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THE LAKE VICTORIA TRANSPORT ACT, 2008.

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THE LAKE VICTORIA TRANSPORT ACT, 2008

An Act of the Community to make provision for the Commission to regulate maritime safety and security, to make provision for the construction, survey, registration and licensing of all vessels used on the Lake, for the safety of passengers and cargo, for the competency of masters and crew and for other related matters.

Date of assent 29th May, 2008.

Date of commencement See section 1.

ENACTED by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY

1. (1) This Act may be cited as the Lake Victoria Transport Act, 2008 and shall come into operation on such date as the Council may, by notice published in the *Gazette*, appoint.

Short title
and
commence
ment

(2) The Council may under sub-section (1) appoint different dates for the coming into operation of different provisions of this Act.

2. The object of this Act is to regulate, co-ordinate and oversee maritime safety and security, search and rescue, aids to navigation, hydrography and charting, meteorology, communications and to prevent marine pollution on the Lake for the benefit of the Partner States.

Object of
the Act

Application

3. (1) Unless otherwise expressly provided, this Act shall apply to—

- (a) a vessel in a port on or place in, or within the Lake;
- (b) a structure, in or on the Lake used for exploration or production operations under any petroleum production legislation applicable in a Partner State and to the person in charge of the structure; and
- (c) a vessel registered or licenced under any legislation relating to fisheries or any other relevant legislation of a Partner State.

(2) Unless otherwise provided, nothing in this Act shall apply to—

- (a) a vessel of the police of the Partner States;
- (b) a vessel of the navy of the Partner States; and
- (c) an aircraft of the defence forces of the Partner States.

Exemptions

4. (1) The Council may exempt from the application of any provision or any Part of this Act—

- (a) any vessel or class of vessels operating in any area of the Lake as designated by the Commission, where it considers that the sheltered nature and the conditions of that operation render the application of any specific provisions of this Act unreasonable or unnecessary;
- (b) vessels the keels of which were laid down before the entry into force of this Act; and
- (c) vessels for limited local voyages or in port areas, provided that the vessels comply with such other requirements that are, in the opinion of the Council, adequate for the intended voyage.

(2) The exemptions in sub-section (1) (c) and the voyages and areas to which they apply shall be specified in the certificate of seaworthiness of the vessel.

(3) The Council may exempt a vessel that embodies features of a novel kind from any of the provisions of this Act, where the application of the Act may seriously impede research into development of such features and their incorporation in vessels.

(4) A vessel exempted under sub-section (3) shall comply with such safety requirements that, in the opinion of the Council, are adequate for the service for which it is intended and necessary to ensure the overall safety of the vessel.

5. In this Act, unless the context otherwise requires— Inter-pretation

“accommodation” means any space intended for the use of persons including passengers who normally live on board a vessel, and includes the galley, storage space for provisions, toilets and washing facilities, laundry facilities, landings and gangways, but not the wheelhouse;

“authorised officer,” means a person designated under this Act as such, by the Executive Secretary for the purposes of this Act;

“canoe” means a vessel propelled only by paddles or poles;

“barge” means a vessel that is not fitted with any means of propulsion;

“cargo vessel” means a vessel, which is not a passenger vessel;

“certificate of competency” means a certificate issued to a person under Part VII which entitles the person to be employed in the capacity stated in the certificate;

“certificate of registration” in relation to a vessel, means the certificate of registration issued by the Registrar of vessels under section 32;

“certificated officer” means a member of crew to whom a certificate of competency is issued;

“Commission” means the Lake Victoria Basin Commission established under the Protocol for the Sustainable Development of Lake Victoria Basin;

“Council” means the Community organ set up under Article 9 of the Treaty for the Establishment of the East African Community and includes the Sectoral Council for Lake Victoria Basin Commission;

“dangerous goods” means goods that by reason of their nature, quantity or mode of stowage are either single or collectively liable to endanger the lives of the passengers or imperil the ship, and includes all substances classified in the International Maritime Dangerous Goods Code (IMDG Code) or any International Maritime Organization (IMO) publication as dangerous goods for carriage by lake, and any other substance or article that the shipper has reasonable cause to believe might meet criteria for such classification;

“distressed member of crew” means a member of crew or apprentice found in distress by reason of having been shipwrecked, discharged or left behind in a port other than the proper return port of that member;

“dollar” means United States dollar and includes the equivalent in the currency of the Partner States;

- “equipment” in relation to a vessel, includes everything or article belonging to or used in connection with, or necessary for the navigation and safety of the vessel;
- “Executive Secretary” means the chief executive officer for the Lake Victoria Basin Commission;
- “existing vessel” means a vessel other than a new vessel;
- “fishing vessel” means a vessel used for or, intended to be used for or in connection with fishing but does not include a vessel used or intended to be used for fishing, other than for profit or a vessel used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;
- “freeboard” means the distance measured vertically downwards, amidships, from the upper edge or the deck line to the upper edge of the related load line;
- “grain” includes millet, wheat, maize (corn), oats, rye, barley, rice, pulses, sesame and seeds;
- “home port” means the port of registration of a vessel or the place at which a vessel is habitually kept when not on voyage;
- “inspection certificate” means a certificate issued under section 69;
- “ISM code” means the International Safety Management code for the safe operation of ships and for pollution prevention adopted by the International Maritime Organisation;
- “Lake” means Lake Victoria;
- “licence” means a licence issued under Part V;
- “load line certificate” means an international load line certificate or local load line certificate issued under section 107;

- “Load line Convention’, where applicable, means the International Convention on Load Lines, 1966 as amended;
- “maritime administration unit” means a unit responsible for maritime safety and security administration in a Partner State established under section 11;
- “master” means a person having command of a vessel;
- “member of crew” means an officer or a rating other than a master;
- “navigation mark” means a lighthouse, beacon, busy traffic separation scheme mark, vessels routing mark and any marks used for navigation;
- “near shore limits” means the limits of the Lake measuring ten nautical miles from the nearest shoreline in a Partner State or as established in accordance with any bilateral or multilateral agreement;
- “new vessel” means a vessel the keel of which is laid, or is at an equivalent stage or production, after the commencement of this Act;
- “official logbook” means the official logbook required to be kept under section 154;
- “oil mixture” means any substance containing any oil having an oil content of more than 100 parts per million by volume;
- “officer” means a member of crew other than the master, designated as such by national law or regulations, or in the absence of such designation, a collective agreement or custom;
- “open waters” means, areas of the Lake within which the conditions are such that it is appropriate to apply the highest standards of safety to vessels operating on the Lake;

“owner” means the registered owner of a vessel and includes the agent of the owner and in the case of a vessel which is the subject of a charge or hire-purchase agreement, the person in possession of the vessel under the terms of that agreement;

“passenger” means any person carried on a vessel except—

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

(b) a person on board the vessel either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that the owner, master, or the charterer, if any, