more than fifteen months after the survey for the issue of the certificate.

(3) A safety certificate, upon application by the owner, may be extended by the Chief Executive Officer without a declaration of survey for a further period, not exceeding four months, as the Chief Executive Officer thinks fit.

(4) The Chief Executive Officer may, at any time, suspend or revoke a safety certificate if the Chief Executive Officer is satisfied that —

(a) the submersible craft or its supporting apparatus have not been surveyed in accordance with regulations made under section 198;

(b) the submersible craft or its supporting apparatus no longer complies with the criteria laid down in regulations made under section 198;

(c) the submersible craft or its supporting apparatus is in a condition unfit for operation;

(d) information supplied for the purposes of any survey of the submersible craft or its supporting apparatus was materially incorrect; or

(e) the submersible craft or its supporting apparatus has been significantly changed from the particulars supplied at the time of any survey.

(5) While a safety certificate is in force, the owner shall report to the Chief Executive Officer any modifications or any instance of damage which affects or may affect the safety of the submersible craft or its supporting apparatus.

Inquiries and Investigations, Offences and Legal Proceedings in Relation to Submersible Craft

Inquiries and investigations

200. (1) Where a casualty has occurred in respect of a submersible craft or supporting apparatus to which this Part applies, the Chief Executive Officer —

(a) may cause a preliminary inquiry into the casualty to be held; and

(b) may, whether or not a preliminary inquiry into the casualty has been held, cause a formal investigation into the casualty to be held in the manner provided for under Part 17, and that Part shall apply as appropriate to any casualty referred to in this section.

(2) The Chief Executive Officer may cause any report made following an inquiry or investigation into a casualty to be made public at such time and in such manner as the Chief Executive Officer thinks fit.

Offences

201. (1) A person who —

(a) causes or permits a submersible craft to be launched, recovered, operated or supported; or

(b) is otherwise concerned in the launch, recovery, operation or support of a submersible craft,

in contravention of section 191(2) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

(2) A person who causes or permits supporting apparatus to be operated or is otherwise concerned in the operation of supporting apparatus in contravention of section 191(3) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

(3) A person who contravenes section 193(2)(b), 195(1), 197 or 199(5) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(4) In proceedings for an offence under this Part it shall be a defence for the person charged with the offence to prove —

(a) that the person exercised all due diligence to prevent the commission of the offence; and

(b) that the offence was committed without the person's consent, connivance or default.

(5) Where —

(a) a body corporate commits an offence under this Part or any regulations made under it; and

(b) the offence specified under paragraph (a) is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of the director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity,

that person, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

Service of documents and notices in proceedings

202. (1) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under this Part or regulations made under it shall, where the person to be served is the owner of a submersible craft to which this Part applies, be treated as served on that person if the document —

(a) is delivered to any representative person for the time being appointed in relation to the submersible craft;

(b) sent to any such person by post at the address notified or last notified to the Registrar of Shipping under section 195(1)(b) in relation to that person; or

(c) the document is left for any such person at that address.

(2) In proceedings for an offence under this Part or regulations made under it, an averment in any process of the fact that anything was done or situated within waters which are adjacent to the Islands and which are within seaward limits of the territorial seas of the Islands shall, unless the contrary be proved, be sufficient evidence that the thing, if otherwise proved, was done or situated within such waters.

(3) Any proceedings for an offence under this Part or regulations made under it may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in the Islands.

(4) This Part and any regulations made under it shall apply to persons, whether or not they are Cayman Islands citizens, and to companies, whether or not incorporated under the law of the Islands.

(5) A notice required to be served under this Part may be served by post.

(6) A notice required to be served under this Part on the owner of a submersible craft shall, where two or more persons are shown in the register of submersible craft, be treated as served if served on any one of those persons.

(7) For the purpose of section 52 of the *Interpretation Act (1995 Revision)*, a letter containing —

(a) a notice to be served on a person under subsections (5) and (6); or

(b) a notice to be served on a representative person under subsection (1),

shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to the person in the register of submersible craft; and a letter containing any other notice to which subsection (1) applies shall be deemed to be properly addressed if it is addressed to the last-known address of the person to be served, whether of the person's residence or of a place where the person carries on business.

Detention

203. (1) A submersible craft to which this Act applies and which is launched, recovered, operated or supported in contravention of section 191(1), and any supporting apparatus operated in connection with it shall be liable to be detained.

(2) Sections 439 and 440 have effect in relation to a submersible craft detained under this Part and for the purpose of applying those sections —

(a) the words "submersible craft" shall be substituted for the word "ship" wherever it occurs, except when the vessel to be detained may properly be described as a ship within the meaning of this Law; and

(b) the words "Part 8" shall be substituted for the words "this Act" wherever they occur.

PART 9 - LOAD LINES

General

Definitions in Part 9

204. (1) In this Part —

"**1966 Convention**" means the International Convention on Load Lines 1966 and annexes as modified by the *1988 Protocol* and as amended, modified or replaced from time to time and as extended to the Islands;

"**1988 Protocol**" means the Protocol of 1988 relating to the *1966 Convention* as amended, modified or replaced from time to time and as extended to the Islands;

"**alteration**" includes deterioration;

"**Assigning Authority**" means the Chief Executive Officer or any person who is authorised by the Chief Executive Officer and includes any corporation or society for the survey and classification of ships which is authorised by the Chief Executive Officer in accordance with section 414(2);

"**Contracting Government**" means the Government of a Convention Country;

"**Convention Country**" means —

(a) a country, the Government of which is party to the *1966 Convention*, or the *1966 Convention* as amended by the *1988 Protocol*;

(b) a territory to which the *1966 Convention* or the *1966 Convention* as amended by the *1988 Protocol*, extends;

"**Convention-size**" in relation to a ship means, in the case of an existing ship, not less than one hundred and fifty gross tons, ascertained in accordance with the law in force on the 21st July 1968, and, in the case of a new ship, not less than twenty-four metres in length;

"**existing ship**" means a ship which is not a new ship;

"**International Load Line Certificate**" means an International Load Line Certificate issued under the *1966 Convention* as amended by the *1988 Protocol*;

"**International Load Line Certificate (1966)**" means an International Load Line Certificate issued under the *1966 Convention* before the relevant entry into force date (if any);

"**International Load Line Exemption Certificate**" means an International Load Line Exemption Certificate issued under the *1966 Convention* as amended by the *1988 Protocol*;

"**International Load Line Exemption Certificate (1966**)" means an International Load Line Exemption certificate issued under the *1966 Convention* before the relevant entry into force date, if any;

"**load lines**" means the lines marked on a ship indicating the maximum depth to which a ship may be loaded;

"**new ship**" means a ship whose keel is laid, or which is at a similar stage of construction, on or after the material date;

"**non-Cayman Islands ship**" means a ship which is not registered in the Islands;

"**parent country**" means the country or territory in which a ship is registered or, if the ship is not registered anywhere, it means the country or territory whose flag the ship flies;

"**relevant entry into force date**" means the date when the *1988 Protocol* enters into force in respect of the government of the parent country of a ship in question; and

"**valid Convention certificate**" means a certificate which either —

(a) has been issued under subsection (2) and is for the time being in force; or

(b) having been issued as mentioned in subsection (3), is produced in circumstances in which it is required by the load line regulations to be recognised for the purposes of this Part.

(2) For the purposes of the definitions of "**new ship**" and "**existing ship**", "**material date**" means —

(a) in relation to a ship whose parent country is a Convention country other than the Cayman Islands, the date on which the *1966 Convention* entered into force for that country; and

(b) in relation to any other ship, the 21st July 1968.

(3) In this Part, subject to subsection (4), "**international voyage**" means a voyage between —

(a) a port in the Islands and a port outside the Islands; or

(b) a port in a Convention country, other than the Islands and a port in any other country or territory whether or not a Convention country which is outside the Islands.

(4) In determining, for the purposes of subsection (3), what are the ports between which a voyage is made, no account shall be taken of any deviation by a ship from its intended voyage made which is due solely to stress of weather or any other circumstances which neither the master, owner nor charterer, if any, of the ship could have prevented or forestalled.

(5) For the purposes of subsection (3) any colony, protectorate or other dependency, and any territory for whose international relations a government is separately responsible shall be taken to be a separate territory.

(6) A reference in this Part to the gross tonnage of a ship shall be construed as a reference to the tonnage of the ship as ascertained in accordance with the tonnage regulations; and where, in accordance with those regulations, alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of this Part, be taken to be the larger of those tonnages.

(7) For the purposes of this Part, the length of a ship shall be ascertained in accordance with regulations made by the Cabinet under this Part.

(8) A reference in this Part to any provision of the *1966 Convention* shall, in relation to any time after that provision has been amended under Article 29 of that Convention, be construed as a reference to that provision as so amended.

Force of law of 1966 Convention and 1988 Protocol

205. The *1966 Convention* and the *1988 Protocol* have the force of law in the Islands.

Application

206. (1) Subject to subsections (2) and (4), this Part applies to —

(a) Cayman Islands ships engaged on international voyages; and

(b) non-Cayman Islands ships while they are within Cayman Islands waters and engaged on international voyages.

(2) This Part does not apply to ships not subject to the *1966 Convention* and the *1988 Protocol*.

(3) Subject to subsections (4) and (6), a ship shall comply with Annex I to the *1966 Convention.*

(4) Existing ships which do not fully comply with Annex 1 to the *1966 Convention* shall meet the requirements applicable to such ships engaged on international voyages under the law in force immediately before 21st July 1968.

(5) Where an existing ship requires a reduction in freeboard, that ship shall comply with all the requirements under this Part applicable to new ships.

(6) New ships constructed on or after 21st July 1968 but before 1st January 2005 shall comply with the requirements in Annex I to the *1966 Convention* which were applicable to such ships engaged on international voyages and as they applied immediately before 1st January 2005.

(7) An amendment to the *1966 Convention* which relates to the structure of a ship applies only to ships the keels of which are laid, or which are at a similar stage of construction, on or after the date on which the amendment comes into force.

Load line regulations

207. (1) The Cabinet may make regulations as appear to it to be necessary to give effect to the *1966 Convention* and the *1988 Protocol* and any other matter relating to or arising out of load lines in general.

(2) Regulations under this section may make different provisions by reference to different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

Application of Annexes to 1966 Convention and 1988 Protocol

208. (1) In this Part, "**Annex I**", "**Annex II**" and "**Annex III**" mean Annex I, Annex II and Annex III of the *1966 Convention* and any reference to Annex I, Annex II or Annex III is to be construed —

(a) as a reference to the respective Annex as modified from time to time;

(b) if that Annex is replaced by another instrument, as a reference to that instrument.

(2) For the purposes of subsection (1), an Annex is modified if —

(a) omissions, additions or other alterations to the text take effect in accordance with Article 29 of the *1966 Convention* or with Article VI of the *1988 Protocol*; or

(b) supplementary provision made under Article 29 of the *1966 Convention* or under Article VI of the *1988 Protocol* takes effect.

(3) A modification to or a replacement of an Annex by virtue of subsection (1) has effect at the time such modification or replacement comes into force in accordance with paragraph (4) of Article 28 of the *1966 Convention* or Article VI of the *1988 Protocol* and as extended to the Islands.

(4) No modification or replacement of a reference to an Annex by virtue of subsection (1) affects any right or liability arising before the date on which the modification or replacement has effect.

Cayman Islands Ships

General compliance

209. (1) Subject to subsection (2), a ship shall not proceed, or attempt to proceed, to sea unless —

(a) it has been surveyed in accordance with the applicable Convention requirements;

(b) it is marked with the appropriate marks where required;

(c) it has a valid Convention certificate;

(d) it complies with the conditions of assignment applicable to it; and

(e) the information required under regulation 10 of Annex I is provided by the owner of the ship to the master.

(2) Subsection (1) does not apply to a non-Cayman Islands ship in respect of which a valid Convention certificate is produced.

(3) An Assigning Authority may assign a freeboard greater than the minimum freeboard prescribed by Chapter 3 of Annex 1.

(4) In applying this Part, the Chief Executive Officer shall have due regard to any deviation or delay caused by a ship owing to stress of weather or any other cause of force majeure.

Obligations of Assigning Authority

210. (1) In this Part, the Chief Executive Officer may authorise the "Assigning Authority" conditionally or unconditionally.

(2) Unless the Assigning Authority is the Chief Executive Officer, the Assigning Authority shall comply with regulation 2-1 of Annex I.

(3) The Assigning Authority shall assign freeboards to a Cayman Islands ship in accordance with the requirements of this Part.

(4) Further to subsection (3), the Assigning Authority shall in particular —

(a) determine the particulars of the freeboards to be assigned;

(b) determine which of the load lines described in Annex I are to be marked on the sides of the ship in accordance with the requirements of that Annex;

(c) determine the position where the appropriate marks are to be so marked; and

(d) complete a record of the conditions of assignment.

(5) Without prejudice to the generality of paragraph (2), the Assigning Authority may impose conditions which place limitations on any person's authorisation relating to —

(a) individual ships;

(b) classes of ships; and

(c) the extent of any survey to be carried out by that person.

(6) The Chief Executive Officer may direct, in relation to an individual case or to a class of cases, that a survey, or part of a survey, is carried out by the Chief Executive Officer and not by another Assigning Authority.

(7) An Assigning Authority other than the Chief Executive Officer shall not be regarded as the servant or agent of the Islands or as enjoying any status, immunity or privilege of the Islands and its property shall not be regarded as property of, or held on behalf of, the Islands.

Exemptions

211. (1) Subject to subsection (2), the Chief Executive Officer may exempt from any of the provisions of this Part —

(a) a ship engaged on an international voyage between near neighbouring ports as long as —

(i) it remains engaged on such voyage; and

(ii) the Chief Executive Officer and the governments of the states in which such ports are situated are satisfied that the sheltered nature or conditions of such voyage between such ports make it unreasonable or impracticable to apply the provisions of this Part;

(b) a ship which embodies features of a novel kind if research into the development of those features and their incorporation in ships engaged on international voyages may be seriously impeded if the ship had to comply with the requirements of this Part; and

(c) any ship which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage.

(2) An exemption under subsection (1) may be granted subject to such safety requirements as the Chief Executive Officer thinks fit to ensure the overall safety of the ship.

(3) Where an exemption is granted subject to safety requirements, the exemption ceases to have effect if those requirements are not complied with.

Equivalents

212. (1) Subject to subsection (2), an Assigning Authority may —

(a) allow any fitting, material, appliance or apparatus to be fitted in a ship, or allow other provisions to be made in a ship, in the place of any fitting, material, appliance, apparatus or provision which is required under this Part, if satisfied by trial or otherwise that it is at least as effective as that so required by the applicable Convention requirements; or

(b) allow in an exceptional case departure from the applicable Convention requirements on condition that —

(i) the freeboards to be assigned to the ship are increased to such an extent as to satisfy the Chief Executive Officer that the safety of the ship;

(ii) protection afforded to the crew will be no less effective than would be the case if the ship fully complied with those requirements; and

(iii) there were no such increase of freeboards.

(2) Where the Assigning Authority is not the Chief Executive Officer, the Assigning Authority may allow an equivalent under subsection (1) only with the approval of the Chief Executive Officer.

Repairs, alterations and modifications

213. (1) A ship which undergoes repairs, alterations, modifications and any related outfitting shall continue to comply with the requirements previously applicable to the ship.

(2) Repairs, alterations and modifications of a major character and any related outfitting made to an existing ship shall meet such requirements for a new ship as the Assigning Authority considers reasonable and practicable.

(3) A ship which has undergone an alteration will be considered to continue to comply with its conditions of assignment if —

(a) amended freeboards appropriate to the condition of the ship have been assigned, the ship has been marked with appropriate load lines and a new International Load Line Certificate has been issued to the owner of the ship; or

(b) the alteration has been inspected by an Assigning Authority and the Assigning Authority is satisfied that the alteration is not such as to require any change in the freeboards assigned to the ship, and full particulars of the alteration have been endorsed by the Assigning Authority on the record referred to in section 229.

Zones and areas

214. A ship shall comply with the load line requirements applicable to it under this Part in the zones and areas described in Annex II.

Submersion of load lines

215. (1) Except as provided for in subsections (3) to (5), a ship shall not be so loaded that the appropriate load lines on the sides of the ship —

(a) are submerged when the ship is in salt water and has no list; or

(b) would be submerged if the ship were in salt water and had no list.

(2) A ship shall not proceed to sea when it is in contravention of subsection (1).

(3) When a ship is in fresh water of a density of one tonne per cubic metre the appropriate load line may be submerged by the amount of the fresh water allowance shown on the International Load Line Certificate.

(4) When a ship is in water of a density other than one tonne per cubic metre, an allowance is to be made proportional to the difference between salt water density of 1.025 tonnes per cubic metre and the actual density.

(5) When a ship departs from a port situated on a river or in Category A, B, C or D waters, deeper loading is permitted corresponding to the weight of fuel and all other materials required for consumption between the point of departure and the sea.

Initial, renewal and annual surveys

216. (1) A Cayman Islands ship shall be subjected to —

(a) an initial survey before the ship is put into service, and the survey shall include a complete inspection of its structure and equipment to ensure the ship complies with the applicable Convention requirements;

(b) a renewal survey at intervals not exceeding five years, except where subsection 221(3) and subsections 222(4) and (7) apply, to ensure that the ship is in compliance with the applicable Convention requirements; and

(c) an annual survey within three months before or after each anniversary date of the Convention certificate to ensure that —

(i) alterations have not been made to the hull or superstructures which would affect the calculations determining the position of the load line;

(ii) the fittings and appliances for the protection of openings, guard rails, freeing ports and means of access to crew's quarters are maintained in an effective condition;

(iii) the freeboard marks are correctly and permanently indicated; and

(iv) the information required by regulation 10 of Annex I is provided to the master of the ship.

(2) After a satisfactory annual survey, the Assigning Authority shall endorse the Convention certificate accordingly.

Maintenance of conditions after survey

217. The owner and master shall ensure that after completion of a survey required under section 216, no material alteration is made to the ship, its structure, equipment, arrangements, material or scantlings covered by the survey without the approval of the Assigning Authority that issued the Convention certificate.

Issue of Convention certificates

218. Upon satisfactory completion of an initial or renewal survey to a Cayman Islands ship, and upon payment of any appropriate fee, the Assigning Authority shall issue a Convention certificate in respect of the ship.

Issue or endorsement of International Load Line Certificates by another Government and on behalf of other Contracting Governments

219. (1) The Chief Executive Officer may request a Contracting Government —

(a) to survey a Cayman Islands ship to which this Part applies, and

(b) to issue, or authorise the issue of, or endorse, or authorise the endorsement of, an International Load Line Certificate in accordance with the requirements of the *1966 Convention* in respect of that ship if the Contracting Government is satisfied that the ship complies with the applicable Convention requirements.

(2) Where an International Load Line Certificate is issued pursuant to subsection (1), the Chief Executive Officer shall be treated as the Assigning Authority in relation to it.

(3) When requested to do so by a Contracting Government, the Chief Executive Officer —

(a) may cause a survey to be carried out in respect of a ship to which this Part applies; and

(b) shall, subject to payment of any appropriate fee, issue or endorse an International Load Line Certificate in respect of that ship, in accordance with the applicable Convention requirements, if the Chief Executive Officer is satisfied that the ship is in compliance with the applicable Convention requirements.

(4) An International Load Line Certificate issued pursuant to subsection (3) shall contain a statement that it has been issued at the request of the Contracting Government and that it has the same effect as a certificate issued by the Contracting Government who made the request referred to in subsection (3).

(5) The Chief Executive Officer shall send as soon as possible to the Contracting Government who made the request referred to in subsection (3) a copy of —

(a) the International Load Line Certificate,

(b) the survey report used for computing the freeboard; and

(c) a copy of the computations.

(6) The Chief Executive Officer shall not issue an International Load Line Certificate in respect of a ship which —

(a) is registered in a country whose government is not a Contracting Government; or

(b) is not registered, but is entitled to fly the flag of a country whose government is not a Contracting Government.

Form of Convention certificates

220. A Convention certificate shall be in the form prescribed by Annex III.

Duration and validity of an International Load Line Certificate

221. (1) Subject to the following subsections and to section 222, the duration of an International Load Line Certificate is for such period as is specified in the certificate but shall not exceed five years beginning with the date of completion of the initial or renewal survey.

(2) Subject to subsection 222(9), where a renewal survey is completed within three months before the expiry of an existing certificate, the new certificate is valid for a period beginning with the date of completion of the renewal survey and ending on a date which does not exceed five years from the expiry of the existing certificate.

(3) Subject to subsection 222(9), where a renewal survey is completed after the expiry of the existing certificate, the new certificate is valid for a period beginning with the date of completion of the renewal survey and ending on a date which does not exceed five years from the expiry of the existing certificate.

(4) Subject to subsection 222(9), where a renewal survey is completed more than three months before the expiry of the existing certificate, the new certificate is valid for a period beginning with the date of completion of the renewal survey and ending on a date which does not exceed five years from the date of completion of that renewal survey.

Extension of periods of validity of an International Load Line Certificate

222. (1) If an International Load Line Certificate is issued for a period of less than five years, the Assigning Authority may extend the validity of the certificate beyond the expiry date to a period not exceeding five years beginning with the date of completion of the initial or renewal survey, provided that the annual surveys applicable when a certificate is issued for a period of five years are carried out as appropriate.

(2) If, after the renewal survey, a new certificate cannot be issued to the ship before the expiry of the existing certificate, the Assigning Authority may extend the validity of the existing certificate for a period which shall not exceed five months, if the Assigning Authority is satisfied that there have been no alterations in the structure, equipment, arrangements, materials or scantlings which affect the ship's freeboard.

(3) Where an extension is granted pursuant to subsection (2), the Assigning Authority shall endorse the extension on the existing certificate.

(4) If, at the time when a certificate expires, a ship is not in the port in which it is to be surveyed, the Assigning Authority may extend the validity of the certificate for a period no longer than three months beginning with the date of expiry of the certificate if —

(a) the Assigning Authority is satisfied that it is proper and reasonable to extend the validity of the certificate for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed; and

(b) the Assigning Authority, if not the Chief Executive Officer, has the authority of the Chief Executive Officer to grant such an extension.

(5) Where a ship has been granted an extension pursuant to subsection (4), on its arrival in the port in which it is to be surveyed, the ship shall be subject to a renewal survey.

(6) Subject to subsection (9), a certificate issued following a renewal survey referred to in subsection (5) shall have an expiry date not exceeding five years from the date of expiry of the previous certificate before the extension was granted pursuant to subsection (4).

(7) Where a certificate has been issued to a ship engaged on short voyages and the validity of that certificate has not been extended pursuant to subsection (1), (2) or (4), the Assigning Authority may extend the validity of that certificate for a period of not more than one month beginning with the date of its expiry.

(8) Subject to subsection (9), where a renewal survey is completed following an extension granted pursuant to subsection (7), the Assigning Authority shall ensure that the new certificate is valid for a period ending on a date which does not exceed five years from the expiry of the previous certificate before the extension was granted.

(9) In special circumstances, as determined by the Assigning Authority, it is not required that a new certificate be dated from the expiry of the existing certificate as required by subsections (4) and (6) to (8) and the certificate may instead be valid for a period ending on a date which is not more than five years from the date of completion of the renewal survey.

(10) If an annual survey is completed before the period specified in section 216(1)(c) then —

(a) the Assigning Authority shall endorse a new anniversary date on the certificate which is not more than three months later than the date on which the annual survey was completed;

(b) the Assigning Authority shall complete the subsequent annual survey at the intervals prescribed by section 216(1)(c) using the new anniversary date;

(c) the Assigning Authority may permit the expiry date to remain unchanged provided one or more annual surveys are carried out so that the maximum intervals between surveys prescribed by section 216(1)(c) are not exceeded.

(11) An International Load Line Certificate issued in respect of a Cayman Islands ship ceases to be valid where —

(a) material alterations have taken place in the hull or superstructures such as would necessitate the assignment of an increased freeboard;

(b) the fittings and appliances mentioned in section 216(1)(c)(ii) are not maintained in an effective condition;

(c) the certificate is not endorsed in accordance with section 216(2) to show the ship has been surveyed in accordance with section 216(1)(c);

(d) the structural strength of the ship is lowered to such an extent that the ship is unsafe; or

(e) the ship ceases to be a Cayman Islands ship.

(12) In this Part, "**short voyages**" means voyages where neither the distance from the port in which a voyage begins and the final port of destination nor the return voyage exceeds one thousand nautical miles.

Duration and validity of an International Load Line Exemption Certificate

223. (1) The duration of an International Load Line Exemption Certificate issued in respect of a ship to which section 211(1)(a) or 211(1)(b) applies, is for the period as specified in the certificate, not exceeding five years beginning with the date of completion of the initial survey or most recent renewal survey, as appropriate.

(2) The duration of an International Load Line Exemption Certificate issued in respect of a ship to which section 211(1)(c) applies, is limited to the single voyage for which it is issued.

(3) Except for section 221(1), sections 221 and 222 apply in relation to an International Load Line Exemption Certificate as they apply in relation to an International Load Line Certificate.

Procedure to be adopted when a ship is deficient

224. (1) This section applies where an Assigning Authority determines that —

(a) the condition of a Cayman Islands ship or its equipment does not correspond substantially with the requirements applicable to it under Annex I and in relation to which a Convention certificate has been issued in respect of that ship; or

(b) a ship is not fit to proceed to sea without presenting an unreasonable threat of harm to human life or the marine environment.

(2) In the circumstances described in subsection (1), the Assigning Authority shall —

(a) advise the owner or master of the corrective action which in the opinion of the Assigning Authority is required to be taken; and

(b) where an International Load Line Certificate has been issued in respect of the ship and is still valid, notify the Assigning Authority that issued the certificate —

(i) that the Assigning Authority has so advised the owner or master as the case may be; and

(ii) if that corrective action is not taken.

(3) Where a Convention certificate has been issued in respect of a ship and is still valid, the Assigning Authority may suspend the validity of the certificate until the corrective action has been taken.

(4) Where the Assigning Authority suspends the validity of a certificate issued in respect of a ship, it shall immediately give notice in writing of such suspension —

(a) to the owner of the ship;

(b) where the ship is in a port outside the Cayman Islands, to the appropriate maritime authorities of the country in which the port is situated; and

(c) if the Assigning Authority is not the Chief Executive Officer, the Chief Executive Officer.

(5) Where the owner of the ship is given notice of suspension, that owner shall notify the master of the ship in question of the suspension.

(6) The requirement that the notification referred to in subsection (4) should be in writing is satisfied where the text of a notification is —

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

Cancellation of International Load Line Certificates and surrender of Convention certificates

225. (1) The Chief Executive Officer may cancel an International Load Line Certificate issued in respect of a Cayman Islands ship where the Chief Executive Officer is satisfied that —

(a) the certificate was issued on false or erroneous information;

(b) information on the basis of which freeboards were assigned to the ship was incorrect in a material particular; or

(c) the ship ceases to comply with the conditions of assignment relating to it.

(2) Where the Chief Executive Officer proposes to cancel a certificate, the Chief Executive Officer shall first notify the owner in writing, specifying the ground for the proposed cancellation.

(3) Subject to subsection (4), the Chief Executive Officer shall not cancel the certificate until the owner has been given a reasonable opportunity to make representations, and the Chief Executive Officer has considered any such representations made.

(4) Subsection (3) does not apply where the Chief Executive Officer considers that urgent safety considerations require immediate cancellation of the certificate.

(5) The Chief Executive Officer may direct any Convention certificate issued under this Part which has expired, ceased to be valid, or been cancelled, to be surrendered.

(6) The requirement that the notification referred to in subsection (2) should be in writing is satisfied where the text of a notification is —

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

Acceptance of Convention certificates

226. (1) The Chief Executive Officer shall accept a valid Convention certificate issued by a Contracting Government, other than the Cayman Islands, in respect of a non-Cayman Island ship.

(2) The Chief Executive Officer shall accept a valid Convention certificate issued in respect of a Cayman Islands ship by another Contracting Government under section 219(1).

Control of non-Cayman Islands ships holding a valid Convention certificate

227. (1) A non-Cayman Islands ship holding a valid Convention certificate is subject to inspection by officers authorised by the Chief Executive Officer when it is in a Cayman Islands port.

(2) So far as is reasonable and practicable, an inspection under subsection (1) shall be in accordance with article 21 of the *1966 Convention*.

(3) In the event of the inspection provided for in this section giving rise to intervention of any kind, the Chief Executive Officer shall immediately notify the ship's flag administration or diplomatic representative of the ship's flag State in writing of the intervention and of all the circumstances in which the intervention was deemed necessary.

(4) The requirement that the notification referred to in subsection (3) should be in writing is satisfied where the text of a notification is —

(a) transmitted by electronic means;

(b) received in legible form; and

(c) capable of being used for subsequent reference.

Authorisation of removal, etc., of appropriate marks

228. After the appropriate marks have been made on a ship —

(a) it is the duty of the owner and master to keep the ship so marked; and

(b) the marks shall not be concealed, removed, altered, defaced or obliterated except with the authority of the Assigning Authority or the Chief Executive Officer.

Record of conditions of assignment

229. (1) A record containing the conditions of assignment required by the Assigning Authority shall be provided by the Assigning Authority to the ship and be —

(a) retained on board at all times; and

(b) available for inspection by an authorised person on request.

(2) A ship ceases to be in compliance with the conditions of assignment if the record is not on board and available for inspection in accordance with subsection (1).

Detention

230. (1) A ship which, in contravention of section 209(1), proceeds or attempts to proceed to sea without being surveyed and marked may be detained until it has been so surveyed and marked.

(2) A ship which does not comply with the conditions of assignment applicable to it and does not retain on board the record issued by the Assigning Authority detailing the conditions of assignment, is liable to be detained until it complies.

(3) A ship which is loaded so as to submerge the load line may be detained until it ceases to be so loaded.

Offences

231. (1) If a ship proceeds, or attempts to proceed, to sea in contravention of section 209(1) the master and the owner commit an offence and are liable —

(a) on summary conviction to a fine of ten thousand dollars; or

(b) on conviction on indictment to a fine of fifty thousand dollars, to imprisonment for a term of two years, or to both.

(2) If a ship is at sea in contravention of section 215(1) the owner and master commit an offence and are liable —

(a) on summary conviction to a fine of ten thousand dollars, to imprisonment for one year, or to both; or

(b) on conviction on indictment to a fine of fifty thousand dollars, or to imprisonment for a term of three years, or to both.

(3) In any proceedings for a contravention of section 215(1), it is a defence for the owner or master to prove the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer, if any could have prevented or forestalled.

(4) If a ship proceeds, or attempts to proceed, to sea in contravention of section 215(2) the master and any other person who, having reason to believe that the ship is so loaded, sends, or is party to sending, the ship to sea commits an offence and is liable —

(a) on summary conviction to a fine of ten thousand dollars or to imprisonment for one year, or to both; or

(b) on conviction on indictment to a fine of fifty thousand dollars, or to imprisonment for a term of three years, or to both.

(5) An owner or master who contravenes section 228(a) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(6) A person who contravenes section 228(b) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(7) It is a defence for a person charged with an offence under subsection (5) or (6) to show that the person had reasonable excuse for the contravention.

(8) A person who —

(a) intentionally alters a certificate referred to in this Part;

(b) falsely makes a certificate referred to in this Part;

(c) in connection with any survey required by this Part knowingly or recklessly furnishes false information;

(d) with intent to deceive, uses, lends, or allows to be used by another, a certificate referred to in this Part; or

(e) fails to surrender as directed a certificate required to be surrendered under section 225(5),

commits an offence and is liable —

(i) on summary conviction to a fine of five thousand dollars; or

(ii) on conviction on indictment to a fine of fifteen thousand dollars, or to imprisonment for a term of three years, or to both.

PART 10 - CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

General

Definitions in Part 10

232. In this Part, "**grain**" includes wheat, maize, corn, oats, rye, barley, rice, pulses, seeds and processed forms of grain, which is similar to that of grain in its natural state.

Application

233. (1) Unless expressly provided otherwise, this Part applies to all ships to which the *Safety Convention* applies and to cargo ships of less than five hundred gross tonnage.

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

(3) This Part and any regulations made under section 237 respecting dangerous goods shall apply to all Cayman Islands ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers, at any place in the Islands as they apply to Cayman Islands ships.

Carriage of Grain and Other Bulk Cargoes

Bulk cargo regulations

234. The Cabinet may make such regulations as appear to it to be necessary in relation to or arising out of —

(a) the International Maritime Solid Bulk Cargoes Code (IMSBC Code) issued by the Organization and as amended, modified or replaced from time to time and as extended to the Islands and the safe carriage and stowage of bulk cargoes; and

(b) the safe carriage and stowage of grain in compliance with the Safety Convention.

Carriage of grain

235. (1) Where grain is loaded on board any Cayman Islands ship, or is loaded within any port in the Islands on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting, and if such precautions are not taken —

(a) the owner or the master of the ship, or any agent of the owner who was charged with the loading, or with sending the ship to sea laden with the grain, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars; and

(b) the ship shall be deemed, for the purposes of Part 11, to be unsafe by reason of improper loading.

(2) Where a ship, having been loaded with grain outside the Islands without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in the Islands so laden —

(a) the owner or master of the ship commits an offence and is liable on summary conviction to a fine of twenty thousand dollars; and

(b) the ship shall be deemed, for the purposes of Part 11, to be unsafe by reason of improper loading.

(3) No offence is committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master, owner nor charterer, if any, could have prevented or forestalled.

Delivery of notice and offence

236. On the arrival at a port in the Islands from a port outside the Islands of any ship carrying a cargo of grain, the master shall cause to be delivered to a customs and control officer, a notice stating —

(a) the draught of water and freeboard of the ship after the loading of its cargo was completed at the final port of loading; and

(b) the following particulars of the grain carried —

(i) the kind of grain and the quantity thereof, stated in cubic feet, quarters, bushels, or tons weight;

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting,

and if the master —

(i) fails to deliver any notice required by this subsection; or

(ii) in any such notice makes a statement that the master knows to be false in a material particular, or recklessly makes any statement that is false in a material particular,

the master commits an offence and is liable on summary conviction to a fine of two thousand dollars.

Dangerous Goods

Dangerous goods regulations

237. (1) The Cabinet may make regulations as appear to it to be necessary in relation to, or arising out of the International Maritime Dangerous Goods Code of the Organization as amended, modified or replaced from time to time and as extended to the Islands and the carriage of dangerous goods.

(2) The Cabinet may, in particular, by regulations, prescribe —

(a) the method of packing and stowing dangerous goods;

(b) the quantity of such goods which may be carried in any ship;

(c) the place or places within a ship in which they may be carried;

(d) the marking that is to be placed on any package or container in which goods may be placed for shipment; and

(e) the precautions to be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the regulations.

Carriage and marking of dangerous goods

238. (1) A person shall not send any dangerous goods, by, or carry in a Cayman Islands ship, except in accordance with this Part and regulations made under section 237.

(2) A person shall not send by or carry in a Cayman Islands ship any dangerous goods without —

(a) first distinctly marking their nature on the outside of their outermost package in accordance with such regulations as the Cabinet may make; and

(b) first giving written notice of the nature of such goods and of the name and address of the sender of the goods to the master or owner of the ship.

Offence relating to dangerous goods

239. (1) A person who contravenes this Part with respect to dangerous goods, including regulations made under section 237, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

(2) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods within a ship, that ship shall be deemed, for the purposes of Part 11, to be unsafe by reason of improper loading.

Rejection and disposal of dangerous goods by ship

240. (1) The master or owner of a ship may refuse to take on board any package or parcel that the master or owner suspects might contain any dangerous goods and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board any ship without the marking or the written notice described in section 238, the master or owner of the ship may cause the goods, together with any package or container of the dangerous goods, to be thrown overboard.

(3) Neither the master nor the owner of the ship is subject to civil or criminal liability in any court in respect of any action taken under subsection (2).

Forfeiture of dangerous goods

241. (1) Where any dangerous goods have been sent by or carried in any ship in a manner that constitutes an offence under this Part, the Court may order the goods, and any packaging or container of the dangerous goods, to be forfeited.

(2) The Court may exercise the powers conferred by subsection (1) notwithstanding that —

(a) the owner of the goods concerned has not committed any offence in respect of the goods, is not before the Court or has had no notice of the proceedings; and

(b) there is no evidence to show to whom the goods belong,

but the Court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

PART 11 - UNSAFE SHIPS

Power to detain unsafe ships

242. (1) Subject to subsection (3), where the Chief Executive Officer has reason to believe that any ship, being in any port in the Islands or at sea in Cayman Islands waters, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in subsection (2) unfit to remain at sea or proceed to sea having regard to the nature of the service for which it is intended, the ship shall be detained in accordance with section 422.

(2) The matters referred to in subsection (1) are —

(a) the condition, or the unsuitability for its purpose, of —

(i) the ship or its machinery or equipment; or

(ii) any part of the ship or its machinery or equipment;

(b) undermanning;

(c) overloading or unsafe or improper loading; or

(d) any other matter relevant to the safety of the ship,

and the reference in subsection (1) to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

(3) Notwithstanding subsection (1), a ship other than a Cayman Islands ship that is exercising the right of innocent passage under the *United Nations Convention* on the *Law of the Sea 1982* shall not be detained.

Any question relating to reasonable cause and compensation

243. Any question relating to reasonable cause and compensation payable for the detention of the ship shall be determined in accordance with section 423 and section 424.

Owner and master liable in respect of unsafe ship

244. (1) If a ship which —

(a) is in a port in the Islands; or

(b) is a Cayman Islands ship,

is dangerously unsafe, then, subject to subsections (4) and (5), the master and the owner of the ship commit an offence.

(2) Where, at the time when a ship is unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed, whether wholly or in part, by a person or persons other than the owner, and have been so assumed by that person or, as applicable by each of those persons either —

(a) directly, under the terms of a charter party or management agreement made with the owner; or

(b) indirectly, under the terms of a series of charter parties or management agreements,

the reference to the owner in subsection (1) shall be construed as a reference to that other person or, as applicable, to each of those other persons.

(3) A person who commits an offence under this section is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

(4) It is a defence in proceedings for an offence under this section to prove that at the time of the alleged offence —

(a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or

(b) it was reasonable for such arrangements not to have been made.

(5) It also is a defence in proceedings for an offence under this section to prove —

(a) that, under the terms of one or more charter parties or management agreements entered into by the accused, the relevant responsibilities, namely —

(i) where the accused is the owner, the owner's responsibilities with respect to the matters relevant to the ship's safety; or

(ii) where the accused is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by the accused as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party to the agreement; and

(b) that, in all the circumstances of the case, the accused had taken such steps as it was reasonable for the accused to take, and exercised such diligence as it was reasonable for the accused to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a),

and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6).

(6) The matters referred to in subsection (6) are —

(a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

(b) the extent to which the accused was or was not able, under the terms of any such charter party or management agreement as is mentioned in subsection (5)(a) —

(i) to terminate it; or

(ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the accused to place himself or herself in that position.

(7) In this section —

"**management agreement**", in relation to a ship, means an agreement, other than a charter party or a contract of employment, under which the ship is managed, either wholly or in part, by a person other than the owner, whether on behalf of the owner or on behalf of some other person; and

"**relevant responsibilities**" shall be construed in accordance with subsection (5).

(8) References in this section to responsibilities being assumed by a person under the terms of a charter party or management agreement are references to the responsibilities being so assumed by the person whether or not the person has entered into a further charter party or management agreement providing for them to be assumed by some other person.

Use of unsafe lighters, etc.

245. (1) A person who uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of —

(a) the defective condition of its hull or equipment;

(b) overloading or improper loading; or

(c) under manning,

the vessel is dangerously unsafe, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

(2) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

Owner liable for unsafe operation of ship

246. (1) It is the duty of the owners of a ship to which this section applies to take all reasonable steps to ensure that the ship is operated in a safe manner.

(2) This section applies to —

(a) any Cayman Islands ship; and

(b) any ship which —

(i) is registered under the law of, or flies the flag of, any country other than the Cayman Islands; and

(ii) is within Cayman Islands waters while proceeding to or from a port in the Islands,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) A person who, being the owner of a ship to which this section applies, fails to discharge the duty imposed on the person by subsection (1), commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

(4) Where any such ship is chartered by demise, or is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 244, any reference to the owner of the ship in subsections (1) or (3) shall be construed as including a reference —

(a) to the charterer under the charter by demise;

(b) to any such manager as mentioned above; or

(c) if the ship is both chartered and managed as mentioned above, to both the charterer and any such manager,

and accordingly, the reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for the owner, the charterer or any such manager to take in the circumstances of the case.

PART 12 - WRECK AND SALVAGE

Definitions in Part 12

247. (1) In this Part —

"**damage to the environment**" means a substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

"**maritime casualty**" means a collision of vessels, stranding or other incident of navigation or other occurrence on board a vessel or external to it, resulting in material damage or imminent threat of material damage to a vessel or cargo;

"**payment**" means any reward, remuneration or compensation due under this Part;

"**property**" means any property not permanently and intentionally attached to the shoreline and includes freight at risk; and wherever the context so requires also includes a vessel, cargo, equipment and effects;

"**Receiver**" means the Receiver of Wreck appointed under section 248;

"**salvage**" includes, subject to the *Salvage Convention,* all expenses properly incurred by the salvor in the performance of the salvage services;

"***Salvage Convention***" means the *International Convention on Salvage 1989* as amended, modified or replaced from time to time and as extended to the Islands;

"**salvage operation**" means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters;

"**salvage services**" means services rendered in direct connection with salvage operations;

"**salvor**" means a person who renders salvage services;

"**vessel**" includes any ship, boat or any other description of vessel used in navigation; and

"**wreck**" includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either —

(a) found or taken possession of within the Islands' waters; or

(b) found or taken possession of beyond those waters and brought within those waters,

shall be treated as wreck for the purposes of this Part.

Wreck

Appointment and powers of Receiver of Wrecks

248. (1) The Governor, acting in the Governor's discretion, may appoint the Port Director as the Receiver of Wreck for the Islands, and in that capacity the Port Director shall exercise general direction and supervision over all matters relating to wreck and salvage.

(2) Sections 250, 251 and 252 apply in circumstances where a vessel is wrecked, stranded, in distress or at risk of causing damage to the environment at any place on or near the coasts of the Islands or any tidal water within Cayman Islands waters.

(3) Where any function is conferred on the Receiver by any of the sections specified under subsection (2), that function may be discharged by a customs and border control officer.

(4) A customs and border control officer discharging any such functions of the Receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the Receiver is required by this Part, be treated as the agent of the Receiver.

(5) A customs and border control officer discharging any functions under subsection (4) shall not be entitled to any fees payable to the Receiver, but shall not be deprived of any right to salvage to which the customs and border control officer would otherwise be entitled.

(6) In sections 250, 251 and 252, "**shipwrecked persons**", in relation to a vessel, mean persons belonging to the vessel.

Fees of Receiver

249. (1) There shall be paid to the Receiver the expenses properly incurred by the Receiver in the performance of the Receiver's duties and such fees in respect of such other matters as may be prescribed, and the Receiver shall not be entitled to any other remuneration.

(2) The Receiver shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect of such recovery as a salvor has in respect of salvage due to the Receiver and may, if the property in respect of which any such expenses and fees are due is not under arrest in any Court, seize or detain the property until the Receiver's expenses and fees are paid, or until security is given for the property to the Receiver's satisfaction.

(3) Whenever any dispute arises as to the amount payable to the Receiver in respect of expenses or fees, such dispute shall be determined by the Minister with responsibility for the Port, whose decision shall be final.

(4) All fees received by the Receiver, in respect of any services performed by the Receiver as such Receiver, shall be paid into the revenues of the Islands, and a separate account of the fees shall be kept and the moneys shall be applied in defraying any expenses incurred in carrying this Part into effect.

Duty of Receiver where vessel in distress

250. (1) In circumstances in which this section applies to any vessel, the Receiver shall, on being informed of the circumstances —

(a) without delay proceed to the place where the vessel is;

(b) take command of all persons present; and

(c) assign such duties and give such directions to each person as the Receiver thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.

(2) The Receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless the Receiver is requested to do so by the master.

(3) Subject to subsection (2), a person who intentionally disobeys the direction of the Receiver commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Powers of Receiver in case of vessel in distress

251. (1) In circumstances where this section applies to any vessel, the Receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment require —

(a) such persons as the Receiver necessary to assist the Receiver;

(b) the master, or other person having the charge of any vessel near at hand, to give such assistance with men or vessel, as may be in the master or person's power; and

(c) the use of any vehicle that may be near at hand.

(2) A person who refuses, without reasonable excuse, to comply with a requirement made under subsection (1), commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Power to pass over adjoining land

252. (1) In circumstances where this section applies to any vessel, all persons, subject to subsections (3) and (4), for the purpose of —

(a) rendering assistance to the vessel;

(b) saving the lives of shipwrecked persons; or

(c) saving the cargo or equipment of the vessel,

may pass and repass over any adjoining land, without being subject to interruption by the owner or occupier, and deposit on the land any cargo or other article recovered from the vessel.

(2) The right of passage conferred by subsection (1) is a right of passage with or without vehicles.

(3) Subsection (1) does not confer a right of passage where there is a public road equally convenient.

(4) The rights conferred by subsection (1) shall be exercised as to do as little damage as possible.

(5) Any damage sustained by an owner or occupier of land, in consequence of the exercise of the rights conferred by this section, shall be a charge on the vessel, cargo or articles in respect of, or by which, the damage is caused.

(6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.

(7) A person who, being the owner or occupier of any land —

(a) impedes or hinders any person in the exercise of the rights conferred by this section;

(b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or

(c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

commits an offence and is liable on summary conviction to a fine of three thousand dollars.

Duties of finder, etc., of wreck

253. (1) A person who finds or takes possession of any wreck in Cayman Islands waters or finds or takes possession of any wreck outside Cayman Islands waters and brings it within those waters shall —

(a) if the person is the owner of it, give notice to the Receiver stating that the person has found or taken possession of it and describing the marks by which it may be recognised; or

(b) if the person is not the owner of it, give notice to the Receiver that person has found or taken possession of it and, as directed by the Receiver, either hold it to the Receiver's order or deliver it to the Receiver.

(2) A person who fails, without reasonable excuse, to comply with subsection (1), commits an offence and is liable on summary conviction to a fine of four

thousand dollars and, if the person is not the owner of the wreck, the person shall also —

(a) forfeit any claim to salvage; and

(b) be liable to pay twice the value of the wreck —

(i) if it is claimed, to the owner of it; or

(ii) if it is unclaimed, to the person entitled to the wreck.

(3) Any sum payable under subsection (2)(b) to the owner of the wreck or to the persons entitled to the wreck may be recovered summarily as a civil debt.

Provisions as respects cargo, etc.

254. (1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of the Islands, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the Receiver.

(2) A person who, whether the owner or not —

(a) conceals or keeps possession of any such cargo or article; or

(b) refuses to deliver any such cargo or article to the Receiver or to a person authorised by the Receiver to require delivery,

commits an offence and is liable on summary conviction to a fine of four thousand dollars.

(3) The Receiver or a person authorised by the Receiver may take any such cargo or article, if necessary by force, from any person who refuses to deliver it.

Receiver to give notice of wreck

255. (1) Where the Receiver takes possession of any wreck the Receiver shall, within forty-eight hours —

(a) make a record describing the wreck and any marks by which it is distinguished; and

(b) if, in the Receiver's opinion, the value of the wreck exceeds ten thousand dollars, also transmit a similar description to the Port Director.

(2) The record made by the Receiver under subsection (1)(a) shall be kept by the Receiver available for inspection by any person during reasonable hours without charge.

Claims of owners to wreck

256. (1) The owner of any wreck in the possession of the Receiver who establishes the owner's claim to the wreck to the satisfaction of the Receiver within one year from the time when the wreck came into the Receiver's possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to owner.

(2) Where —

(a) a foreign ship has been wrecked on or near the coasts of the Islands; or

(b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of the Islands are found on or near the coast or are brought into any port,

the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.

(3) In subsection (2), "**appropriate consular officer**", in relation to a foreign ship, means the consul general of the country to which the ship or, as applicable, the owners of the cargo, may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

Immediate sale of wreck in certain cases

257. (1) The Receiver may, at any time, sell any wreck in the possession of the Receiver if, in the Receiver's opinion —

(a) it is under the value of ten thousand dollars;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value to pay for storage.

(2) The proceeds of sale shall, after defraying the expenses of the sale, be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Right of Government to unclaimed wreck

258. The Government is entitled to all unclaimed wreck found in the Islands or in Cayman Islands waters.

Notice of unclaimed wreck to be given to persons entitled

259. (1) A person who is entitled to an unclaimed wreck found at any place in the Islands or in Cayman Islands waters shall give the Receiver a statement containing the particulars of the person's entitlement and specifying an address to which notices may be sent.

(2) Where a statement has been given to the Receiver under subsection (1) and the entitlement is proved to the satisfaction of the Receiver, the Receiver shall, on taking possession of any wreck found at a place to which the statement refers, within forty-eight hours, send to the specified address a description of the wreck and of any marks distinguishing it.

Disposal of unclaimed wreck

260. (1) Where, as respects to any wreck found in the Islands or in Cayman Islands waters and in the possession of the Receiver, no owner establishes a claim to it within one year after it came into the Receiver's possession, the wreck shall be dealt with as provided in subsections (2) to (6).

(2) If a wreck is claimed by a person who has delivered the statement required by section 259 and has proved to the satisfaction of the Receiver the person's entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.

(3) If the wreck is not claimed by a person in accordance with section 259, the Receiver shall sell the wreck and pay the proceeds as directed by subsection (6), after making the deductions required by subsection (4) and paying to the salvors the amount of salvage determined under subsection (5).

(4) The amounts to be deducted by the Receiver are —

(a) the expenses of the sale;

(b) any other expenses incurred by the Receiver; and

(c) the Receiver's fees.

(5) The amount of salvage to be paid by the Receiver to the salvors shall be such amount as the Minister directs generally or in the particular case.

(6) The proceeds of sale, after making those deductions and salvage payments, shall be paid by the Receiver into the revenue of the Islands.

Effect of delivery of wreck, etc., under this Part

261. (1) The delivery of a wreck or payment of the proceeds of sale of wreck by the Receiver under this Part shall discharge the Receiver from all liability in respect of the delivery or payment.

(2) The delivery of a wreck by the Receiver under this Part shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

Offence of taking wreck to foreign port

262. (1) A person commits an offence if the person takes into a foreign port and sells —

(a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of the Islands or any tidal water within Cayman Islands waters;

(b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or

(c) any wreck found within the waters referred to in paragraph (a).

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years.

Offence of interfering with wrecked vessel or wreck

263. (1) Subject to subsection (2), a person commits an offence if, without the permission of the master, the person boards or attempts to board any vessel which is wrecked, stranded or in distress.

(2) No offence is committed under subsection (1) if the person is the Receiver or a person lawfully acting as the Receiver or if the person acts by command of the Receiver or a person so acting.

(3) A person commits an offence if —

(a) the person impedes, hinders or attempts to impede or hinder the saving of —

(i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck;

(b) the person conceals any wreck;

(c) the person defaces or obliterates any mark on a vessel; or

(d) the person wrongfully carries away or removes —

(i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck.

(4) The master of a vessel may forcibly repel a person committing or attempting to commit an offence under subsection (1).

(5) A person who commits an offence under this section is liable on summary conviction —

(a) in the case of an offence under subsection (1), to a fine of three thousand dollars; and

(b) in the case of an offence under subsection (3), to a fine of four thousand dollars.

Powers of entry, etc.

264. (1) Where the Receiver has reason to believe that —

(a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or

(b) any wreck is being otherwise improperly dealt with,

the Receiver may apply to the Court for a search warrant.

(2) Where a search warrant is granted under subsection (1) to the Receiver, the Receiver may, by virtue of the warrant —

(a) enter any house, or other place wherever situated, or any vessel; and

(b) search for, seize and detain any wreck found there.

(3) If any seizure of a wreck is made under this section in consequence of information given by any person to the Receiver, the person giving the information shall be entitled, by way of salvage, to a sum not exceeding two hundred dollars as the Receiver may allow.

Release of goods from customs control

265. (1) The Director of Customs and Border Control shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.

(2) The Director of Customs and Border Control shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which they were shipped.

(3) In this section, "**goods**" include wares and merchandise.

Salvage

Force of law of Salvage Convention

266. The *Salvage Convention* has the force of law in the Islands.

Non-application to platforms and drilling units

267. Sections 269 to 302 do not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Non-application to foreign state-owned vessels

268. (1) Sections 269 to 302 do not apply to warships or other non-commercial vessels owned or operated by a foreign state and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that state has decided to apply the *Salvage Convention* to such ships or vessels.

(2) For the purposes of any proceedings under this Act, a certificate signed by the Secretary General of the Organization, setting out a state's decision to apply the Convention to ships and vessels referred to in subsection (1) and the terms and conditions of such application, shall be prima facie evidence of the facts stated therein.

Life salvage

269. (1) Where services are rendered —

(a) wholly or in part in Cayman Islands waters, in saving life from any vessel; or

(b) outside Cayman Islands waters, in saving life from any Cayman Islands vessel,

the owner of the vessel, cargo or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel, shall have priority over all other claims for salvage.

(3) Salvage shall not be due from a person whose life has been saved.

Salvage of cargo

270. (1) Where a vessel is wrecked, stranded or in distress in Cayman Islands waters or on the shores of the Islands and services are rendered —

(a) by a person assisting the vessel or saving the cargo or equipment of the vessel or any part thereof; or

(b) by a person other than the Receiver in saving any wreck,

the owner of the vessel, cargo, equipment or wreck shall pay to the salvor a reasonable amount of salvage, the amount of which is to be determined in the manner set out in this Part.

(2) A salvor of human life, who has participated in services rendered in the event of a maritime casualty giving rise to salvage, shall be entitled to a fair share of the remuneration awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

Services excluded from salvage remuneration

271. Nothing in this Part shall entitle a person to salvage remuneration —

(a) in respect of salvage services rendered contrary to any express and reasonable prohibition of such services on the part of the vessel or aircraft or by the owner of property to which the services are rendered;

(b) in respect of services rendered by a tug to, or in respect of, the vessel or aircraft which it is towing or the cargo thereof, except where those services are of an exceptional character as are outside the scope of the contract of towage;

(c) if the person has caused the distress giving rise to the salvage, either intentionally or through negligence; or

(d) if and to such extent as it appears that the person has concealed or unlawfully disposed of any property salved.

Conditions for salvage remuneration

272. (1) Except as otherwise provided in section 281, remuneration shall not be due under this Act if the salvage operations had no useful result.

(2) A salvor shall be entitled to remuneration under this Part notwithstanding that the vessel performing the salvage operation and the vessel, cargo or other property salved belong to the same owner.

Salvage contracts

273. (1) Sections 269 to 299 apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Cayman Islands vessel has the authority to conclude contracts for salvage operations on behalf of the owner of the vessel, and the master and the owner of a Cayman Islands vessel has the authority to conclude contracts on behalf of the owner of property on board the vessel.

(3) Nothing in this section shall affect the application of section 274 or the duties to prevent or minimise damage to the environment provided in sections 275(b) and 276(b).

Annulment or modification of contracts

274. Any contract relating to salvage or any terms of the contract may be annulled or modified by the Court, where it appears to the Court that —

(a) the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or

(b) the payment under the contract is too large or too small for the services actually rendered.

Duties of salvor

275. A salvor owes a duty to the owner of the vessel or other property in danger to —

(a) carry out the salvage operation with due care;

(b) exercise due care to prevent or minimise damage to the environment in performing the duty specified in paragraph (a);

(c) seek assistance from other salvors whenever the circumstances reasonably so require; and

(d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or the owner of other property in danger and, in such case, the amount of the salvor's reward shall not be prejudiced where the salvor proves that such a request was unreasonable.

Duties of owner and master

276. The owner and master of the vessel or the owner of other property in danger owes a duty to a salvor —

(a) to co-operate fully with the salvor during the course of the salvage operations;

(b) in performing the duty specified in paragraph (a) to exercise due care to prevent or minimise damage to the environment; and

(c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

Powers of Receiver

277. (1) The Receiver may —

(a) give directions in relation to any salvage operation; and

(b) take measures in accordance with generally recognised principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

(2) The Receiver shall, in giving directions and taking measures under subsection (1), take into account the need for cooperation between salvors, other interested parties and the public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

(3) A public officer or other person acting under directions as referred to in this section is under a duty to exercise due care in preventing or minimising damage to the environment.

(4) A public authority or an officer of a public authority who is reasonably within the vicinity of a vessel or person in distress or danger of being lost at sea shall render assistance to salve the vessel and life by cooperating in —

(a) the procurement and provision of facilities to salvors;

(b) the admittance to the port of vessels in distress;

(c) ensuring the efficient and successful performance of the salvage operation for the purpose of salving life or property; and

(d) preventing or minimising damage to the environment.

Criteria for fixing salvage rewards

278. Salvage rewards shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are listed —

(a) the salvage value of the vessel and other property;

(b) the skill and efforts of the salvors in preventing or minimising damage to the environment;

(c) the measure of success achieved by the salvor;

(d) the nature and degree of the danger;

(e) the skill and efforts of the salvors in salving the vessel, other property and life;

(f) the time used and the expenses and losses incurred by the salvors;

(g) the risk of liability and other risks run by the salvors or their equipment;

(h) the promptness of the services rendered;

(i) the availability and use of vessels or other equipment intended for salvage operations; and

(j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

Responsibility for payment of reward

279. (1) Payment of a reward fixed in accordance with section 278 shall be made by all of the owners of the vessel and other property interests in proportion to their respective salvage values.

(2) A ship owner, where the ship owner considers it necessary or practical, shall pay the reward on behalf of all interests referred to in subsection (1) subject to the ship owner's retaining the right to be reimbursed by these other interests.

(3) A ship owner who makes the payment under subsection (2) may require the other interests to provide security not exceeding the values of their respective salvage interests until the ship owner has been fully reimbursed.

Quantum of reward

280. The salvage reward, excluding any interest and recoverable legal costs that may be payable on the salvage awards, shall not exceed the salvage value of the vessel and other property salvaged.

Special compensation

281. (1) Where a salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2), the salvor shall be entitled to special compensation from the owner of that vessel equivalent to salvor's expenses as defined in subsection (4).

(2) Where, in the circumstances set out in subsection (1), the salvor by the salvor's salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of thirty per cent of the salvor's expenses incurred by the salvor.

(3) The Court or person determining an award may, where it or the Court or the person deems it fair and just, increase such special compensation further, taking into account the criteria set out in section 278, but in no event shall the total increase be more than one hundred per cent of the expenses incurred by the salvor.

(4) In subsections (1) and (2), the term "**salvor's expenses**" mean the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in section 278(h), (i) and (j).

(5) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 278.

(6) Where the salvor, in carrying out the salvage operations, has acted negligently and has thereby failed to prevent or minimise damage to the environment, the salvor may be deprived of the whole or a part of any special compensation payable under this section.

(7) Nothing in this section shall affect any right of recourse available to the owner of the vessel.

Services rendered under existing contract

282. A payment is not due under this Part unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

Apportionment between salvors

283. (1) The apportionment between salvors of a reward fixed under section 278 shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the State in which the vessel is registered.

(3) Where the salvage referred to in subsection (1) has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and the salvor's servant; and, in the absence of formal contract, the Court or person determining the apportionment and disbursement shall apply general principles of law and equity according to the merits of the case in order to reach a just and equitable decision.

Salvor's misconduct

284. A salvor may be deprived of the whole or part of the payment due to the salvor under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on the salvor's part or if the salvor has been guilty of fraud or other dishonest conduct.

Maritime lien

285. Nothing in this Part shall affect the salvor's maritime lien under any law of the Islands, provided, however, that the salvor may not enforce the salvor's maritime lien when reasonable security for the salvor's claim, including interest and costs, has been tendered or provided.

Duty to provide security

286. (1) A person liable for a payment under this Part shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

(2) Without prejudice to subsection (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owner of the cargo provides security to the satisfaction of the owner of the vessel or of the salvor for the claims against them, including interest and costs, before the cargo is released.

(3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operation until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.

(4) In the event of any dispute between —

(a) a salvor and a person liable for a payment under this Part; or

(b) the owner of the vessel and the owner of the cargo referred to in subsection (2),

relating to the security to be provided under this section, a tribunal having jurisdiction over the salvors' claim may, upon the application of any such party in that behalf, decide the amount and the terms of such security.

Interim payment

287. (1) The Court or person adjudicating a claim of a salvor may, upon the application of the salvor, make an interim order for payment to the salvor of such amount as the Court or person may deem fair and just and on such terms, including terms as to security where appropriate, as may be fair and just in the circumstances of the case.

(2) In the event of any interim payment under subsection (1), the security provided under section 286 shall be reduced accordingly.

State-owned cargoes

288. Non-commercial cargoes, owned by a state and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law, shall not be subject to seizure, arrest or detention by any legal process, or to any in rem proceedings, without the express consent of the state owner of such cargo.

Humanitarian cargoes

289. Humanitarian cargoes donated by a state are not subject to seizure, arrest or detention, where that state has agreed to pay for salvage service rendered in respect of such humanitarian cargoes.

Determination of salvage dispute

290. The Court or the arbitrators to whom a dispute as to salvage is referred for determination may, for the purpose of determining any such dispute, call to their assistance, as an assessor, a person knowledgeable in maritime affairs and there shall be paid as part of the costs of the proceedings to every such assessor in respect of the services of the assessor such sum as may be prescribed.

Appeal in case of salvage disputes

291. Where a dispute relating to salvage has been determined by the Court or by arbitration, any party aggrieved by the decision may appeal from the determination, in the same manner as in the case of any other judgment.

Valuation of property salvaged

292. (1) Where any dispute relating to salvage arises, the Receiver may, on the application of either party to the dispute, appoint a valuer to value the property, and when the valuation has been made, shall give copies of the valuation to both parties.

(2) A copy of the valuation purporting to be signed by the valuer and certified as a true copy by the Receiver, shall be admissible as evidence in any subsequent proceedings.

(3) Such fee as the Chief Executive Officer may direct shall be paid in respect of any valuation made under this section by the person applying for the valuation.

Detention of property liable to salvage

293. (1) Where salvage is due to a person under this Part, the Receiver shall —

(a) where the salvage is due in respect of services rendered in assisting any vessel, in saving life from the vessel or in saving the cargo or equipment of the vessel, detain the vessel or cargo or equipment; and

(b) where the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Part, detain the wreck.

(2) Subject to subsection (3), the Receiver shall detain the vessel and the cargo and equipment or the wreck, as applicable, until payment is made for salvage or process is issued for the arrest or detention of the property by the Court.

(3) The Receiver may release any property detained under subsection (2) where security is given to the Receiver's satisfaction, and any question is raised as to the sufficiency of the security to the satisfaction of the Court.

(4) Any security given for salvage in pursuance of this section may be enforced by the Court in the same manner as if bail had been granted in that Court.

Sale of detained property

294. (1) The Receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following circumstances —

(a) where the amount is not disputed and payment of the amount due is not made within twenty days after it has become due;

(b) where the amount is disputed but no appeal lies from the decision of the first Court to which the dispute was referred, and payment is not made within twenty days after the decision of the Court; or

(c) where the amount is disputed and an appeal lies from the decision of the first Court to which the dispute is referred, and within thirty days after the decision of the first Court neither payment of the sum due is made nor are proceedings commenced for an appeal.

(2) The proceeds of the sale of detained property shall, after payment of the expenses of the sale, be applied by the Receiver in payment of the expenses, fees and salvage, and any excess shall be paid to the owners of the property or any other persons entitled to it or, in the absence of any such owners or persons, into the revenue of the Islands.

(3) In this section, "**detained property**" means property detained by the Receiver under section 293(2).

Apportionment of salvage by Receiver

295. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in the Islands has been finally determined either by the Court in the manner provided by this Part or by agreement, but a dispute arises as to the apportionment of the salvage payable among several claimants, the person liable to pay such amount may apply to the Receiver for leave to pay it to that person.

(2) The Receiver shall, if the Receiver thinks fit, receive the amount referred to in subsection (1) and, if the Receiver does, the Receiver shall give to the person paying it a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate granted under subsection (2) shall be a full discharge and indemnity to the person by whom the amount was paid and to the person's vessel, cargo, equipment and effects, against the claims of all persons in respect of the services mentioned in the certificate.

(4) The Receiver shall promptly distribute any amount received by the Receiver under this section among the persons entitled to the amount on such evidence and in such shares and proportions as the Receiver thinks fit, and may retain any money which appears to the Receiver to be payable to any person who is absent.

(5) Any decision by the Receiver under subsection (4) shall be made on the basis of the criteria set out in section 278.

(6) A distribution of any amount made by the Receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Apportionment of salvage by Court

296. (1) Whenever —

(a) the aggregate amount of salvage payable in respect of salvage services rendered in the Islands has been finally determined and exceeds ten thousand dollars; or

(b) the aggregate amount of salvage payable in respect of salvage services rendered outside the Islands has been finally determined,

but, in either case, any delay or dispute arises as to the apportionment of the amount, the Court —

(i) may cause the amount to be apportioned among the persons entitled to it in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint a person to carry that apportionment into effect; and

(ii) may compel a person, in whose hands or under whose control the amount may be, to distribute such amount or to bring it into Court to be dealt with as the Court directs,

and for those purposes issue such process as it thinks fit.

(2) A decision of the Court under this section shall be made on the basis of the criteria set out in section 278.

Salvor's right to interest

297. A salvor shall be entitled to be paid interest on any payment due to the salvor under this Part and the amount of the interest shall be at the discretion of the Court or person adjudicating the case.

Application to the Government

298. (1) Where civil salvage services are rendered by or on behalf of the Government, or with the aid of Government property, the Government shall, subject to regulations made under section 299, be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies as any other salvor.

(2) Subject to any law relating to proceedings against the Government, and to any regulations made under section 299, this Part, except and to such extent as may be prescribed, shall apply in relation to salvage services rendered in assisting any ship of the Government, in saving life from the ship or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship, cargo or equipment belonged to a private person.

Salvage regulations

299. (1) The Cabinet may make such regulations as may be necessary to give effect to the *Salvage Convention* and in relation to salvage matters generally.

(2) The Cabinet may make regulations providing for the application or modification of this Part to ships referred to in section 298(2) and in relation to the services referred to in section 298(1).

Time limit for salvage proceedings

300. (1) No action shall be instituted in respect of any salvage services unless proceedings are commenced within two years after the date on which the salvage operations were terminated; but the Court may extend any such period to such extent and on such conditions as it considers fit.

(2) An action for indemnity by a person liable under this Part may be instituted within two years after the date of termination of the salvage operations, but the Court may extend the limitation period to such extent and on such conditions as it considers fit.

The common understanding regarding the reward and special compensation

301. In fixing a reward under sections 278, 279 and 280, and assessing special compensation under section 281, the Court or arbitrator is under no duty to fix a reward under sections 278, 279 and 280, up to the maximum salvage value of the vessel and other property, before assessing the special compensation to be paid under section 281.

Recourse for life salvage payment

302. (1) This section applies where —

(a) services are rendered wholly or in part in Cayman Islands waters in saving life from a vessel of any nationality or elsewhere in saving life from any Cayman Islands ship; and

(b) either —

(i) the vessel and other property are destroyed; or

(ii) the sum to which the salvor is entitled under section 270(2) is less than a reasonable amount for the services rendered in saving life.

(2) Where this section applies, the Minister may, if the Minister thinks fit, pay to the salvor such sum or, as applicable, such additional sum as the Minister thinks fit in respect of the services rendered in saving life.

PART 13 - CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS

Offences in connection with passenger ships

303. (1) A person commits an offence if, in relation to a ship to which this section applies —

(a) being drunk or disorderly, the person has been on that account refused admission to the ship by the owner or a person in the owner's employment, and, after having the amount of the person's fare (if the person has paid it) returned or tendered to the person, nevertheless persists in attempting to enter the ship;

(b) being drunk or disorderly on board the ship, the person is requested by the owner or a person in the owner's employment to leave the ship at any place in the Islands at which the owner or a person in the owner's employment can conveniently do so, and, after having the amount of the person's fare (if the person has paid it) returned or tendered to the person, does not comply with the request;

(c) on board the ship, after warning by the master or other officer of the ship, the person molests or continues to molest any passenger;

(d) after having been refused admission to the ship by the owner or a person in that person's employment on account of the ship being full, and having had the amount of the person's fare (if the person has paid it) returned or tendered to the person, the person nevertheless persists in attempting to enter the ship;

(e) having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or a person in that person's employment to leave the ship before it has left that place, and having had the amount of the person's fare (if the person has paid it) returned or tendered to the person, the person does not comply with that request;

(f) on arriving in the ship at a place to which the person has paid the person's fare, the person knowingly and intentionally refuses or neglects to leave the ship; or

(g) on board the ship the person fails, when requested by the master or other officer of the ship, either to pay the person's fare or show such ticket or other receipt, if any, showing the payment of the person's fare, as is usually given to persons travelling by and paying their fare for the ship,

but the person's liability, in respect of any such offence, shall not prejudice the recovery of any fare payable by the person.

(2) A person commits an offence if, on board any ship to which this section applies, the person intentionally does or causes to be done anything in such a manner as to —

(a) obstruct or damage any part of the machinery or equipment of the ship; or

(b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any ship to which this section applies, and all persons called by the master or officer to the master's or officer's assistance, may, without any warrant, detain any person who commits any offence against subsections (1) or (2) and whose name and address are unknown to the master or officer, and deliver that person to a constable.

(4) A person who commits an offence under subsections (1) or (2) is liable on summary conviction to a fine of two thousand dollars.

(5) A person who commits an offence against subsections (1) or (2), and on the application of the master of the ship, or any other person in the employment of the owner of the ship, refuses to give the person's name and address, or gives a false name or address, is liable on summary conviction to a fine of two thousand dollars.

(6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate, issued under or recognised by this Act.

Power to exclude drunken passengers from certain passenger ships

304. The master of a passenger ship may refuse to receive on board a person who, by reason of drunkenness or otherwise, is in such a state, or misconducts himself or herself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put the person on shore at any convenient place.

Stowaways

305. (1) A person who, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a Cayman Islands ship commits an offence and is liable on summary conviction to a fine of three thousand dollars.

(2) Nothing in section 436 shall be taken to limit the jurisdiction of any court in the Islands to deal with an offence under this section which has been committed in a country outside the Islands by a person who is not a Cayman Islands citizen.

Unauthorised presence on board

306. Where a Cayman Islands ship or a ship registered in any other country is in a port in the Islands and a person who is neither in the service of the Government of the Islands nor authorised by law to do so —

(a) goes on board the ship without the consent of the master or of any other persons authorised to give it; or

(b) remains on board the ship after being requested to leave by the master, a constable, an officer authorised by the Chief Executive Officer or a customs and border control officer,

the person commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Master's power of arrest

307. (1) The master of a Cayman Islands ship may cause any person on board the ship to be put under restraint if and for so long as it appears to the master necessary in the interest of safety or for the preservation of good order or discipline on board the ship.

(2) Any person who has been placed under restraint in accordance with subsection (1) may refer the matter to the Shipping Master who will decide as to the necessity of the actions of the master.

(3) If the Shipping Master decides that the actions of the master were not necessary the master and the ship owner shall both be liable to the person restrained for costs and damages as may be determined by a court of competent jurisdiction.

Unauthorised persons: offences relating to safety

308. (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship, sections 114 and 115 shall apply as if the person were a seafarer employed in the ship.

(2) Subsection (1) shall, in its application to section 114 so far as that section applies to ships which are not seagoing ships, have effect —

(a) with the omission of the words "**goes to sea in a ship**"; and

(b) with the insertion, after the words "**to give it**", of the words "is on board a ship while it is on a voyage or excursion".

Passenger returns to be made by master

309. (1) The master of every ship, whether or not a Cayman Islands ship, which carries any passenger to a place in the Islands from any place outside of the Islands, or from any place in the Islands to any place outside of the Islands, shall furnish to the person and in such manner as the Chief Executive Officer directs —

(a) a return giving the total number of any passengers so carried;

(b) the total number of any class of passengers so carried; and

(c) such particulars with respect to passengers as may be for the time being required by the Chief Executive Officer.

(2) Any passenger shall furnish the master of the ship with any information required by the master of the ship for the purpose of the return.

(3) If —

(a) the master of a ship fails to make a return as required by this section, or makes a false return; or

(b) a passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which the passenger knows to be false or recklessly gives to the master of the ship information which is false,

the master or passenger commits an offence and is liable on summary conviction to a fine of —

(i) two thousand dollars in the case of a failure or refusal; and

(ii) three thousand dollars in the case of a false return or false information.

Returns of births and deaths in ships, etc.

310. (1) The Cabinet may make regulations under subsections (2) to (10) in relation to births and deaths in the circumstances specified in those subsections.

(2) Regulations under this section may require the master of any Cayman Islands ship to make a return to the master of the ship of —

(a) the birth or death of a person occurring in the ship; and

(b) the death of a person employed in the ship, wherever occurring outside the Islands,

and to notify any such death to such person, if any, as the deceased may have named to the master as next of kin.

(3) Regulations under this section may require the master of any ship not registered in the Islands which calls at a port in the Islands in the course of or at the end of a voyage to make a return to the Shipping Master of any birth or death of a Cayman Islands citizen which has occurred in the ship during the voyage.

(4) The returns referred to in subsections (2) and (3) shall be for transmission to the Shipping Master as soon as may be possible following the event of birth or death as the case may be.

(5) Regulations under this section may require the Shipping Master to record such information as may be specified in the regulations about such a death as is referred to in subsection (2) in a case where —

(a) it appears to the Shipping Master that the master of the ship cannot perform the master's duty under that subsection because the master has died, is incapacitated or missing; and

(b) any of the circumstances specified in subsection (6) exist.

(6) The circumstances referred to in subsection (5)(b) are that —

(a) the death in question has been the subject of —

(i) an inquest held by a coroner; or

(ii) an inquiry held under section 439,

and the findings of the inquest or inquiry include a finding that the death occurred; or

(b) the deceased's body has been the subject of a post-mortem examination and in consequence the coroner is satisfied that an inquest is unnecessary.

(7) Regulations under this section may require the Shipping Master to send a certified copy of any return or record made under the Regulations to the Registrar General for the Islands.

(8) Regulations under this section may make a contravention of any provision of the Regulations an offence punishable on summary conviction with a fine of four thousand dollars.

(9) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside the Islands in

circumstances where no return is required to be made under subsections (1) to (8) —

(a) any birth or death of a Cayman Islands citizen which occurs in a ship not registered in the Islands;

(b) any death of any such citizen who has been employed in a ship not registered in the Islands which occurs elsewhere than in the ship; or

(c) any death of a person who has been employed in a Cayman Islands ship which occurs elsewhere than in the ship.

(10) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

PART 14 - LIABILITY AND COMPENSATION

Chapter 1 - General

Definitions in Part 14

311. In this Part —

"***Athens Convention***" means the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974 and the Protocol of 1976 relating thereto as amended, modified or replaced and as extended to the Islands;

"***Athens Protocol of 2002***" means the *Protocol of 2002* to the *Athens Convention* Relating to the Carriage of Passengers and their Luggage by Sea 1974 as amended, modified or replaced and as extended to the Islands;

"***Bunkers Convention***" means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 as amended, modified or replaced and as extended to the Islands;

"**bunker oil**" means any hydrocarbon mineral oil, including lubricating oil which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;

"***Fund Convention***" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 as amended and as extended to the Islands;

"***Fund Protocol of 2003***" means the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 as amended, modified or replaced and as extended to the Islands;

"**gross tonnage**" means the gross tonnage as determined under the International Convention on Tonnage Measurement of Ships 1969 as amended, modified or replaced and as extended to the Islands;

"***HNS Protocol of 2010***" means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 and the Protocol of 2010 to the Convention as amended, modified or and as extended to the Islands;

"**Insurer**" means any person providing insurance or other financial security to cover an owner's liability of the kind described in sections 350 and 389;

"***Limitation of Liability Convention***" means the *Protocol of 1996* to amend the *Convention on Limitation of Liability for Maritime Claims 1976* as may be amended, modified or replaced and as extended to the Islands;

"***Liability Convention***" means the International Convention on Civil Liability for Oil Pollution Damage 1992 as amended, modified or replaced and as extended to the Islands;

"**pollution damage**" means loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil or bunker oil from the ship wherever such escape or discharge may occur provided that compensation for the impairment of the environment other than loss of profit from such impairment shall be limited —

(a) to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(b) the costs of preventive measures and further loss or damage caused by preventive measures;

"**oil**" means persistent hydrocarbon mineral oil except —

(a) when used in relation to bunker oil; or

(b) in sections 396 and 397;

"**preventive measures**" means any reasonable measures taken by a person after an incident has occurred to prevent or minimize pollution damage;

"**relevant threat of contamination**" means a grave and imminent threat of pollution damage being caused outside a ship by contamination resulting from a discharge or escape of oil, including bunker oil, from the ship;

"**SDR**" means Special Drawing Rights as adopted by the International Monetary Fund; and

"***Wreck Removal Convention***" means the Nairobi International Convention on the Removal of Wrecks 2007 as amended, modified or replaced and as extended to the Islands.

Force of law of Conventions

312. (1) The following Conventions and Protocols have the force of law in the Islands and in relation to Cayman Islands ships —

(a) the *Athens Convention*;

(b) the *Bunkers Convention*;

(c) the *Fund Convention*;

(d) the *Limitation of Liability Convention*;

(e) the *Liability Convention*; and

(f) the *Wreck Removal Convention*.

(2) The relevant provisions of this Part shall be construed in accordance with the Conventions and Protocols in subsections (1) and (3) as soon as they are extended to the Islands, and in the event of any incompatibility or inconsistency between these Conventions and Protocols and this Part, the Conventions and Protocols shall prevail.

(3) The following Conventions and Protocols shall have the force of law in the Islands and in relation to Cayman Islands ships once they are extended to the Islands —

(a) the *Athens Protocol of 2002*;

(b) the *HNS Protocol of 2010*; and

(c) the *Fund Protocol of 2003*.

(4) If His Majesty, by Order in Council, declares that any State specified in the Order is a party to any of the Conventions and Protocols referred to in subsections (1) and (3) in respect of any country so specified, the Order shall, while in force, for the purposes of this Part, be conclusive evidence that that State is a party to that Convention or Protocol in respect of that country.

Saving for recourse actions

313. Nothing in this Part shall prejudice any right of recourse against third parties.

Exceptions from liability under Chapter 3, 4 and 7

314. (1) No liability shall be incurred by a defendant under Chapters 3, 4 and 7 by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that subsection (2) applies.

(2) Subsection (1) applies if the discharge or escape or the relevant threat of contamination—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the defendant, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Liability under Chapter 3, 4 and 7

315. For the purposes of Chapter 3, 4 and 7 —

(a) references to a discharge or escape of oil or bunker oil from a ship are references to such a discharge or escape wherever it may occur;

(b) references to a discharge or escape of oil from a ship include a discharge or escape of oil carried in the bunkers of the ship;

(c) where more than one discharge or escape of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and

(d) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

Other financial security

316. Where under any section of this part an owner's liability requires a contract of insurance to be provided by an insurer the Chief Executive Officer, at the Chief Executive Officer's discretion, may approve some other financial security such as the guarantee of a bank or similar financial institution to cover that liability, if satisfied that —

(a) the amount of financial security is sufficient to cover the owner's full liability under that section; and

(b) any provider of financial security against the owner's liability has been accepted as providing such financial security by the Secretary of State for Transport of the United Kingdom.

Extinguishment of claims

317. (1) Any action to enforce a claim in respect of a liability incurred under section 382, 341 or 348 shall be entertained by a court in the Islands only where the action is commenced not later than —

(a) three years from the date when the damage or relevant threat of contamination occurred; or

(b) six years from the date of the incident which caused the damage or relevant threat of contamination.

(2) Where an incident referred to in subsection (1) consists of a series of occurrences, the six year period shall run from the date of the first such occurrence.

Cabinet may make regulations for this Part

318. The Cabinet may make such regulations as may appear to it to be necessary to give effect to the Conventions and Protocols in this Part and also relating to —

(a) the Islands;

(b) Cayman Islands ships; or

(c) foreign ships.

Chapter 2 - Limitation and Division of Liability for Maritime Claims

Definitions in this Chapter

319. In this Chapter —

"**carriage**" has the meaning assigned in section 358(2);

"**salvage operation**" includes the operations referred to in section 321(1)(d), (e) and (f);

"**salvage services**" means services rendered in direct connection with salvage operations;

"**salvor**" means a person rendering salvage services; and

"**shipowner**" means the registered owner, bareboat charterer, manager and operator of the ship.

Persons entitled to limit liability

320. (1) Shipowners and salvors may limit their liabilities in accordance with this Chapter.

(2) An insurer of liability for claims subject to limitation under this Chapter shall be entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default the shipowner or salvor is responsible may limit the person's liability in accordance with this Chapter.

(4) For the purposes of this Chapter, the liability of a shipowner shall include any liability in an action brought against the ship.

(5) For the purposes of this Chapter, the act of invoking limitation shall not constitute an admission of liability.

Claims subject to limitation

321. (1) Subject to sections 322 and 323, the following claims shall be subject to limitation of liability regardless of the basis of liability —

(a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to —

(i) harbour works;

(ii) basins and waterways; and

(iii) aids to navigation,

occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting from the loss of life, personal injury, loss of or damage to property;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship; and

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit the person's liability in accordance with this Chapter and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, but the claims referred to in subsections (1)(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

(3) Subsection (1)(d) shall not apply unless Cabinet, provides by Order, for the establishment and management of a fund to be used by the Port Authority to make payments needed to compensate it for the reduction, in consequence of subsection (1)(d), of amounts recoverable by dues or levies collected by the Port Authority in respect of vessels in like manner as other sums raised by it.

(4) An Order made under subsection (3) may contain such incidental and supplemental provisions as appear to the Cabinet to be necessary.

Claims excepted from limitation

322. Limitation of liability under this Chapter shall not apply to the following claims —

(a) for salvage, including special compensation under section 281;

(b) for contribution in general average;

(c) by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including —

(i) claims of their heirs;

(ii) dependants; or

(iii) other persons entitled to make such claims,

if, under the contract of service between the shipowner or salvor and such servants, the shipowner or salvor is not entitled to limit the shipowner's or salvor's liability in respect of such claims, or if the shipowner or salvor is under such contract only permitted to limit shipowner's or salvor's liability to an amount greater than that provided for in section 325;

(d) for oil pollution damage in respect of any liability incurred under section 382;

(e) subject to any law applicable in the Islands governing or prohibiting limitation of liability for nuclear damage; or

(f) against the shipowner of a nuclear ship for nuclear damage.

Conduct barring limitation

323. A person liable shall not be entitled to limit the person's liability if it is proved that the loss resulted from the person's personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Counter claims

324. Where a person entitled to limitation of liability under this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and this Chapter shall only apply to the balance, if any.

Limitation calculations

325. (1) The limits of liability for claims, other than those provided for in section 327 arising on any distinct occasion, shall be calculated in accordance with paragraph 1 of Article 6 of the *Limitation of Liability Convention.*

(2) Where the amount calculated in accordance with paragraph 1(a) of Article 6 of the *Limitation of Liability Convention* is insufficient to pay the claims mentioned in paragraph 1(a) of Article 6 in full, the amount calculated in accordance with paragraph 1(b) of that Article shall be available for payment of the unpaid balance of claims under paragraph 1(a) of that Article and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b) of that Article.

(3) The limits of liability for any salvor not operating from a ship or for a salvor operating solely on the ship to, or in respect of which the salvor is rendering

salvage services, shall be calculated according to a gross tonnage of one thousand five hundred.

Limitation of liability of dock owners and the Port Authority

326. (1) This section applies in relation to the Port Authority and the owners of any dock.

(2) The liability of the Port Authority or a person to which this section applies for any loss or damage caused to —

(a) any ship;

(b) any goods;

(c) merchandise; or

(d) any other things,

on board ship shall be limited in accordance with subsection (5) by reference to the tonnage of the largest Cayman Islands ship which, at the time of the loss or damage is, or within the preceding five years has been, within the limits of a port over which the Port Authority has jurisdiction or person discharges any functions.

(3) The limitation of liability under this section relates to the whole of any losses and damages which may arise on any one distinct occasion, although such losses and damages may be sustained by more than one person, and the limitation shall apply whether the liability arises at common law or under any enactment, and notwithstanding anything contained in such enactment or the common law.

(4) This section does not exclude the liability of the Port Authority or a person to which it applies for any loss or damage resulting from any such personal act or omission of the Port Authority or person as is mentioned in section 323.

(5) The limit of liability shall be ascertained by applying to the ship, by reference to which the liability is to be determined, the method of calculation specified in section 325(1).

(6) Sections 330 and 331 apply for the purposes of this section.

(7) For the purposes of subsection (2), a ship shall not be treated as having been within the limits of a port over which the Port Authority has jurisdiction by reason only that it has been built or fitted out, or that it has taken shelter within the limits of the port.

(8) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.

(9) In this section —

(a) "**dock**" includes, but is not limited to, wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, slips, quays, wharves, piers, stages, landing places and jetties; and

(b) "**owners of any dock**" means any person having the control and management of any dock.

Limits for passenger claims

327. (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 shall be an amount determined by paragraph 1 of Article 7 of the *Limitation of Liability Convention* multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate.

(2) In this section, "**claims for loss of life or personal injury to passengers of a ship**" mean any such claims brought by or on behalf of any person carried in that ship —

(a) under a contract of passenger carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

(3) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as applicable, issued under or recognised by this Act, the ship's certificate mentioned in subsection (1) shall be that certificate.

Conversion of special drawing rights

328. For the purpose of converting the amounts mentioned in sections 325 and 327 from SDR into dollars, the day of conversion shall be construed as the date on which the limitation fund was constituted or, if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

Aggregation of claims

329. (1) The limits of liability determined in accordance with section 325 shall apply to the aggregate of all claims which arise on any distinct occasion against —

(a) the owner and any person for whose act, neglect or default those persons are responsible;

(b) the owner of a ship rendering salvage services from that ship, the salvor or salvors operating from such ship and any person for whose act, neglect or default those persons are responsible; or

(c) the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default those persons are responsible.

(2) The limits of liability determined in accordance with section 327 shall apply to the aggregate of all claims subject to section 327 which may arise on any distinct occasion against the shipowner in respect of the ship referred to in section 327

and in respect of any person for whose act, neglect or default the shipowner may be responsible.

Constitution of limitation fund

330. (1) A person alleged to be liable and seeking to limit that person's liability under this Chapter, may —

(a) constitute a fund by depositing with the Court a sum in the amount equal to the limit provided for in section 325 or 327 as appropriate; or

(b) produce a guarantee acceptable by the Court, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund,

and the fund so constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(2) A fund constituted by —

(a) one of the persons mentioned in section 329(1)(a), (b) or (c) or the person's insurer; or

(b) by another person or the person's insurer in respect of in section 329(1)(a), (b) or (c); or

(c) all persons in respect of section 329(2),

shall be deemed to have been constituted by all persons mentioned in section 329(1)(a), (b) or (c).

(3) For the purposes of section 331 and this section, "an insurer" means a person mentioned in section 320(2).

(4) Where a fund is constituted with the Court under this section for the payment of claims arising out of any occurrence, the Court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

331. (1) Subject to sections 325 and 327, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

(2) No lien or other right in respect of any ship or property shall affect the proportions in which any amount is distributed among several claimants.

(3) If, before the fund is distributed, the person liable or the insurer of the person has settled the claim, such person shall, up to the amount the person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.

(4) In making any distribution in accordance with this section, the Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed

as it deems appropriate having regard to any claims, subrogated or otherwise, that may be established later.

Bar to other actions

332. (1) Where a limitation fund has been constituted in accordance with section 330, a person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(2) Where a ship or other property is attached or arrested in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Chapter, and in respect of which a fund has been constituted or a security or guarantee has been deposited, the Court shall order the release of the ship or property if the limitation fund has been constituted in the Islands or at —

(a) the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;

(b) the port of disembarkation in respect of claims for loss of life or personal injury; or

(c) the port of discharge in respect of damage to cargo, but where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim for which the ship or property was attached or arrested.

(3) Subsections (1) and (2) shall apply only if the claimant brings a claim before the Court and the limitation fund is actually available and freely transferable in respect of that claim.

Governing law

333. Where a limitation fund is constituted in the Islands, the rules relating to its constitution and distribution, and all rules of procedure in connection with the limitation fund, shall be governed by the laws of the Islands.

Apportionment of liability for damage or loss

334. (1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault.

(2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) This section applies to persons other than the owners of ships who are responsible for the faults of the ships, as well as to the owners of ships and where, by virtue of any charter or demise, or for any other reason, the owners

are not responsible for the navigation and management of the ship in question, this section applies to the charterers or other persons for the time being so responsible instead of the owners.

(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

(5) Nothing is 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 the person is exempted by any contract or by any provision of law, or as affecting the right of any person to limit the person's liability in the manner provided by law.

(6) In this section, "**freight**" includes passage money and hire.

(7) In this section, references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Loss of life or personal injuries: joint and several liability

335. (1) Where loss of life or personal injuries are suffered by a 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) Section 334(3) applies also to this section.

(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, the person might have relied on in an action brought against the person by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit that person's liability in the manner provided by law.

(4) In this section, references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Right of contribution for loss of life or personal injuries

336. (1) Where —

(a) loss of life or personal injuries are suffered by a person on board a ship owing to the fault of that ship and any other ship or ships; and

(b) 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 person may recover, by way of contribution, the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively at fault.

(2) Section 334(3) applies also to this section.

(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

Time limit for proceedings against owners or ship

337. (1) This section applies to any proceedings to enforce any claim or lien against a ship or its owners —

(a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or

(b) for damages for loss of life or personal injury caused by the fault of that ship to a person on board another ship.

(2) The extent of the fault is immaterial for the purposes of this section.

(3) Subject to subsection (5), no proceedings to which this section applies shall be brought after the period of two years from the date when —

(a) the damage or loss was caused; or

(b) the loss of life or injury was suffered.

(4) Subject to subsection (5), no proceedings under section 334, 335 or 336 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.

(5) The Court, if satisfied that there has not been, during any period allowed for bringing proceedings, any reasonable opportunity of arresting the defendant ship may extend the period allowed to bring proceedings if it thinks it just to do so.

Scope of application of Chapter

338. (1) Subject to subsection (3), this Chapter shall apply whenever a person referred to in section 320 seeks to limit that person's liability before the Court or seeks to procure the release of a ship or other property, or the discharge of any security given within the jurisdiction of the Islands.

(2) This Chapter shall apply in relation to Government ships as it applies in relation to other ships.

(3) In this section, "**Government ships**" mean —

(a) ships of which the beneficial interest is vested in the Government;

(b) ships which are registered as Government ships; and

(c) ships which are, for the time being, demised or sub-demised to or in the exclusive possession or control of the Government.

(4) This Chapter shall not apply to any liability in respect of —

(a) loss of life or personal injury caused to or loss of or damage to any property of a person who is on board the ship in question or employed in connection with that ship; or

(b) with the salvage operations in question,

if the person is so on board or employed under a contract of service governed by the law of the Islands.

Exclusion of liability

339. (1) Subject to subsection (3), the owner of a Cayman Islands ship shall not be liable for any loss or damage where —

(a) any property on board the ship is lost or damaged by reason of fire on board the ship; or

(b) any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by a person in the person's capacity as master or member of the crew or (otherwise than in that capacity) in the course of the person's employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of —

(a) the master, member of the crew or servant; and

(b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he or she is.

(3) This section does not exclude the liability of a person for any loss or damage resulting from any such personal act or omission of the person as is mentioned in section 323.

(4) In this section "**owner**", in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

Chapter 3 - Liability for oil pollution in cases of other ships

Scope of application of Chapter

340. (1) This Chapter applies where any oil is or may be discharged or escapes from a ship and there is no liability under any other Chapter of this Part.

(2) Subject to subsection (3), in this Chapter "**registered owner**" means the person or persons registered as the owner of a ship, or in the absence of registration, the person or persons owning the ship; and

(3) In the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, the "**registered owner**" means that company.

Liability of registered owner

341. (1) Where oil is discharged or escapes from a ship, the registered owner of the ship is liable for —

(a) any pollution damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape;

(b) the cost of any preventive measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any pollution damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and

(c) any pollution damage so caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence there arises a relevant threat of contamination of pollution damage being caused outside a ship by the contamination which might result if there were a discharge or escape of oil from the ship then, except as provided for in this Chapter, the registered owner of the ship is liable for —

(a) the cost of any preventive measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Islands; and

(b) any pollution damage caused outside the ship in the territory of the Islands by any measures so taken.

(3) No liability shall be incurred under subsection (1) or (2) by reason of —

(a) a discharge or escape of bunker oil from a ship to which Chapter 4 applies or a relevant threat of contamination falling within that Chapter; or

(b) a discharge or escape of oil falling within Chapter 7 or a relevant threat of contamination falling within that Chapter.

(4) In this Chapter, "**ship**" includes a vessel which is not seagoing.

Two or more ships

342. Where —

(a) a liability is incurred under this Chapter by the registered owners of each of two or more ships; and

(b) the pollution damage or cost for which each of the registered owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the registered owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the shipowners of the ships together would be liable.

Restriction of liability for oil pollution

343. (1) Where, as a result of any occurrence —

(a) there is a discharge or escape of oil; or

(b) there arises a relevant threat of contamination falling within this Chapter,

whether or not the registered owner of the ship in question incurs a liability under this Chapter, no person mentioned in subsection (2) is liable for any pollution damage unless it resulted from anything done or omitted to be done by that person either with intent to cause any such damage or recklessly and in the knowledge that any such damage would probably result.

(2) Subsection (1) applies to —

(a) a servant or agent of the registered owner of the ship;

(b) a person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;

(c) a person performing salvage operations with the consent of the registered owner of the ship or on the instructions of a competent public authority;

(d) a person taking any such measures as are mentioned in section 341(1)(b) or (2)(a); or

(e) a servant or agent of a person falling within paragraph (c) or (d).

(3) In calculating the liability of a person under section 341, compensation for impairment of the environment, other than loss of profit, is limited to the costs of reasonable measures of reinstatement actually undertaken or to be undertaken.

Jurisdiction of Cayman Islands Court and registration of foreign judgments

344. Where —

(a) there is a discharge or escape of oil from a ship to which this Chapter applies, or a discharge or escape of oil falling within this Chapter, which does not result in any pollution damage caused by contamination in the

territory of the Islands and no measures are reasonably taken to prevent or minimise such damage in that territory; or

(b) any relevant threat of contamination falling within this Chapter arises but no measures are reasonably taken to prevent or minimise such pollution damage in the territory of the Islands,

a court in the Islands shall not entertain any action to enforce a claim arising from any relevant pollution damage or cost —

(i) against the registered owner of the ship; or

(ii) against a person to whom section 343(2) applies, unless the damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

Government ships

345. Nothing in this Chapter applies in relation to any warship or any ship for the time being used by the government of any state for other than commercial purposes.

Limitation of liability

346. For the purposes of Chapter 2 of this Part, any liability incurred under section 341 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in section 321(1)(a).

Chapter 4 - Liability for Bunker Oil Pollution

Definitions in this Chapter

347. (1) In this Chapter —

"**Bunkers Convention country**" means a country in respect of which the *Bunkers Convention* is in force;

"**registered owner**" means —

(a) the person or persons registered as the owner of the ship; or

(b) in the absence of registration, the person or persons owning the ship,

however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "**registered owner**" shall mean such company;

"**ship**" means any seagoing vessel or sea-borne craft of any type; and

"**shipowner**" except where used in relation to "**registered owner**" means the registered owner, bareboat charterer, manager and operator of the ship.

(2) In relation to any pollution damage or cost resulting from the discharge or escape of any bunker oil from a ship, or from a relevant threat of contamination, references in this Chapter to the shipowner or registered owner of the ship are

references to the shipowner or registered owner, as applicable at the time of the occurrence or first of the occurrences resulting in the discharge or escape or, as applicable, in the threat of contamination.

Liability for pollution by bunker oil

348. (1) Subject to subsection (3), where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship then, except as otherwise provided by this Chapter, the shipowner shall be liable for —

(a) any pollution damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape;

(b) the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any pollution damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and

(c) any pollution damage caused in the territory of the Islands by any measures so taken.

(2) Subject to subsection (3), where, as a result of any occurrence, there arises a relevant threat of contamination being caused outside a ship by the contamination that might result if there were a discharge or escape of bunker oil from the ship, then (except as otherwise provided by this Chapter) the shipowner shall be liable for —

(a) the cost of any measures reasonably taken for the purpose of preventing or minimising any such pollution damage in the territory of the Islands; and

(b) any pollution damage caused outside the ship in the territory of the Islands by any measures so taken.

(3) There shall be no liability under this chapter in relation to —

(a) a discharge or escape of bunker oil from a ship to which section 382 applies; or

(b) a relevant threat of contamination mentioned in subsection (2) arising in relation to a potential discharge or escape of bunker oil from such a ship,

where that bunker oil is also persistent hydrocarbon mineral oil.

(4) In the subsequent provisions of this Chapter a discharge or escape of bunker oil from a ship, other than a discharge or escape of oil excluded by subsection (3), is referred to as a discharge or escape of bunker oil falling within subsection (1).

(5) Where a person incurs a liability under subsection (1) or (2) the person shall also be liable for any pollution damage or cost for which the person would be liable under that subsection if the references in it to the territory of the Islands included the territory of any other Bunkers Convention country.

(6) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the shipowner of each of two or more ships; and

(b) the pollution damage or cost for which each of the shipowners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the shipowners shall be liable, jointly with the other or others, for the whole of the pollution damage or cost for which the shipowners together would be liable under this section.

Restriction of liability for bunker oil pollution

349. (1) Where, as a result of any occurrence —

(a) there is discharge or escape of bunker oil falling within section 348(1); or

(b) there arises a relevant threat of contamination falling within section 348(2),

then whether or not the shipowner in question incurs any liability under section 348 —

(i) the shipowner shall not be liable otherwise than under that section for any such pollution damage or cost as is mentioned in it; and

(ii) no person to whom this subsection applies shall be liable for any such pollution damage or cost unless it resulted from anything done or omitted to be done by that person either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(b)(ii) applies to any —

(a) servant or agent of the shipowner;

(b) person not falling within paragraph (a) but engaged in any capacity on board the ship or to perform any service for the ship;

(c) person performing salvage operations with the consent of the shipowner or on the instructions of a competent public authority;

(d) person taking any such measures as are mentioned in section 348 (1)(b) or (2)(a); and

(e) servant or agent of a person falling within paragraph (c) or (d).

(3) In calculating the liability of a person under section 348, compensation for impairment of the environment, other than loss of profit, is limited to the costs of reasonable measures of reinstatement actually undertaken or to be undertaken.

Compulsory insurance against liability for pollution from bunker oil

350. (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) shall apply to any ship having a gross tonnage greater than one thousand gross tonnage.

(2) A ship shall not enter or leave a port in the Islands or arrive at or leave a terminal in the territorial sea of the Islands nor, if the ship is a Cayman Islands ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force in respect of the ship —

(a) a contract of insurance satisfying the requirements of Article 7 of the *Bunkers Convention*; and

(b) a certificate complying with subsection (3) showing that there is in force a contract of insurance satisfying those requirements.

(3) A certificate specified under subsection (2) shall be —

(a) if the ship is a Cayman Islands ship, a certificate issued by the Chief Executive Officer;

(b) if the ship is registered in a Bunkers Convention country other than the Islands, a certificate issued by or under the authority of the government of the other Bunkers Convention country; or

(c) if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Chief Executive Officer or by or under the authority of the government of any Bunkers Convention country other than the Islands.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs and border control officer, the Chief Executive Officer or any surveyor authorised by the Chief Executive Officer for the purpose.

(5) If a ship enters or leaves, or attempts to enter or leave a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2), the master or registered owner commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(7) Where a ship which is in a port in the Islands is found to be in contravention of this section, the ship may, in addition to any penalties which may apply, be detained until such contravention is remedied.

Issue of certificate by Chief Executive Officer

351. (1) Subject to subsection (2), if the Chief Executive Officer is satisfied, on the application for a certificate as specified in section 350(2)(b) in respect of a Cayman Islands ship or a ship registered in any country which is not a Bunkers Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance satisfying the requirements of Article 7 of the *Bunkers Convention*, the Chief Executive Officer shall issue such a certificate to the registered owner.

(2) The Chief Executive Officer may refuse the certificate if the Chief Executive Officer is of the opinion that there is doubt whether —

(a) the person providing the insurance will be able to meet the person's obligations thereunder; or

(b) the insurance will cover the registered owner's liability under section 348.

(3) The Chief Executive Officer shall make available for public inspection a copy of any certificate issued by the Chief Executive Officer under this section in respect of a Cayman Islands ship.

Rights of third parties against insurers

352. (1) Where it is alleged that a shipowner has incurred a liability under section 348 as a result of —

(a) any discharge or escape of bunker oil occurring; or

(b) any relevant threat of contamination arising,

while there was in force a contract of insurance to which the certificate as is mentioned in section 350(2) related, proceedings to enforce a claim in respect of the liability may be brought against the insurer.

(2) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 348 it is a defence, in addition to any defence affecting the owner's liability, to prove that the discharge or escape, or, as applicable, the threat of contamination, was due to the wilful misconduct of the owner.

(3) Subject to subsection (4), an insurer may limit the insurer's liability in relation to claims in respect of liability under section 348 which are made against the insurer by virtue of this section in the same manner and to the same extent as the owner may limit the owner's liability by virtue of Chapter 2 of this Part.

(4) An insurer may limit liability under subsection (3) but the insurer may do so whether or not the discharge or escape, or, as applicable, the threat of contamination, resulted from any act or omission mentioned in section 323.

(5) Where the owner and the insurer each applies to the court for the limitation of his or her liability, in relation to liability under section 348, any sum paid into

court in pursuance of either application shall be treated as paid also in pursuance of the other.

Jurisdiction of Cayman Islands Court and registration of foreign judgments

353. (1) Where —

(a) there is a discharge or escape of bunker oil falling within section 348(1) which does not result in any damage caused by contamination in the territory of the Cayman Islands and no measures are reasonably taken to prevent or minimise such damage in that territory; or

(b) any relevant threat of contamination falling within section 348(2) arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Cayman Islands,

no court in the Islands shall entertain any action to enforce a claim arising from any relevant damage or cost against —

(i) the owner of the ship; or

(ii) any person to whom section 349(1)(b)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2) In subsection (1), "**relevant damage or cost**" means —

(a) in relation to any the discharge or escape as mentioned in paragraph (a) of that subsection, any pollution damage caused in the territory of another Bunkers Convention country by contamination resulting from the discharge or escape or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Bunkers Convention country;

(b) in relation to any threat of contamination as mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such pollution damage in the territory of another Bunkers Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b),

and section 349(2)(d) has effect for the purpose of subsection (1)(b)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).

(3) Any judgment given by a court in a Bunkers Convention country in respect of a liability incurred under any provision corresponding to section 348 shall be enforceable by the court.

Government ships

354. (1) Nothing in this Chapter applies in relation to any warship or any ship for the time being used by the government of any state for other than commercial purposes.

(2) In relation to a ship owned by a state and for the time being used for commercial purposes it shall be sufficient compliance with section 350(2) if there is in force a certificate issued by the government of that state and which shows that the ship is owned by that state and that any liability for pollution damage as defined in Article 1 of the *Bunkers Convention* will be met up to the limit set out in section 325 and sections 327 to 329 inclusive.

(3) Every Bunkers Convention country shall, for the purposes of any proceedings brought in the court in the Islands to enforce a claim in respect of a liability incurred under section 348, be deemed to have submitted to the jurisdiction of the court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on.

(4) Nothing in subsection (3) shall authorise the issue of execution against the property of any state.

Limitation of liability

355. For the purposes of Chapter 2 of this Part, any liability incurred under section 348 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in section 321(1)(a).

Parties to the Bunkers Convention and references to territories of a country

356. References in this Chapter to the territory of any country include —

(a) the territorial sea of that country; and

(b) in the case of the Islands and any Bunkers Convention country —

(i) the exclusive economic zone thereof established in accordance with international law; or

(ii) if such a zone has not been established, such area adjacent to the territorial sea thereof and extending not more than two hundred nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law.

Chapter 5 - Liability for Wreck Removal

Wreck removal regulations

357. Notwithstanding section 318, the Cabinet may make regulations as may appear to it to be necessary to give effect to the *Wreck Removal Convention* and in relation to wrecks generally.

Chapter 6 - Carriage of Passengers and Luggage by Sea

Definitions in this Chapter

358. (1) In this Chapter —

"**Athens Convention country**" means a country in respect of which the *Athens Convention* is in force.

"**cabin luggage**" means luggage which the passenger has in the passenger's cabin or is otherwise in the possession, custody or control of the passenger, and includes, except for the purposes of subsection (2), luggage which the passenger has in or on the passenger's vehicle;

"**carriage**" has the meaning assigned to it in subsection (2);

"**carrier**" means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by the person or by a performing carrier;

"**contract of carriage**" means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and the passenger's luggage, but does not include a contract of carriage which is not for reward;

"**international carriage**" means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different states, or in a single state if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another state;

"**loss of or damage to luggage**" includes pecuniary loss resulting from the luggage not having been redelivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

"**luggage**" means any article or vehicle carried by the carrier under a contract of carriage, but does not include —

(a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods; and

(b) live animals;

"**passenger**" means a person carried in a ship —

(a) under a contract of carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by any contract for the carriage of goods;

"performing carrier" means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

"ship" means a seagoing vessel, but does not include an air-cushion vehicle; and

"shipowner" means the registered owner, bareboat charterer, manager and operator of the ship.

(2) For the purposes of this Chapter "**carriage**" covers the following periods —

(a) with regard to the passenger and the passenger's cabin luggage,

(i) the period during which the passenger and the passenger's cabin luggage are on board the ship or in the course of embarkation or disembarkation; and

(ii) the period during which the passenger and the passenger's cabin luggage are transported by water between land and ship,

if the cost of the transportation is included in the fare or if the vessel used for the purpose of auxiliary transportation has been put at the disposal of the passenger by the carrier;

(b) with regard to the passenger, the period referred to in paragraph (a) but not including the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation;

(c) with regard to cabin luggage, the period referred to in paragraph (a) as well as the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or the servant or agent of the carrier and has not been redelivered to the passenger; and

(d) with regard to luggage other than cabin luggage, the period from the time it is taken over by the carrier or servant or agent the carrier ashore or on board until the time it is redelivered by the carrier or servant or agent of the carrier.

Application

359. (1) Subject to subsection (2), where a dispute concerning the carriage of passengers, and their luggage by sea is brought before the Court, this Chapter shall apply to any international carriage if —

(a) the ship is flying the flag of or is registered in an Athens Convention country;

(b) the contract of carriage has been made in an Athens Convention country; or

(c) the place of departure or destination according to the contract of carriage, is in an Athens Convention country.

(2) Notwithstanding subsection (1), this Chapter does not apply where the carriage is subject to the provisions of any other international convention concerning civil liability with respect to the carriage of passengers or luggage by another mode of transportation, insofar as those provisions have mandatory application to carriage by sea.

(3) For the purposes of subsection (2), provisions of such an international convention as is mentioned in that subsection which do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

Liability of the carrier

360. (1) A carrier is liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of the servants or agents of the carrier acting within the scope of their employment.

(2) Subject to subsections (3) and (4), a claimant shall carry the burden of proving —

(a) that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of such loss or damage; and

(b) fault or neglect on the part of the carrier or of the servants or agents of the carrier while acting within the scope of their employment.

(3) Where the death of or personal injury to the passenger, or the loss of or damage to cabin luggage, arose from or in connection with a shipwreck, collision, stranding, explosion or fire, or defect in the ship, there shall be a presumption of fault or neglect on the part of the carrier or the servants or agents of the carrier acting within the scope of their employment, unless there is proof to the contrary.

(4) In respect of loss of or damage to luggage other than cabin luggage, there shall be a presumption of fault or neglect on the part of the carrier or the servants or agents of the carrier acting within the scope of their employment, irrespective of the nature of the incident which caused the loss or damage, unless there is proof to the contrary.

Performing carrier

361. Where the performance of the carriage or part of the carriage has been entrusted to a performing carrier —

(a) subject to paragraphs (b), (c), (d) and (e), the carrier shall be liable under this Chapter for the entire carriage, and in relation to the carriage performed by the performing carrier, shall be liable for the acts and omissions of the performing carrier and of the servants and agents of the performing carrier acting within the scope of their employment;

(b) subject to paragraphs (a), (c), (d) and (e), the performing carrier shall be subject and entitled to the provisions of this Chapter for the part of the carriage performed by the performing carrier;

(c) any special agreement, under which the carrier assumes obligations not imposed by this Chapter or any waiver of rights conferred by this Part, shall not affect the performing carrier unless the performing carrier so agrees expressly and in writing;

(d) where, and to the extent that, both the carrier and the performing carrier are liable, their liability shall be joint and several; and

(e) nothing in this section shall prejudice any right of recourse as between the carrier and the performing carrier.

Valuables

362. A carrier is not liable for the loss of or damage to moneys, negotiable securities, gold, silverware, jewellery, ornaments, works of art or other valuables except where the valuables have been deposited with the carrier for the agreed purpose of safe-keeping, in which case the carrier shall be liable up to the limit provided for in section 364.

Contributory fault

363. Where a carrier proves that the death of or personal injury to a passenger, or the loss of or damage to the passenger's luggage, was caused or contributed to by the fault or neglect of the passenger, the carrier may be exonerated wholly or partly from liability in accordance with the law of the Islands.

Limits of liability

364. (1) The limits of liability of a carrier for death or personal injury shall not exceed the amount determined in paragraph 1 of Article 7 of the *Athens Convention*.

(2) Where damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the limits prescribed in paragraph (1);

(3) The limits of liability of the carrier for loss of or damage to luggage shall not exceed the amounts determined in article 8 of the *Athens Convention*.

(4) Interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraphs (1), (2) and (3).

(5) The carrier and the passenger may agree, expressly and in writing, to limits of liability higher than those prescribed in paragraphs (1), (2) and (3).

Special drawing rights and conversion

365. For the purpose of converting from SDR into dollars, the day of conversion shall be construed as the date on which the judgment is given or, if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

Defences and limits for carriers, servants

366. If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Chapter, such servant or agent, if the servant or agent proves that he or she acted within the scope of his or her employment, shall be entitled to avail himself or herself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Chapter.

Aggregation of claims

367. (1) Where the limits of liability prescribed in section 364 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to the passenger's luggage.

(2) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Chapter, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to the person.

(3) In any case where a servant or agent of the carrier or of the performing carrier is entitled under section 366 to avail himself or herself of the limits of liability prescribed in section 364, the aggregate of the amounts recoverable from the carrier or the performing carrier and from that servant or agent, shall not exceed those limits.

(4) The limitations on liability mentioned in this section in respect of a passenger or the passenger's luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in the Islands or elsewhere.

Loss of right to limit liability

368. (1) A carrier is not entitled to the benefit of the limits of liability prescribed in section 364 if it is proved that the damage resulted from an act or omission of the carrier, done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(2) The servant or agent of the carrier or of the performing carrier is not entitled to the benefit of those limits prescribed in section 364 if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Basis for claim

369. No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Chapter.

Notice of loss or damage to luggage

370. (1) A passenger shall give written notice to the carrier or the carrier's agent —

(a) in the case of apparent damage to luggage —

(i) for cabin luggage, before or at the time of disembarkation of the passenger; and

(ii) for all other luggage, before or at the time of its redelivery; and

(b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or redelivery or from the time when such redelivery should have taken place.

(2) If a passenger fails to comply with this section, the passenger shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

(3) The notice in writing need not be given in accordance with subsection (1) if the condition of the luggage has, at the time of its receipt, been the subject of joint survey or inspection.

Time-bar for actions

371. (1) Subject to subsections (2), (3) and (4), any action for damages arising out of the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be time-barred after a period of two years.

(2) The limitation period under subsection (1) shall be calculated —

(a) in the case of personal injury, from the date of disembarkation of the passenger;

(b) in the case of death occurring during carriage, from the date when the passenger should have disembarked;

(c) in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation; or

(d) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

(3) The Court may, at its discretion, determine the suspension and interruption of limitation periods, but in no case shall an action under this Chapter be brought after the expiration of a period of three years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.

(4) Notwithstanding subsections (1), (2) and (3), the period of limitation may be extended by a declaration in writing of the carrier or by agreement in writing of the parties after the cause of action has arisen.

Competent jurisdiction

372. (1) Proceedings under this Chapter may be brought before the Court by a claimant if —

(a) the permanent residence or principal place of business of the claimant or the defendant is situated in the Islands;

(b) the place of departure or destination of the claimant according to the contract of carriage is in the Islands; or

(c) the contract of carriage was entered into in the Islands and the defendant has a place of business in, and is subject to, the jurisdiction of the Islands.

(2) After the occurrence of the incident causing the damage, subject to agreement by the parties, the claim for damages may be submitted to arbitration, and section 371 shall, in such case, apply to an arbitration as it applies to an action.

(3) Subject to subsection (4), the Court before which proceedings are brought under subsection (1) to enforce a liability which is limited by virtue of section 367 may, at any stage of the proceedings, make such orders as appear to the Court to be just and equitable in view of the provisions of section 367 and of any other proceedings which have been or are likely to be begun in the Islands or elsewhere to enforce the liability in whole or in part.

(4) Without prejudice to the generality of subsection (3), the Court shall, where the liability is or may be partly enforceable in other proceedings in the Islands or elsewhere, have jurisdiction —

(a) to award an amount less than the Court would have awarded if the limitation applied solely to the proceedings before the Court; or

(b) to make any part of its award conditional on the results of any other proceedings.

Invalidity of contractual provisions

373. Any contractual provisions concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to the passenger's luggage, which —

(a) purports to relieve the carrier of its liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Chapter; and

(b) purports to shift the burden of proof which rests on the carrier, or having the effect of restricting the application of section 372(1),

shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to this Chapter.

Application of other limitation regimes

374. This Chapter does not modify the rights or duties of —

(a) a carrier; or

(b) performing carrier,

and their servants or agents provided for in international conventions applicable to the Islands or any other law of the Islands relating to the limitation of liability of owners of seagoing ships.

Nuclear damage

375. No liability shall arise under this Chapter for damage caused by a nuclear incident if liability arises under an international convention relating to nuclear damage applicable to the Islands, or any other law of the Islands relating to nuclear damage.

Commercial carriage by state-owned ships

376. This Chapter applies to commercial carriage undertaken by ships owned by the Government or a public authority under contracts of carriage within the meaning of section 358.

Carrier's obligation to give notice to passengers

377. The Governor may, by Order —

(a) require a person who is the carrier, in relation to a passenger, to give to the passenger, in a manner specified in the Order, notice of such of the provisions of this Chapter as are so specified; and

(b) provide that a person who fails to comply with a requirement imposed on the person by the Order, commits an offence and is liable on summary conviction to a fine of four thousand dollars.

Application of section 338(4)

378. Nothing in this Chapter affects the operation of section 338(4) which limits a shipowner's liability in certain cases of loss of life, injury or damage.

Application of section 339

379. Nothing in section 339 which, among other things, limits a shipowner's liability for the loss of or damage to goods in certain cases, shall relieve a person of any liability imposed on that person by this Chapter.

Athens Protocol regulations

380. Notwithstanding section 318, the Cabinet may make such regulations as may appear to it to be necessary to give effect to the *Athens Protocol of 2002* and in relation to matters generally relating to the *Athens Protocol of 2002*.

Chapter 7 - Liability for Oil Pollution in case of Tankers

Definitions in this Chapter

381. (1) In this Chapter —

"**Liability Convention country**" means a country in respect of which the *Liability Convention* is in force;

"**owner**" means the person or persons registered as the owner of the ship, or in the absence of registration, the person or persons owning the ship; however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "**registered owner**" means such company; and

"**ship**" means any seagoing vessel or sea-borne craft of any type.

(2) In relation to any pollution damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or, as applicable, in the threat of contamination.

Liability for oil pollution in case of tankers

382. (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship is liable for —

(a) any pollution damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape;

(b) the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any pollution damage so caused

in the territory of the Islands by contamination resulting from the discharge or escape; and

(c) any pollution damage caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a relevant threat of contamination being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship is liable for —

(a) the cost of any measures reasonably taken for the purpose of preventing or minimising any such pollution damage in the territory of the Islands; and

(b) any pollution damage caused outside the ship in the territory of the Islands by any measures taken.

(3) Subject to subsection (4), this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any other ship —

(a) while it is carrying oil in bulk as cargo; and

(b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsections (1) or (2), the person is also liable for any pollution damage or cost for which the person would be liable under that subsection if the references in it to the territory of the Islands included the territory of any other Liability Convention country.

(6) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners is liable jointly with the other or others, for the whole of the damage or cost for which the registered owners together would be liable under this section.

Restriction of liability for oil pollution

383. (1) Where, as a result of any occurrence there is a discharge or escape of oil from a ship to which section 382 applies or there arises a relevant threat of contamination falling within subsection (2) of that section, whether or not the owner of the ship in question incurs a liability under section 382 —

(a) the owner is not liable otherwise than under that section for any such pollution damage or cost as is mentioned in it; and

(b) no person to whom this paragraph applies shall be liable for any such pollution damage or cost unless it resulted from anything done or omitted to be done by the person either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(b) applies to —

(a) a servant or agent of the registered owner of the ship;

(b) a person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;

(c) a charterer of the ship (however described and including a bareboat charterer) and any manager or operator of the ship;

(d) a person performing salvage operations with the consent of the registered owner of the ship or on the instructions of a competent public authority;

(e) a person taking any such measures as are mentioned in section 382(1)(b) or (2)(a); or

(f) a servant or agent of a person falling within paragraph (c), (d) or (e).

(3) In calculating the liability of a person under section 382, compensation for impairment of the environment, other than loss of profit, is limited to the costs of reasonable measures of reinstatement actually undertaken or to be undertaken.

Limitation of liability under section 382

384. (1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 382 by reason of a discharge or escape or by reason of any relevant threat of contamination falling within subsection (2) of that section, then, subject to subsection (2) —

(a) the owner of the ship may limit that liability in accordance with this Chapter; and

(b) if the owner of the ship limits liability in accordance with this Chapter, the liability of the owner of the ship, being the aggregate of the liabilities of the owner of the ship under section 382 resulting from the occurrence, shall

not exceed the amount determined in paragraph 1 of Article V of the *Liability Convention*.

(2) Subsection (1) does not apply in a case where it is proved that the discharge or escape, or the relevant threat of contamination, as applicable, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 382 or recklessly and in the knowledge that any such damage or cost would probably result.

Limitation actions

385. (1) Where the owner of a ship has or is alleged to have incurred a liability under section 382, the owner of the ship may apply to the Court for the limitation of that liability to an amount determined in accordance with section 384.

(2) If, on an application under subsection (1), the Court finds that the applicant has incurred such a liability but has not found that the applicant is not entitled to limit it, the Court shall, after determining the limit of the liability and directing payment into the Court of the amount of that limit —

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

(b) direct the distribution of the amount paid into Court, (or, as applicable may be, so much of it as does not exceed the liability,) among those persons in proportion to their claims, subject to subsections (3) to (9).

(3) Where —

(a) a distribution is made under subsection (2)(b) without the Court having found that the applicant is entitled to limit the applicant's liability; and

(b) the Court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(4) A payment into the Court of the amount of a limit determined under this section shall be made in dollars and for the purpose of converting from SDR into dollars the day of conversion shall be construed as the date on which the determination is made or, if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(5) A claim shall not be admitted in proceedings under this section unless it is made within such time as the Court may direct or such further time as the Court may allow.

(6) Where any sum has been paid in or towards satisfaction of any claim in respect of the pollution damage or cost to which the liability extends —

(a) by the owner or the insurer in relation to any insurance provided as referred to in subsection (1); or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 382, for the damage or cost and who is entitled to limit the person's liability in connection with the ship by virtue of Chapter 2 of this Part,

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(7) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended, the person shall be in the same position with respect to any distribution made in proceedings under this section as if the person had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(8) The Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Islands.

(9) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed under subsection (2)(b).

Restriction on enforcement after establishment of limitation fund

386. Where the Court has found that a person who has incurred a liability under section 382 is entitled to limit that liability to any amount and the person has paid into Court a sum not less than that amount —

(a) the Court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

(b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs,

if the sum paid into Court, or such part of the sum as corresponds to the claim, will be actually available to the claimant or would have been available to the claimant if the proper steps in the proceedings under section 385 had been taken.

Concurrent liabilities of owners and others

387. Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 382 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsections (1) or (2) of that section then, if —

(a) the owner has been found in proceedings under section 385 to be entitled to limit the owner's liability to any amount and has paid into Court a sum not less than that amount; and

(b) the other person is entitled to limit that person's liability in connection with the other ship by virtue of Chapter 2 of this Part,

no proceedings shall be taken against the other person in respect of the person's liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

Establishment of limitation fund outside the Islands

388. Where the events resulting in the liability of a person under section 382 also resulted in a corresponding liability under the law of another Liability Convention country—

(a) sections 386 and 387 apply as if the references to sections 382 and 385 included references to the corresponding provisions of that law; and

(b) the references to sums paid into the Court included references to any sums secured under those provisions in respect of the liability.

Compulsory insurance against liability for oil pollution

389. (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) applies to any ship carrying in bulk a cargo of more than two thousand tons of oil.

(2) The ship shall not enter or leave a port in the Islands or arrive at or leave a terminal in the territorial sea of the Islands nor, if the ship is a Cayman Islands ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with subsection (3) and showing that there is in force in respect of the ship a contract of insurance satisfying the requirements of Article VII of the *Liability Convention*.

(3) The certificate referred to under subsection (2) shall be —

(a) if the ship is a Cayman Islands ship, a certificate issued by the Chief Executive Officer;

(b) if the ship is registered in a Liability Convention country other than the Islands, a certificate issued by or under the authority of the government of the other Liability Convention country; or

(c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Chief Executive Officer or by or under the authority of the government of any Liability Convention country other than the Islands.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs and border control officer, the Chief Executive Officer or any surveyor authorised by the Chief Executive Officer for the purpose.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection

(2), the master or owner commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master commits an offence and is liable on summary conviction to a fine of four thousand dollars.

(7) Where a ship which is in a port in the Islands is found to be in contravention of this section, the ship may, in addition to any penalties which may apply, be detained until such contravention is remedied.

Issue of certificate by Chief Executive Officer

390. (1) Subject to subsection (2), if the Chief Executive Officer is satisfied, on the application for a certificate specified under section 389(2) in respect of a Cayman Islands ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance satisfying the requirements of Article VII of the *Liability Convention*, the Chief Executive Officer shall issue such a certificate to the registered owner.

(2) The Chief Executive Officer may refuse the certificate if the Chief Executive Officer is of the opinion that there is doubt whether —

(a) the person providing the insurance will be able to meet the person's obligations thereunder; or

(b) the insurance will cover the owner's liability under section 382.

(3) The Chief Executive Officer shall make available for public inspection a copy of any certificate issued by the Chief Executive Officer under this section in respect of a Cayman Islands ship.

Rights of third parties against insurers

391. (1) Where it is alleged that the owner of a ship has incurred a liability under section 382 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance to which such a certificate as is mentioned in section 389(2) related, proceedings to enforce a claim in respect of the liability may be brought against the insurer.

(2) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 382 it is a defence, in addition to any defence affecting the owner's liability, to prove that the discharge or escape, or, as applicable, the threat of contamination, was due to the wilful misconduct of the owner.

(3) The insurer may limit the insurer's liability in relation to claims in respect of liability under section 338 which are made against the insurer by virtue of this section in the same manner and to the same extent as the registered owner may limit the registered owner's liability under section 384, but the insurer may do

so whether or not the discharge or escape, or, as may be applicable, the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 384(2).

(4) Where the owner and insurer each applies to the court for the limitation of the owner's or insurer's liability, in relation to liability under section 382, any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

Jurisdiction of Cayman Islands Court and registration of foreign judgments

392. (1) Where —

(a) there is a discharge or escape of oil from a ship to which section 382 applies which does not result in any pollution damage caused by contamination in the territory of the Islands and no measures are reasonably taken to prevent or minimise such damage in that territory; or

(b) any relevant threat of contamination falling within section 382(2) arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Islands,

no Court in the Islands shall entertain any action to enforce a claim arising from any relevant damage or cost against —

(i) the owner of the ship; or

(ii) any person to whom section 383(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2) In subsection (1), "**relevant damage or cost**" means —

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any pollution damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such pollution damage in the territory of another Liability Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b),

and section 383(2)(e) has effect for the purpose of subsection (1)(ii) as if it referred to a person taking any such measures as are mentioned in paragraphs (a) or (b).

(3) Any judgment given by a court in a Liability Convention country in respect of a liability incurred under any provision corresponding to section 382 shall be enforceable by the court.

Government ships

393. (1) Nothing in this Chapter applies in relation to any warship or any ship for the time being used by the government of any state for other than commercial purposes.

(2) In relation to a ship owned by a state and for the time being used for commercial purposes it is sufficient compliance with section 389(2) if there is in force a certificate issued by the government of that state and showing that the ship is owned by that state and that any liability for pollution damage as defined in Article I of the *Liability Convention* will be met up to the limit prescribed by Article V of that Convention.

(3) Every Liability Convention country shall, for the purposes of any proceedings brought in the Court in the Islands to enforce a claim in respect of a liability incurred under section 382, be deemed to have submitted to the jurisdiction of the Court; and accordingly, Rules of Court may provide for the manner in which the proceedings are to be commenced and carried on.

(4) Nothing in subsection (3) shall authorise the issue of execution against the property of any state.

References to territories of a country

394. References in this Chapter to the territory of any country includes the territorial sea of that country, and —

(a) in the case of the Islands and any Liability Convention country, the exclusive economic zone of the Islands and any Liability Convention country established in accordance with international law; or

(b) if such a zone has not been established, such area adjacent to the territorial sea of the Liability Convention country established and extending not more than two hundred nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law.

Chapter 8 - International Oil Pollution Compensation Fund

Definitions in this Chapter

395. (1) In this Chapter —

"**Director**" means the Director of the Fund;

"**Fund**" means the International Fund established by the Fund Convention;

"**Fund Convention country**" means a country in respect of which the Fund Convention is in force;

"**incident**" means any occurrence, or series of occurrences having the same origin, resulting in —

(a) a discharge or escape of oil from a ship; or

(b) a relevant threat of contamination,

and in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

"**owner**" means the person or persons registered as the owner of the ship, or in the absence of registration, the person or persons owning the ship; however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, registered owner shall mean such company; and

"**ship**" means any ship within the meaning of Chapter 7 to which section 382 applies.

(2) In this Chapter —

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Chapter to the territory of any country shall be construed in accordance with section 394 reading the reference to a Liability Convention country as a reference to a Fund Convention country.

Contributions by importers of oil and others

396. (1) Persons specified in subsection (4) shall pay contributions to the Fund in respect of oil carried by sea to ports or terminal installations in the Islands otherwise than on a voyage only within its national waters.

(2) Subsection (1) applies whether or not the oil is being imported and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Persons specified in subsection (4) shall also pay contributions to the Fund in respect of oil when first received by those persons in any installation in the Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) A person liable to pay contributions is —

(a) in the case of oil which is being imported into the Islands, the importer; and

(b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by that person in any year if the oil which is imported or received in the year does not exceed one hundred and fifty thousand tonnes.

(6) For the purposes of subsection (5) —

(a) all the members of a group of companies shall be treated as a single person; and

(b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall —

(a) be of such amount as may be determined by the Director under Article 12 subject to Article 36 of the *Fund Convention* and notified to that person by the Fund; and

(b) be payable in such instalments, becoming due at such times, as may be so notified to the person,

and, if any amount due from the person remains unpaid after the date on which it became due, it shall from that date bear interest, at a rate determined by the Assembly of the Fund, until it is paid.

(8) In this section and section 397 —

"**company**" means a body incorporated under the law of the Islands or of any other country;

"**crude oil**" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes —

(a) crude oils from which distillate fractions have been removed; and

(b) crude oils to which distillate fractions have been added;

"**fuel oil**" means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396-96)", or heavier;

"**group**" in relation to companies, means a holding company and its subsidiaries regulated by the *Companies Act (2023 Revision)*, subject, in the case of a company incorporated outside the Islands, to any necessary modifications of those definitions;

"**importer**" means a person by whom or on whose behalf the oil in question is entered for customs purposes on importation, and "**import**" shall be construed accordingly;

"**national waters**", in relation to the Islands, mean Cayman Islands waters landward of the baselines for measuring the breadth of its territorial sea;

"**oil**" means crude oil and fuel oil; and

"**terminal installation**" means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

Power to obtain information

397. (1) For the purpose of transmitting to the Fund the names and addresses of the persons who, under section 396, are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Director may, by notice, require a person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 396(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against a person to recover any amount due under section 396, particulars contained in any list transmitted by the Director to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list.

(5) So far as particulars under subsection (4) which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(6) A person who discloses any information which has been furnished to or obtained by the person under this section, or in connection with the execution of this section, then, unless the disclosure is made —

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the execution of this section; or

(c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

commits an offence and is liable on summary conviction to a fine of five thousand dollars.

(7) A person who —

(a) refuses or wilfully neglects to comply with a notice under this section; or

(b) in furnishing any information in compliance with a notice under this section makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

commits an offence and is liable —

(i) on summary conviction to a fine of four thousand dollars in the case of an offence under paragraph (a), and five thousand dollars in the case of an offence under paragraph (b); and

(ii) on conviction on indictment, to a fine of fifteen thousand dollars and to imprisonment for twelve months.

Liability of the Fund

398. (1) The Fund shall be liable for pollution damage in the territory of the Islands if the person suffering the damage has been unable to obtain full compensation under section 382 —

(a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused —

(i) resulted from an exceptional, inevitable and irresistible phenomenon;

(ii) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

(iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,

and because liability is accordingly wholly displaced by section 314;

(b) because the owner or insurer liable for the damage cannot meet the owner's or insurer's obligations in full; or

(c) because the damage exceeds the liability under section 382 as limited by section 384.

(2) Subsection (1) shall apply with the substitution for the words "the Islands" for the words "a Fund Convention country" where the incident has caused pollution damage in the territory of the Islands and of another Fund Convention country, and proceedings under the *Liability Convention* for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Islands.

(3) Where the incident has caused pollution damage in the territory of the Islands and of another country in respect of which the *Liability Convention* is in force, references in this section to the provisions of Chapter 7 of this Part shall include

references to the corresponding provisions of the law of any country giving effect to the *Liability Convention*.

(4) For the purposes of this section, an owner or insurer is to be treated as incapable of meeting the owner's or insurer's obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(5) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly the owner shall be in the same position with respect to claims against the Fund under this section as if the owner had a claim in respect of liability under section 382.

(6) The Fund shall incur no obligation under this section if —

(a) it proves that the pollution damage —

(i) resulted from an act of war, hostilities, civil war or insurrection; or

(ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on government non-commercial service; or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by the claimant or involving two or more ships one of which is identified by the claimant.

(7) If the Fund proves that the pollution damage resulted wholly or partly —

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person,

the Fund may, subject to subsection (9), be exonerated wholly or partly from its obligations to pay compensation to that person.

(8) Where the liability under section 382 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall, subject to subsection (9), be exonerated to the same extent.

(9) Subsections (7) and (8) do not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

Limitation of Fund's liability under section 398

399. (1) The Fund's liability under section 398 shall be in accordance with the provisions of the *Fund Convention* and subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the *Fund Convention*.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the *Fund Convention* is applicable to any claim under

section 398 shall be conclusive evidence that paragraph (c) of subsection (1) is applicable for the purposes of this Chapter and, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the *Fund Convention*, the Court giving judgment against the Fund in proceedings under section 398 shall notify the Fund, and —

(a) no steps shall be taken to enforce the judgment unless and until the Court gives leave to enforce it;

(b) leave shall not be given unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and

(c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) shall be steps to obtain payment in dollars, and for the purpose of converting from SDR into dollars, the day of conversion shall be construed as the date on which the Assembly of the Fund decides the date for the first payment of compensation in respect of the incident or, if no sum has been so fixed, for that date the last preceding date for which a sum has been so fixed.

(5) Nothing in this section shall affect the provisions for payment of compensation under the *Fund Protocol of 2003*.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Jurisdiction and effect of judgments

400. (1) Where, in accordance with rules of court made for the purposes of this subsection, the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 382, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(2) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter 7 of this Part for pollution damage which is partly in the territory of the Islands, subsection (1) shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(3) Subject to subsection (4), any judgment given by a Court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 398 shall be enforceable by the Court in the Islands.

(4) No steps shall be taken to enforce such a judgment unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the *Fund Convention* or that it is to be reduced to a specified amount; and in the latter case, the judgment shall be enforceable only for the reduced amount.

Extinguishment of claims

401. (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by the Court in the Islands unless —

(a) the action is commenced; or

(b) a third party notice of an action to enforce a claim against the owner or the owner's guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

(2) In subsection (1) "**third party notice**" means a notice of the kind described in section 400(1) and (2).

(3) No action to enforce a claim against the Fund under this Chapter shall be entertained by the Court in the Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or, as applicable, in the relevant threat of contamination, by reason of which the claim against the Fund arose.

Subrogation

402. (1) In respect of any sum paid by the Fund as compensation for pollution damage, the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has, or, but for the payment would have, against any other person.

(2) In respect of any sum paid by a public authority in the Islands as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

Supplementary provisions as to proceedings involving the Fund

403. (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy

shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

Fund Protocol regulations

404. Notwithstanding section 318, the Cabinet may make such regulations as may appear to it to be necessary to give effect to the Fund Protocol of 2003 and in relation to matters generally relating thereto.

Chapter 9 - Liability for Pollution by Hazardous and Noxious Substances

HNS Protocol regulations

405. Notwithstanding section 318, the Cabinet may make such regulations as may appear to it to be necessary to give effect to the *HNS Protocol of 2010* and in relation to matters generally relating thereto.

PART 15 - MARITIME SECURITY

Piracy under the United Nations Convention on the Law of the Sea 1982

Definitions in this Part relating to piracy and armed robbery

406. (1) In this Part, subject to section 67 of the *Penal Code (2022 Revision)* —

"**armed robbery against a ship**" means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a Cayman Islands ship or against persons or property on board such a ship, when not on the high seas or any act of inciting or of intentionally facilitating an act described above;

"**piracy**" means —

(a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed —

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; or

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; or

(b) any voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or

(c) any act of inciting or intentionally facilitating an act described in paragraph (a) or (b);

"**pirate ship or aircraft**" means a ship or aircraft under the dominant control of persons who —

(a) intend to use such ship or aircraft for piracy; or

(b) have used such ship or aircraft for piracy, so long as it remains under the control of those persons; and

"**private ship**" or "**private aircraft**" means a ship or aircraft that is not owned by the Government or held by a person on behalf of, or for the benefit of, the Government.

(2) Piracy committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft is assimilated to piracy committed by a private ship or aircraft.

(3) This section applies to aircraft only when they are in the high seas, that is to say, in those parts of the sea, to which Part VII of the *United Nations Convention* on the *Law of the Sea 1982* is applicable in accordance with Article 86 of that Convention.

(4) A person who commits piracy or armed robbery against a ship commits an offence and is liable on conviction on indictment to imprisonment for life.

Hijacking of ships

407. (1) A person of any nationality who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, commits the offence of hijacking a ship and whether the ship is in the Islands or elsewhere, but subject to subsection (2) below.

(2) Subsection (1) above does not apply in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless —

(a) the person seizing or exercising control of the ship is a Cayman Islands citizen;

(b) the person's act is committed in the Islands; or

(c) the ship is used in the customs service of the Islands or in the service of the police force in the Islands.

(3) A person who commits an offence of hijacking a ship is liable on conviction on indictment to imprisonment for life.

Seizing or exercising control of fixed platforms

408. (1) A person of any nationality who unlawfully, by the use of force or by threats of any kind, seizes a fixed platform or exercises control of it, commits an offence whether the fixed platform is in the Islands or elsewhere.

(2) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for life.

Destroying ships or fixed platforms or endangering their safety

409. (1) Subject to subsection (5), a person commits an offence if the person unlawfully and intentionally —

(a) destroys a ship or a fixed platform;

(b) damages a ship, its cargo or a fixed platform so as to endanger, or to be likely to endanger, the safe navigation of the ship, or as applicable, the safety of the platform; or

(c) commits on board a ship or on a fixed platform an act of violence which is likely to endanger the safe navigation of the ship, or as applicable, the safety of the platform.

(2) Subject to subsection (5), a person commits an offence if the person unlawfully and intentionally places, or causes to be placed, on a ship or fixed platform any device or substance which —

(a) in the case of a ship, is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation; or

(b) in the case of a fixed platform, is likely to destroy the fixed platform or so to damage it as to endanger its safety.

(3) Nothing in subsection (2) is to be construed as limiting the circumstances in which the commission of any act —

(a) may constitute an offence under subsection (1); or

(b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of such an offence.

(4) Except as provided by subsection (5), subsections (1) and (2) apply whether any such act as mentioned in those subsections is committed in the Islands or elsewhere and whatever the nationality of the person committing the act.

(5) Subsections (1) and (2) do not apply in relation to any act committed in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless —

(a) the person committing the act is a Caymans Islands citizen;

(b) the person's act is committed in the Islands; or

(c) the ship is used in the service of the Customs and Border Control Service or in the service of the Royal Cayman Island Police Service.

(6) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for life.

Other acts endangering or likely to endanger safe navigation

410. (1) Subject to subsection (6), it is an offence for any person unlawfully and intentionally —

(a) to destroy or damage any property to which this subsection applies; or

(b) to interfere with the operation of any such property,

where the destruction, damage or interference is likely to endanger the safe navigation of any ship.

(2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including —

(a) any land;

(b) building

(c) ship; and

(d) any apparatus or equipment, whether it is on board a ship or elsewhere.

(3) Subject to subsection (6), it is an offence for any person to intentionally communicate any information which the person knows to be false in a material particular, where the communication of the information endangers the safe navigation of any ship.

(4) It is a defence for a person charged with an offence under subsection (3) to prove that, when the person communicated the information, the person was lawfully employed to perform duties which consisted of or included the communication of information and that the person communicated the information in good faith in performance of those duties.

(5) Except as provided by subsection (6), subsections (1) and (3) apply whether any such act as mentioned in those subsections is committed in the Islands or elsewhere and regardless of the nationality of the person committing the act.

(6) For the purposes of subsections (1) and (3) any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service is to be disregarded unless —

(a) the person committing the act is a Cayman Islands citizen;

(b) the person's act is committed in the Islands; or

(c) the ship is used in the service of Customs and Border Control Service or in the service of the Royal Cayman Islands Police Service.

(7) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for life.

Offences involving threats

411. (1) A person commits an offence if —

(a) in order to compel any other person to do or abstain from doing any act, the person threatens that the person or some other person will do, in relation to any ship or fixed platform, an act which is an offence by virtue of section 409(1); and

(b) the making of that threat is likely to endanger the safe navigation of the ship or the safety of the fixed platform.

(2) Subject to subsection (4), a person commits an offence if —

(a) in order to compel any other person to do or abstain from doing any act, the person threatens that the person or some other person will do an act which is an offence by virtue of section 410(1); and

(b) the making of that threat is likely to endanger the safe navigation of any ship.

(3) Except as provided by subsection (4), subsections (1) and (2) apply whether any such act as mentioned in those subsections is committed in the Islands or elsewhere and regardless of the nationality of the person committing the act.

(4) Section 410(6) applies for the purposes of subsection (2)(b) as it applies for the purposes of section 410(1) and (3).

(5) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for life.

Ancillary offences

412. (1) Notwithstanding sections 436 and 437, where a person of any nationality does outside the Islands any act which, if done in the Islands, would constitute an offence falling within subsection (2) below, the person's act shall constitute that offence if it is done in connection with an offence under section 407, 408, 409 or 410 committed or attempted by that person.

(2) The offences falling within this subsection are murder, attempted murder, manslaughter, culpable homicide and assault.

(3) It is an offence for any person in the Islands to induce or assist the commission outside the Islands of any act which —

(a) would, but for subsection (2) of section 407, be an offence under that section;

(b) would, but for subsection (5) of section 409, be an offence under that section;

(c) would, but for subsection (6) of section 410, be an offence under that section; or

(d) would, but for subsection (4) of section 411, be an offence under that section.

(4) A person who commits an offence under subsection (3) is liable on conviction on indictment to imprisonment for life.

Interpretation

413. In this Part —

"**act of violence**" means —

(a) any act done in the Islands which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault; or

(b) any act done outside the Islands which, if done in the Islands, would constitute such an offence as is mentioned in paragraph (a) above.

"**fixed platform**" means —

(a) any offshore installation, within the meaning of the *Mineral Workings (Offshore Installations) Act 1971, of the United Kingdom* which is not a ship, and

(b) any other artificial island, installation or structure which —

(i) permanently rests on, or is permanently attached to, the seabed;

(ii) is maintained for the purposes of the exploration or exploitation of resources or for other economic purposes, and

(iii) is not connected with dry land by a permanent structure providing access at all times and for all purposes;

"**naval service**" includes military and air force service;

"**ship**" means any vessel, including hovercraft, submersible craft and other floating craft, other than one which —

(a) permanently rests on, or is permanently attached to, the seabed; or

(b) has been withdrawn from navigation or laid up; and

"**unlawfully**" means, in relation to the commission of an act outside the Islands, that the commission of the act would have been an offence under the law of the Islands as if it had been committed in the Islands.

PART 16 - ENFORCEMENT OFFICERS AND POWERS

Surveyors, Inspectors and Inspectors of Marine Casualties

Appointment of Officers

414. (1) The Chief Executive Officer shall appoint officers as surveyors of ships in connection with surveys of ships and other matters incidental thereto as the Chief Executive Officer thinks fit.

(2) Subject to such conditions as the Chief Executive Officer may impose, surveys and inspections of ships under this Act and the regulations may be carried out by any corporation or society for the survey and classification of ships authorised by the Chief Executive Officer, and in such instances, the terms "**surveyor**" and "**surveyor of ships**" shall be construed to include such corporations and societies.

(3) Surveyors of ships may be appointed either generally or for any particular case or purpose.

(4) The Chief Executive Officer may appoint officers as inspectors who may be authorised by the Chief Executive Officer to issue such documents under this Act and the regulations as the Chief Executive Officer may determine.

(5) An inspector may be appointed either generally or for any particular case or purpose.

(6) A surveyor appointed under this section may not act as an inspector unless appointed under subsection (4).

Powers of Surveyors

415. (1) A surveyor of ships may, at all reasonable times, go on board a ship and inspect that ship, or anything on that ship, for the purposes of —

(a) determining that this Act and the regulations are complied with;

(b) conducting any inspection and survey required by this Act and the regulations; or

(c) determining that the terms of any approval, licence, consent, direction or exemption given by virtue of this Act and the regulations are complied with.

(2) In exercising the powers conferred by subsection (1), a surveyor of ships may —

(a) require the owner, master or any of the crew to produce the relevant official log book or other documents relating to the crew or any member of the crew in their possession or control;

(b) require the master to produce a list of all persons on board the ship and take copies of the official log book or other documents;

(c) muster the crew;

(d) examine any part of the ship;

(e) require any test or operation of the ship's machinery and equipment; or

(f) require the conduct of any drill required by this Act and the regulations,

as the surveyor of ships thinks necessary for the exercising those powers.

(3) The powers conferred by subsections (1) and (2) are, if the ship is a Cayman Islands ship, also exercisable outside the Islands.

(4) A surveyor of ships exercising powers under this section shall not unnecessarily detain or delay a ship but may, if it seems reasonable to the surveyor of ships, require a ship to be taken into dock for a survey of the ship or its machinery and equipment.

Powers of Inspectors

416. (1) An inspector may, at all reasonable times —

(a) enter any premises in the Islands; or

(b) board any Cayman Islands ship wherever it may be and any other ship which is present in the Islands or in Cayman Islands waters,

for the purpose of reporting to the Chief Executive Officer on the matters specified in subsection (2) and for the purposes of sections 419 to 421.

(2) The matters referred to in subsection (1) are to report to the Chief Executive Officer —

(a) upon the nature and causes of any damage which any ship has, or is alleged, to have sustained or caused;

(b) whether any requirements, restrictions or prohibitions imposed by or under this Act and the regulations have been complied with or contravened; or

(c) whether this Act and the regulations are complied with.

(3) In exercising the powers conferred by subsection (1) an inspector may —

(a) take with the inspector any other person authorised for the purpose by the Chief Executive Officer, and any equipment or material the inspector requires;

(b) make such inspection or investigation as the inspector considers necessary;

(c) give a direction requiring that —

(i) the premises or ship or any part of the premises or ship; or

(ii) anything in the premises or ship,

shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purposes of any inspection or investigation under paragraph (b);

(d) take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any inspection or investigation under paragraph (b);

(e) take any articles or substances, or samples of the articles or substances, found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship as the inspector considers necessary for the purpose of any inspection or investigation under paragraph (b);

(f) cause any article or substance found in the premises or ship to be dismantled or subjected to any process or test, but not so far as to damage or destroy it unless that is, in the circumstances, necessary;

(g) in the case of any article or substance as mentioned in paragraph (e), take possession of it for so long as is necessary in order to —

(i) examine it and do to it anything which the inspector has power to do under paragraph (f);

(ii) ensure that it is not tampered with before the inspector's inspection of it is completed; and

(iii) ensure that it is available for use as evidence in any proceedings for an offence under this Act and the regulations;

(h) require the production of, and inspect and take copies of, any entry in the official log book or any other documents which the inspector considers it necessary for the inspector to see for the purposes of any inspection or investigation under paragraph (b); and

(i) require any person to afford the inspector such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable the inspector to exercise any of the powers conferred on the inspector by this subsection.

(4) Nothing in subsections (1) and (2) authorises an inspector to prevent a ship from proceeding to sea except in accordance with sections 419 and 420.

(5) Where an inspector proposes to exercise the power conferred by subsection (3)(f), the inspector shall, if so requested by a person who at the time has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person.

(6) An inspector before exercising the power conferred by subsection (3)(f), shall consult such persons as appear to the inspector appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which the inspector proposes to do under that power.

(7) Where, under the power conferred by subsection (3)(e), an inspector takes possession of any article or substance found in any premises or ship, the inspector shall —

(a) leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that the inspector has taken possession of it under that power; and,

(b) before taking possession of any such substance under that power, if it is practicable for the inspector to do so, take a sample of the substance and

give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(8) An inspector in exercising the inspector's powers under this section shall do so in a manner that is at all times and in all respects compatible with the Bill of Rights in Part 1 of the *Constitution of the Islands*.

Inspection of marine casualties

417. (1) The powers conferred by this section are available to any inspector of marine casualties appointed under section 426, for the purpose of performing the inspector's functions.

(2) Those powers are —

(a) the powers conferred on an inspector by section 416; and

(b) power to require a person who the inspector has reasonable cause to believe is able to give any information relevant to any investigation into a marine casualty —

(i) to attend at a place and time specified by the inspector of marine casualties;

(ii) to answer such questions —

(A) in the presence of any person the inspector may allow to be present; and

(B) a person nominated to be present by the person on whom the requirement is imposed;

as the inspector thinks fit to ask;

(iii) to sign a declaration of the truth of the person's answers.

(3) A person nominated as mentioned in paragraph (b)(ii)(B) —

(a) shall be entitled, to make representations to the inspector on behalf of the person who nominated the person; and

(b) shall not also be a person who the investigator has reasonable cause to believe is able to give any information relevant to any investigation into a marine casualty.

(4) An answer given by a person under a requirement imposed under subsection (2)(b) shall be admissible in evidence in any proceedings under section 418(1)(e) in respect of a statement in or a declaration relating to the answer.

Offences, etc.

418. (1) A person who —

(a) intentionally obstructs a surveyor of ships in the exercise of the powers of the surveyor of ships or fails to comply with a requirement made under section 415;

(b) intentionally obstructs an inspector in the exercise of any power available to the inspector under section 416;

(c) intentionally obstructs an inspector of marine casualties in the exercise of any power available to the inspector under section 416 or section 417;

(d) without reasonable excuse, does not comply with a requirement imposed under section 416 or section 417 or prevents another person from complying with such a requirement; or

(e) without prejudice to paragraph (c), makes a statement or signs a declaration which the person knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made under section 417(2)(b),

commits an offence and is liable —

(i) on summary conviction, to a fine of ten thousand dollars; or

(ii) on conviction on indictment, to a fine of twenty thousand dollars and to imprisonment for one year.

(2) Nothing in section 416 or 417 shall be taken to compel the production by a person of a document of which the person would be entitled to withhold production on an order for discovery on grounds of legal professional privilege.

(3) A person who complies with a requirement imposed on the person under section 416(3)(h) or (i) or section 417(2)(b) shall be entitled to recover such sums in respect of the expenses incurred in complying with the requirement as may have been reasonably incurred.

(4) Any payments under subsection (3) shall be made out of money provided out of the revenue of the Islands.

Improvement Notices, Prohibition Notices and Detention Orders

Improvement Notices

419. (1) If an inspector appointed under section 414 is of the opinion that a person —

(a) is contravening one or more of the relevant statutory provisions; or

(b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

the inspector may serve on that person a notice under this section, referred to in this Act as an "**improvement notice**".

(2) An improvement notice shall —

(a) state that the inspector is of that opinion under subsection (1);

(b) specify the provision or provisions as to which the inspector is of that opinion;

(c) give the reasons why the inspector is of that opinion; and

(d) require the person on whom the notice is served to remedy the contravention in question or the matters causing it within such period as may be specified in the notice.

(3) The period specified under subsection (2)(d) shall not be less than twenty one days as from the notice being served.

(4) In this section and sections 420 to 425 "**relevant statutory provisions**" means —

(a) the appropriate provisions of Parts 5 to 11 and Part 19; and

(b) the provisions of any instrument of a legislative character having effect under any of those provisions.

Prohibition Notices

420. (1) If an inspector appointed under section 414 is of the opinion that any activities which are being or are likely to be carried out on board any ship under the control of any person will give rise to the risk of serious personal injury to any person, whether on board the ship or not, the inspector may serve on the person who has control of the activities a notice referred to in this Act as a "**prohibition notice**".

(2) A prohibition notice shall —

(a) state that the inspector is of the opinion under subsection (1);

(b) specify the matters which in the inspector's opinion give or, will give rise to the risk of serious personal injury to any person;

(c) state whether the inspector is of the opinion that those matters involve or as applicable, will involve a contravention of any of the relevant statutory provisions, specify the provision or provisions, and give the reasons why the inspector is of that opinion; and

(d) direct that —

(i) the activities to which the notice relates shall not be carried out;

(ii) the ship shall not proceed to sea; or

(iii) both of those things,

unless the matters specified in the notice under paragraph (b) and any contravention under paragraph (c) have been remedied.

(3) A direction contained in a prohibition notice under subsection (2)(d) shall take effect —

(a) at the end of any period specified in the notice; or

(b) if the direction is given under subsection (2)(d)(ii) or the notice declares, immediately.

Provisions supplementary to sections 419 and 420

421. (1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with those provisions.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served —

(a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it; and

(b) the period so specified is subject to extension by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 423.

Detention orders

422.(1) Where under this Act and the regulations, a ship is to be detained, a surveyor of ships shall —

(a) issue an order for the detention and detain the ship; and

(b) provide a copy of the order to the appropriate officer of customs at the port at which the ship seeks clearance.

(2) An order for the detention of a ship shall —

(a) state the relevant statutory provisions under which the ship is detained; and

(b) specify the matters which in the opinion of the surveyor of ships give rise to the detention under those provisions.

(3) Where a ship is detained under this Act and the regulations, a customs and border control officer may refuse to clear the ship outwards.

(4) A ship detained under this Act and the regulations shall be released from detention when the matters giving rise to the detention are dealt with to the satisfaction of the Chief Executive Officer.

(5) Where a ship detained under this Act and the regulations is to be released, an order for the release shall be issued by a person so authorised by the Chief Executive Officer and that person shall provide a copy of the order to the appropriate officer of customs of the port at which the ship is to be cleared onwards.

References to arbitration

423. (1) Any question as to whether —

(a) any of the reasons or matters specified in —

(i) an improvement notice under section 419(2);

(ii) a prohibition notice under section 420(2)(b) or (c); or

(iii) a detention order under section 422(1),

in connection with any opinion formed by the officer serving the notice or order constituted a reasonable basis for that opinion; or

(b) directions included in the notice under section 421(1) were reasonable,

shall, if the person on whom a notice was served, or the owner of a detained ship, so requires, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by the arbitrator.

(2) If a party requires the matters specified in subsection (1) to be referred to an arbitrator, the party seeking arbitration shall inform the Chief Executive Officer of this requirement in writing within twenty-one days from the service of the notice or the issue of the order.

(3) Where the party notifies the Chief Executive Officer under subsection (2) —

(a) the operation of an improvement notice shall be suspended until the decision of the arbitrator is published to the parties or the party withdraws the requirement for arbitration;

(b) any direction given in a prohibition notice shall remain in force unless the arbitrator directs otherwise; and

(c) any detention order shall remain in force unless the arbitrator directs otherwise.

(4) Where the arbitrator decides that in all the circumstances —

(a) there was no reasonable basis for the officer's opinion; or

(b) a direction was unreasonable,

the arbitrator shall either cancel the notice or order or affirm it with such modifications as the arbitrator may think fit and, in all other cases, the arbitrator shall affirm the notice or order in its original form.

(5) A person shall not be qualified for appointment as an arbitrator under subsection (1) unless the person is —

(a) a person with at least ten years' standing as an attorney-at-law in the Islands and with experience of maritime matters;

(b) a person referred to in section 3(1) of the *Legal Practitioners Act (2022 Revision)* who has practised in the specified profession for at least ten years and with experience in maritime matters; or

(c) any person with international experience or expertise of shipping matters or of activities carried on in ports.

(6) In connection with an arbitrator's functions under this section, an arbitrator shall have the powers conferred on an inspector by section 416.

Compensation in connection with invalid prohibition notices and detention orders

424. (1) If in relation to a prohibition notice or a detention order —

(a) an arbitrator decides that any reason or matter did not constitute a reasonable basis for the officer's opinion; and

(b) it appears to the arbitrator that there were no reasonable grounds for the officer to form that opinion,

the arbitrator may, subject to subsection (3), award the party requiring arbitration such compensation in respect of any loss suffered by the party in consequence of the service of the prohibition notice or issue of the detention order as the arbitrator thinks fit.

(2) If, on any such reference, the arbitrator decides that any direction included in prohibition notice was unreasonable, the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by the person in consequence of the direction as the arbitrator thinks fit.

(3) An arbitrator shall not award any compensation under subsection (1) or (2) in the case of any prohibition notice unless —

(a) the direction given under section 420(2)(d) contained a direction that the ship shall not proceed to sea; or

(b) it appears to the arbitrator that —

(i) the inspector was of the opinion that there would be such a risk of injury as is referred to in the notice if the ship proceeded to sea; and

(ii) the effect of the direction given under section 420(2)(d) was to prevent the departure of the ship unless any matters or contraventions referred to in the notice were remedied.

(4) Any compensation awarded under this section shall be payable out of the revenues of the Islands.

Offences

425. (1) A person who contravenes any requirement imposed by an improvement notice commits an offence and is liable —

(a) on summary conviction to a fine of five thousand dollars; and

(b) on conviction on indictment, to a fine of fifteen thousand dollars.

(2) A person who contravenes any prohibition or direction imposed by a prohibition notice commits an offence and is liable —

(a) on summary conviction to a fine of five thousand dollars; and

(b) on conviction on indictment, to a fine of twenty five thousand dollars and to imprisonment for two years.

(3) If a ship which has been detained proceeds to sea before it is released in accordance with section 422(5), the master of the ship commits an offence and is liable —

(a) on summary conviction, to a fine of twenty five thousand dollars; or

(b) on conviction on indictment, to a fine of fifty thousand dollars.

(4) The owner of a ship, and a person who sends to sea a ship, as respects which an offence is committed under subsection (3) is, if party or privy to the offence, deemed to have committed an offence under that subsection and is liable accordingly.

(5) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea and references to a person who sends a ship to sea shall be construed accordingly.

(6) Where a ship proceeding to sea in contravention of subsection (3), takes to sea any officer appointed under sections 414 or 426 who is on board the ship in the execution of the officer's duty, the owner and master of the ship shall each —

(a) be liable to pay all expenses of, and incidental to, the officer being so taken to sea; and

(b) be deemed to have committed an offence.

(7) A person who commits an offence under subsection (6), is liable —

(a) on summary conviction, to a fine of five thousand dollars; and

(b) on conviction on indictment, to a fine of ten thousand dollars.

(8) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea and references to sending or taking to sea shall be construed accordingly

(9) It is a defence for a person charged with an offence under this section to prove that the person exercised all due diligence to avoid a contravention of the requirement, direction or prohibition in question.

(10) In this section, any reference to an improvement notice, a prohibition notice or a detention order includes a reference to any such notice or order as modified under section 423.

PART 17 - INVESTIGATIONS AND INQUIRIES INTO MARINE CASUALTIES

Investigations of shipping casualties

426. (1) Where any of the following casualties occur, that is to say —

(a) the loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship;

(b) a loss of life or serious injury to any person, caused by fire on board, or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or

(c) any damage caused by a ship,

and, at the time it occurs, the ship was a Cayman Islands ship or the ship or ship's boat was in Cayman Islands waters, the Minister may cause a marine safety investigation into the casualty to be held by a person appointed for the purpose by the Minister as an inspector of marine casualties who shall have the powers conferred by section 417.

(2) Whether or not a marine safety investigation into the casualty has been held under subsection (1), the Minister may cause a formal inquiry to be held by a Board appointed for that purpose.

Formal inquiry

427. (1) A Board holding a formal inquiry into a shipping casualty under section 426 shall consist of a judge of the Court or a magistrate or an attorney-at-law who shall be assisted by one or more assessors appointed by the Minister and the assessors shall be persons with requisite skills and knowledge in maritime matters.

(2) Where in a formal inquiry, any question as to the cancellation or suspension of the certificate issued to an officer under any regulations made under this Act is likely to arise, there shall be not less than two assessors.

(3) If, as a result of the formal inquiry, the Board —

(a) is satisfied with respect to any seafarer, or any of the matters mentioned in section 118(1)(a) to (c); and

(b) if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, or that any seafarer is unfit to discharge the seafarer's duties,

the Chief Executive Officer may cancel, or suspend any certificate issued to the seafarer under any regulations made under this Act or censure the seafarer; and if Chief Executive Officer cancels or suspends the certificate, the seafarer shall deliver it forthwith to Chief Executive Officer.

(4) A person who fails to deliver a certificate as required under subsection (3) commits an offence and is liable on summary conviction to a fine of three thousand dollars.

(5) Where a certificate has been cancelled or suspended under this section, the Chief Executive Officer, by way of a review and if the Chief Executive Officer of the opinion that the justice of the case requires —

(a) may re-issue the certificate;

(b) reduce the period of suspension and return the certificate; or

(c) may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(6) The Board may make such awards as it thinks just with regard to the costs or expenses of the formal inquiry and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the Board may, on the application of any party named in it, be made an order of the Court.

(7) Subsections (2), (3) and (4) apply to endorsements of certificates in the same manner as they apply to certificates.

(8) The Board shall make a report on the formal inquiry to the Minister.

Rehearings and appeals

428. (1) Where a formal inquiry has been held under section 427, the Minister may order the whole or part of the case to be reheard and shall do so if —

(a) new and important evidence which could not have been produced at the formal inquiry has been discovered; or

(b) it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the rehearing to be made by the Board which held the formal inquiry or by the Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 429, and section 427 shall apply in relation to a rehearing of a formal inquiry by a Board as it applies in relation to the holding of a formal inquiry.

(4) Where the Board holding the formal inquiry has decided to cancel or suspend the certificate of a person issued under any regulations made under this Act, or has found a person at fault, then —

(a) if no application for an order under subsection (1) has been made; or

(b) if such application has been refused,

that person or any other person who, having an interest in the formal inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal to the Court.

(5) A Court hearing any collision or limitation matter under this Act may make such evidential use of the report on the formal inquiry of the Board as a whole as the Court thinks fit.

Rules relating to inquiries and investigations

429. (1) The Minister may make rules for the conduct of formal inquiries under section 427, and for the conduct of any rehearing under section 428 which is not held by the Court.

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

(3) Rules of the Court made for the purpose of rehearings under section 428 which are held by the Court, or of appeals to the Court, may require the Court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a rehearing or hear such an appeal with the assistance of one or more assessors.

Inquiries into and reports on deaths and injuries

430. (1) Subject to subsection (6), where —

(a) a person dies in a Cayman Islands ship or in a boat or life-raft from such a ship; or

(b) a seafarer employed in, such a ship dies in a country outside the Islands,

an inquiry into the cause of the death shall be held by the Shipping Master.

(2) Subject to subsection (6), where it appears to the Chief Executive Officer that —

(a) in consequence of an injury sustained or a disease contracted by a person when the person was a seafarer employed in a Cayman Islands ship, the person ceased to be employed in the ship and subsequently died; and

(b) the death occurred in a country outside the Islands during the period of one year beginning with the day on which the person so ceased to be employed,

the Chief Executive Officer may arrange for an inquiry into the cause of the death to be held by the Shipping Master.

(3) Subject to subsection (6), where it appears to the Chief Executive Officer that a person may have —

(a) died in a Cayman Islands ship or in a boat or life-raft from such a ship; or

(b) been lost from such a ship, boat or life-raft and have died in consequence of being so lost,

the Chief Executive Officer may arrange for an inquiry to be held by the Shipping Master into whether the person died as mentioned above and, if the Shipping Master finds that the person did, into the cause of death.

(4) The Shipping Master holding the inquiry shall, for the purpose of the inquiry, have the powers conferred on an inspector by section 416.

(5) The Shipping Master shall make a report of findings of the Shipping Master to the Chief Executive Officer who shall make the report available —

(a) on request to the next of kin of the person to whom the report relates; and

(b) in any case, to any person requesting it who appears to the Chief Executive Officer to be interested.

(6) No inquiry shall be held under this section where a coroner's inquest is to be held.

PART 18 - LEGAL PROCEEDINGS

Prosecution of Offences

Time limit for summary offences

431. (1) Subject to subsections (2) and (3), no person shall be convicted of an offence under this Act in summary proceedings unless —

(a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or

(b) in a case where the accused happens during that period to be out of the Islands, the proceedings were commenced within two months after the accused first happens to arrive within the Islands and before the expiration of three years beginning with the date on which the offence was committed.

(2) Nothing in subsection (1) shall apply in relation to any indictable offence.

(3) Subsection (1) shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before —

(a) the expiration of the period of six months beginning with the day when evidence which the Director of Public Prosecutions considers is sufficient to justify a prosecution for the offence came to the Director of Public Prosecution's knowledge; or

(b) the expiration of two months beginning with the day when the accused was first present in the Islands after the expiration of the period mentioned in paragraph (a), if throughout that period the accused was absent from the Islands.

(4) For the purpose of subsection (3) —

(a) a certificate of the Director of Public Prosecutions stating that evidence came to the knowledge of the Director of Public Prosecutions on a particular day shall be conclusive evidence of that fact; and

(b) a document purporting to be a certificate of the Director of Public Prosecutions and to be signed on behalf of the Director of Public Prosecutions shall be presumed to be such certificate unless the contrary is proved.

Time limit for summary orders

432. No order for the payment of money shall be made under this Act in proceedings before a summary court unless —

(a) the proceedings were commenced within six months beginning with the date on which the matter of complaint arose; or

(b) in a case where both or either of the parties to the proceedings happen during that period to be out of the Islands, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within the Islands.

Offences by officers of bodies corporate

433. (1) Where a body corporate commits an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such a capacity, that person as well as the body corporate commits that offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with its functions of management as if the member were a director of the body corporate.

(3) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act alleged to have been committed by the company as the owner of a ship, shall be treated as served on that company if the document is served on the master of the ship; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the ship in question.

(4) In subsection (3), "**foreign company**" has the same meaning as in the *Companies Act (2023 Revision)*.

Jurisdiction

Jurisdiction in relation to offences

434. (1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in the Islands where the offender may be for the time being.

(2) For the same purpose, any matter of complaint under this Act shall be deemed to have arisen in any place in the Islands where the person complained against may be for the time being.

(3) The jurisdiction under subsections (1) and (2) shall be in addition to, and not in derogation of, any jurisdiction or power of the Court under any other enactment.

Jurisdiction over ships lying off coasts

435. Where the area within which the Court has jurisdiction is situated on the coast of the sea or abuts on or projects into any bay, channel or other navigable water, the Court shall have jurisdiction as respects offences under this Act within Cayman Islands waters over all persons on board that vessel or for the time being belonging to it.

Jurisdiction in case of offences on board ship

436. Where a person is charged with having committed any offence under this Act, the person —

(a) if the person is a Cayman Islands citizen and is charged with having committed it —

(i) on board any Cayman Islands ship on the high seas;

(ii) in any foreign port or harbour; or

(iii) on board any foreign ship to which the person does not belong; or

(b) if the person is not a Cayman Islands citizen and is charged with having committed it on board any Cayman Islands ship on the high seas,

and the person is found within the jurisdiction of the Court in the Islands which would have had jurisdiction in relation to the offence if it had been committed on board a Cayman Islands ship within the limits of its ordinary jurisdiction to try the offence, the Court shall have jurisdiction to try the offence as if it had been so committed.

Offences committed by Cayman Islands seafarers and other persons on board a Cayman Islands ship

437. (1) Any act done in or at any place, ashore or afloat, outside the Islands by any seafarer who, at the time, is employed in a Cayman Islands ship, which, if done in any part of the Islands would be an offence under the *Penal Code (2022 Revision)*, shall —

(a) be an offence under the *Penal Code (2022 Revision)*; and

(b) be treated for the purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the Court.

(2) Subsection (1) applies to —

(a) omissions as they apply to acts; and

(b) to persons on board a Cayman Islands ship in addition to seafarers.

Innocent passage

438. This Part shall not apply to a foreign ship or persons on such a ship while it is exercising the right of innocent passage in Cayman Islands waters in accordance with Part II of the *United Nations Convention on the Law of the Sea 1982*.

Detention of Ship and Distress on Ship

Enforcing detention of ship

439. (1) Where, under this Act, a ship is to be detained, a customs and border control officer may, refuse to clear the ship outwards.

(2) When any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of customs, the officer able to grant a clearance of the ship is, unless the context otherwise requires, that officer.

(3) Subject to subsection (6), where proceedings are to be instituted in respect of an alleged contravention of this Act, a person exercising the power of detention shall immediately release the ship if —

(a) no proceedings for the offence in question are instituted within seven days beginning with the day on which the ship is detained;

(b) such proceedings are concluded without the master or owner being convicted;

(c) either —

(i) the sum of one hundred thousand dollars is paid to the Government by way of security; or

(ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than one hundred thousand dollars is given to the Government by or on behalf of the master or owner;

(d) where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by the master or owner, and any fine imposed on the master or owner, have been paid; or

(e) the release is ordered by a court or tribunal referred to in Article 292 of the *United Nations Convention on the Law of the Sea 1982*, and any bond or other financial security ordered by such a court or tribunal is posted.

(4) The Government shall repay any sum paid under subsection (3)(c) or release any security so given —

(a) if no proceedings for the offence in question are instituted within seven days beginning with the day on which the sum is paid; or

(b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.

(5) Where a sum has been paid, or security has been given, by a person under subsection (3)(c), and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied —

(a) first, in payment of any costs or expenses ordered by the Court to be paid by the master or owner; and

(b) next, in payment of any fine imposed by the Court,

and the balance shall be repaid to the person paying the sum, or giving the security.

(6) Notwithstanding subsection (3), where a ship is detained under section 242 it shall not be released until the deficiency for which the ship was detained is rectified to the satisfaction of the Chief Executive Officer or any person authorised by the Chief Executive Officer.

(7) Where a ship detained under this Act is to be released, an order for release shall be issued by an officer appointed under section 414 as may be appropriate in the particular case, and such person shall provide a copy of the order to the proper customs and border control officer of the port at which the ship is to be cleared onwards.

Payment of fines

440. (1) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any costs or expenses ordered to be paid by the owner or master are not paid at the time ordered by the Court, the Court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be recovered by arrestment and sale of the ship, its tackle, furniture and apparel.

(2) Where a person is convicted of an offence under this Act and the Court imposes a fine in respect of the offence, then if it appears to the Court that any person

has incurred, or will incur, expenses in making good any damage which is attributable to the offence, the Court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

Special Evidentiary Provisions

Depositions of persons abroad admissible

441. (1) If the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceedings and it is proved that that person cannot be found in the Islands, any deposition that person may have previously made at a place outside the Islands in relation to the same subject matter shall, subject to subsection (2), be admissible in evidence in those proceedings.

(2) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence of that fact.

(3) This section also applies to proceedings before a person authorised by law or consent of the parties to receive evidence.

(4) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of the Court.

Admissibility in evidence and inspection of certain documents

442. (1) The following documents shall be admissible in evidence and, when in the custody of the Chief Executive Officer, shall be open to public inspection —

(a) the official log book of any ship kept under section 125 and, without prejudice to section 443(2), any document purporting to be a copy of an entry in the log book and to be certified as a true copy by the master of the ship;

(b) lists of crews made under section 91; and

(c) returns or reports under section 310.

(2) A certificate issued under regulations made under this Act shall be admissible in evidence.

Admissibility of documents in evidence

443. (1) Where a document is, by this Act, declared to be admissible in evidence the document shall, on its production from proper custody —

(a) be admissible in evidence in any court or before a person having by law or consent of parties authority to receive evidence; and

(b) subject to all just exceptions, be evidence of the matters stated in the document.

(2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3), also be admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2), unless —

(a) it is proved to be an examined copy or extract; or

(b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Chief Executive Officer determines.

(4) A person shall, on payment of such reasonable price as the Chief Executive Officer determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.

(5) If any officer, having duties of certification under subsection (3), in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract commits an offence and is liable —

(a) on summary conviction, to a fine of five thousand dollars or to imprisonment for six months; or

(b) on conviction on indictment, to a fine of ten thousand dollars and to imprisonment for two years.

Inspection and admissibility in evidence of copies of certain documents

444. (1) Where, under any enactment, a document is open to public inspection when in custody of the Chief Executive Officer —

(a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but

(b) the original shall, nevertheless, be made available for public inspection if the copy or other reproduction is illegible.

(2) Where the Chief Executive Officer destroys any document which has been sent to the Chief Executive Officer under or by virtue of any enactment and keeps a copy or other reproduction of that document, then —

(a) any enactment providing for that document to be admissible in evidence or open to public inspection; and

(b) in the case of a document falling within subsection (1), that subsection, shall apply to the copy or other reproduction as if it were the original.

(3) For the purposes of this section, and of section 443(2) in its application to documents in the custody of the Chief Executive Officer, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

Service of documents

445. (1) A notice or document authorised or required to be served on a person may be served on that person —

(a) by delivering it to the person;

(b) by leaving it at the person's proper address; or

(c) by sending it by post to the person at the person's proper address.

(2) Any such document required to be served on the master of a ship may be served —

(a) where there is a master, by leaving it for the master on board the ship with the person appearing to be in command or charge of the ship; and

(b) where there is no master, on —

(i) the managing owner of the ship;

(ii) if there is no managing owner, on any agent of the owner; or

(iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.

(3) Subject to subsection (4), a document authorised or required to be served on any person may —

(a) in the case of a body corporate, be served on the secretary or clerk of that body; or

(b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) A document required or authorised by or under any enactment to be served on the registered owner of a Cayman Islands ship shall be treated as served —

(a) where there are two or more registered owners, if served on any one of the registered owners; or

(b) if served on the representative person appointed under this Act in relation to that registered owner.

(5) A notice authorised by section 419, 420, 421 or 423 to be given to an inspector may be given by delivering it to the inspector or by leaving it at, or sending it by post to, the inspector's office.

(6) For the purposes of this section, the proper address of a person on whom a document is to be served shall be the person's last known address, except that —

(a) in the case of a body corporate, or its secretary or clerk, it shall be the address of the registered or principal office of that body; or

(b) in the case of a partnership, or a person having the control or management of the partnership business, it shall be the principal office of the partnership,

and for the purposes of this subsection, the principal office of a company registered outside the Islands shall be its principal office in the Islands.

(7) For the purposes of section 52 of the *Interpretation Act (1995 Revision)*, service of documents by post —

(a) a letter containing —

(i) a notice to be served on a person under subsection (4); or

(ii) a notice required or authorised to be served under this Act on a representative person within the meaning of this Act,

shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to the person in the register; and

(b) a letter containing any other notice to which subsection (1)(c) applies shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served, whether of the person's residence or of a place where the person carries on business.

(8) Subject to subsection (7), if the person to be served with a notice has specified an address in the Islands other than the person's proper address within the meaning of subsection (6), as the one at which the person or someone on the person's behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section as the person's proper address.

PART 19 - SUPPLEMENTAL

Administration

General functions of Minister and Chief Executive Officer

446. (1) The Minister has the general superintendence of all matters relating to merchant shipping and seafarers and is authorised to carry into execution the provisions of this Act except as provided in subsection (2) and of all legislation relating to merchant shipping and seafarers, for the time being in force, except where otherwise provided or so far as relating to revenue.

(2) The provisions of this Act —

(a) concerning revenue and matters related thereto, shall be administered by the Minister responsible for Finance; and

(b) concerning the Port Authority and the Director of Ports, shall be administered by the Minister responsible for the Port Authority.

(3) No action shall lie against the Government or any public officer or other person appointed or authorised to perform any function under this Act anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was negligent or in bad faith.

General power to dispense

447. (1) The Chief Executive Officer may, and upon such conditions, if any, as the Chief Executive Officer thinks fit to impose, exempt any person or ship from any specified requirement of, or any specified requirement prescribed under, this Act, or dispense with the observance of any such requirement in the case of any person or ship, if the Chief Executive Officer is satisfied, as respects that requirement, of the matters specified in subsection (2).

(2) Those matters are —

(a) that the requirement has been substantially complied with in the case of that person or ship or that compliance with it is unnecessary in the circumstances; and

(b) that the action taken or provision made as respects the subject matter of the requirement in the case of the person or ship is no less effective than actual compliance with the requirement.

(3) The Minister shall annually lay before the Parliament a special report stating —

(a) the cases in which the Chief Executive Officer has exercised the Chief Executive Officer's powers under this section during the preceding year; and

(b) the grounds upon which the Chief Executive Officer has acted in each case.

Nautical assessors

448. There shall be paid to any assessor appointed under this Act such remuneration, out of money provided by the Parliament, as the Minister may determine.

Transmission of documents to Chief Executive Officer

449. (1) The duties set out in subsections (2) and (3) are imposed on the Shipping Master and all customs and border control officers as respects all documents which are delivered or transmitted to or retained by them under this Act.

(2) The Shipping Master and all customs and border control officers shall take charge of the documents and keep them for such time, if any, as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose.

(3) The Shipping Master and all customs and border control officers shall, if required, produce the documents for any of the purposes set out in subsection (2), and shall then transmit them to the Chief Executive Officer.

(4) The Chief Executive Officer shall record and preserve all documents transmitted to the Chief Executive Officer under subsection (3).

Returns, etc., to Chief Executive Officer

450. (1) The Shipping Master shall make and send to the Chief Executive Officer such returns or reports on any matter relating to Cayman Islands seafarers as the Chief Executive Officer may require.

(2) The Shipping Master shall, when required by the Chief Executive Officer, produce to Chief Executive Officer or to officers assigned by the Chief Executive Officer all official log-books and other documents which are delivered to the Shipping Master.

Forms

451. (1) The Chief Executive Officer may prepare and approve forms for any book, instrument or paper required under this Act and may alter such forms as the Chief Executive Officer thinks fit.

(2) Before issuing any form or alteration in a form the Chief Executive Officer shall cause public notice thereof to be given in such manner as the Chief Executive Officer thinks requisite in order to avoid inconvenience.

(3) Every such book, instrument or paper shall be made in the form, if any, approved by the Chief Executive Officer, or as near as circumstances permit; and, unless so made, shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(4) Every such book, instrument or paper, if made in a form purporting to be the proper form in accordance with subsection (2), shall be deemed to be in the form required by this Act, unless the contrary is proved.

(5) Subsections (1) to (4) do not apply where special provision is made by this Act.

(6) A person who prints, sells or uses any document purporting to be a form approved by the Chief Executive Officer, knowing that the document is not the form approved for the time being or that the document has not been prepared or issued by the Chief Executive Officer, commits an offence and is liable on summary conviction to a fine of two thousand dollars.

Advisory committees

452. (1) The Cabinet may, if it thinks fit, appoint committees for the purpose of advising Cabinet when considering the making or alteration of any regulations or rules for the purposes of this Act.

(2) A committee appointed under subsection (1) shall consist of persons representing the interests principally affected or having special knowledge of the subject matter.

(3) The members of any committee under this section may be paid such travelling and other allowances as the Cabinet determines.

(4) Committees may be appointed under subsection (1) to advise the Cabinet particularly as regards any special regulations, rules or generally as regards any class or classes of regulations or rules which the Cabinet may assign to them.

Financial Provisions

Fees, regulations and fines

453. (1) The Cabinet may make regulations prescribing fees to be charged in respect of —

(a) the issue or recording under this Act of any certificate, licence or other document; or

(b) the doing of anything under this Act.

(2) The Cabinet may, by order, vary fines under this Act, taking into account the rate of inflation in the Islands at the relevant time.

Expenses of the Customs and Control Office

454. All expenses incurred by the Collector of Customs in the conduct of proceedings or otherwise in carrying into effect this Act shall be treated as expenses relating to the revenue of the Islands and shall be paid accordingly.

Expenses charged on money provided out of the revenue of the Islands

455. The following expenses and other amounts shall be payable out of money provided out of the revenue of the Islands —

(a) the expenses incurred by the Minister under this Act;

(b) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;

(c) such sums as the Cabinet may, in its discretion, think fit to pay in respect of claims on account of the proceeds of wreck;

(d) the expenses incurred in respect of the Receiver of Wreck and the performance of the duties of the Receiver of Wreck;

(e) such expenses as the Cabinet directs for —

(i) establishing and maintaining on the coasts of the Islands proper lifeboats with the necessary crews and equipment;

(ii) affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or

(iii) rewarding the preservation of life in such cases; and

(f) any other amounts which are, under this Act, payable out of the revenue of the Islands.

Payments to be made into the revenue of the Islands

456. (1) The following sums shall be paid into the revenue of the Islands —

(a) all fines imposed under this Act;

(b) any fees received by the Receiver of Wreck; and

(c) any sums received by the Government under this Act or which are, by any provision of it, required to be paid into the revenue of the Islands.

(2) All fees mentioned in this section shall be paid at such time and in such manner as the Minister directs.

General Regulations, discretion of the Chief Executive Officer and Shipping Notices

Regulations

457. (1) Without prejudice to any other provision of this Act, the Cabinet may make regulations making such provisions as it considers appropriate in relation to or arising out of matters —

(a) in this Act; or

(b) to give effect to any provisions of an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and as extended to the Islands.

(2) The power conferred by subsection (1) when making provision for giving effect to an agreement includes the power to provide for the provision to come into force at a future date once the agreement will have come into force and will have been extended to the Islands.

(3) Regulations made under subsection (1) may —

(a) make different provisions for different circumstances and make provision for an individual case;

(b) be made so as to apply only in such circumstances as are prescribed by the regulations;

(c) be made so as to extend outside the Islands; and

(d) contain such incidental and transitional provisions as the Cabinet considers appropriate.

(4) The Cabinet may, by regulations —

(a) make such amendments or other modifications of this Act as it considers appropriate in consequence or in anticipation of the making of regulations under subsection (1);

(b) make such repeals or other modifications of provisions of any enactment passed, and any instrument made before the passing of this Act as it considers appropriate, in connection with any modification made, or to be made, in pursuance of the preceding paragraph; and

(c) provide for anything done under a provision repealed or otherwise modified by virtue of paragraph (a) or (b), to have effect as if done under regulations made under subsection (1), and make such other transitional provision and such incidental and supplemental provision as it considers appropriate in connection with any modification made by virtue of either of those paragraphs.

(5) Any direction, notice, order or authorisation under this Act given or made by the Minister or Chief Executive Officer shall be in writing and published in the Gazette.

(6) In making any regulations under this Act, the Cabinet may prescribe fines exceeding one thousand dollars in respect of breaches of any provisions of the regulations.

Chief Executive Officer's discretion

458. (1) Where an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and as extended to the Islands permits or requires a requirement to be determined by the Chief Executive Officer, the Chief Executive Officer may —

(a) for a class of ships, decide for those ships taking into account the matters in subsection (b) and make an order under section 459 to that effect; or

(b) for an individual ship, decide for that ship taking into account the following matters —

(i) the Rules, Regulations and recommendations of a corporation or society appointed under section 414(2);

(ii) the published Unified Interpretations, Guidelines and other guidance of the Organization; or

(iii) any relevant international or national standards,

as may be appropriate to that ship.

(2) If the Chief Executive Officer becomes aware of an arrangement or thing on a ship which does not comply with a requirement determined in accordance with subsection (1), the Chief Executive Officer shall serve notice on the owner of the ship specifying how the requirement is to be complied with.

Shipping notices and amendments to international agreements

459. (1) Without prejudice to any other provision of this Act, the Chief Executive Officer, with the approval of the Minister, may by order make such provisions subordinate to this Act as the Chief Executive Officer considers appropriate in relation to or arising out of matters —

(a) relating to a decision made under section 458; or

(b) to give effect to any provisions of an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and extended to the Islands and not otherwise prescribed in this Act.

(2) An order made under subsection (1) shall be published as a Cayman Islands Shipping Notice and shall be published in the Gazette.

(3) Any order made under subsection (1) may be amended or withdrawn by the Minister at any time and notice of such amendment or withdrawal shall be published in the Gazette.

(4) An amendment to an international agreement relating to merchant shipping or seafarers adopted by the United Kingdom and extended to the Islands shall not have the force of law under this Act if the Minister decides, with the approval of the Governor, that it is not in the interests of the Islands for the amendment to have the force of law under this Act.

Application of Act to certain descriptions of ships, etc.

Application of Act to non-Cayman Islands ships

460. (1) The Cabinet may make regulations specifying any description of non-Cayman Islands ships and directing that such of the provisions of this Act and of regulations under this Act, as may be specified in the regulations —

(a) shall extend to non-Cayman Islands ships of that description and to masters and seafarers employed in them; or

(b) shall so extend in such circumstances as may be so specified, with such modifications, if any, as may be so specified.

(2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Cabinet to be necessary.

(3) In this section, "**non-Cayman Islands ships**" means ships that are not registered in the Islands.

Application of Act to Government ships

461. (1) Unless expressly stated otherwise in this Act, this Act shall not apply to ships belonging to the Government.

(2) The Cabinet may, by Order, provide for the manner in which Government ships may be registered as Cayman Islands ships under Part 2 and this Act, subject to any exceptions and modifications which may be made by Order, either generally or as respects any special class of Government ships, shall apply to Government ships registered in accordance with the Order as if they were registered in accordance with Part 2.

(3) Any Order under subsection (2) shall be subject to the negative resolution procedure.

Application of Act to ships chartered by demise to the Government

462. (1) This section applies to a ship if, for the time being —

(a) the ship is —

(i) registered in the Islands; and

(ii) in the services of the Government by reason of a charter by demise to the Government; and

(b) there is in force, under section 466(2), an Order providing for the registration of Government ships.

(2) Where this section applies to any ship —

(a) the provisions of the Order referred to in subsection (1)(b) (excluding those relating to registration under the Order); and

(b) the provisions of this Act (as they apply by virtue of section 466(2) and that Order,

shall, subject to subsections (3) and (4), have the same effect in relation to that ship as they have in relation to a Government ship, whether referred to as such or as such a ship registered in pursuance of that Order.

(3) Subject to subsection (4), Part 2 has effect, in relation to a ship to which this section applies, in like manner as if it were not, for the purpose of this Act, a ship belonging to the Government.

(4) The Cabinet may, by Order, provide that any statutory provision falling within subsection (2) or (3), and specified in the Order —

(a) shall not have effect in accordance with that subsection in relation to a ship to which this section applies; or

(b) shall so have effect in relation to such a ship, but subject to such modifications as are specified in the Order.

(5) In the application of this Act, other than Part 2, in relation to a ship to which this section applies, any reference to the owner of the ship shall be construed as a reference to the Government.

(6) An Order under this section may make such transitional, incidental or supplementary provisions as appears to the Cabinet to be necessary.

Application of Act to certain structures, etc.

463. (1) The Cabinet may, by Order, provide that a thing designed or adapted for use at sea and described in the Order is or is not to be treated as a ship for the purposes of any specified provision of this Act or of any regulations made under this Act.

(2) An Order under this section may —

(a) make different provisions in relation to different occasions; and

(b) if it provides that a thing is to be treated as a ship for the purposes of a specified provision, provide that the provision has effect in relation to the thing with such modifications as are specified.

(3) In this section, "**specified**" means specified in the Order.

Application of United Kingdom Legislation

Application of United Kingdom legislation

464. (1) The Cabinet may, after consultation with the Secretary of State for Transport of the United Kingdom, by Order, apply to the Islands as part of the law of the Islands, subject to such exceptions, adaptations and modifications as may be specified in the Order, any legislation of the United Kingdom to which this section applies.

(2) An Order under subsection (1), may include provisions repealing or amending any provision of any enactment, other than this section, including an enactment which applies or enables the application of any legislation of the United Kingdom relating to merchant shipping, which is inconsistent with, or is unnecessary or requires modification in consequence of this section, the Order or any legislation of the United Kingdom applied to the Islands by the Order.

(3) The Minister shall, as soon as is practicable after the coming into operation of an Order under subsection (1), cause a text to be prepared of the legislation of the United Kingdom, applied by the Order, incorporating the exceptions, adaptations and modifications specified in the Order.

(4) The Minister shall supply a copy of the text, prepared under subsection (3), to a person requesting the same, at such reasonable charge as the Minister may determine.

Consultation with Secretary of State

465. Any regulations made under this Act shall be made after notification of the regulations is given to the Secretary of State for Transport of the United Kingdom.

Repeals and savings

466. (1) The *Merchant Shipping Act (2021 Revision*) is repealed

(2) Until regulations are made under this Act to provide for a matter that may be prescribed, the rules and regulations made under the *Merchant Shipping Act (2021 Revision)* that are in force immediately before the commencement of this Act shall have effect until expressly repealed by this Act or by regulations made under this Act.

(3) The *Wreck and Salvage Act (1996 Revision)* is repealed.

SCHEDULE

(section 56)

Instruments and documents for which forms are to be prescribed

Certificate of survey.

Declaration of ownership by individual owner.

Declaration of ownership on behalf of a corporation as owner.

Certificate of registry.

Declaration of ownership by individual transferee.

Provisional certificate.

Declaration of owner taking by transmission.

Declaration of mortgagee taking by transmission.

Bill of Sale.

Mortgage to secure principal sum and interest.

Mortgage to secure account current, etc. (individuals or joint owners).

Transfer of mortgage by individual or joint owners.

Transfer of mortgage by body corporate.

Passed by the Parliament the day of , 2023.

Speaker

Clerk of the Parliament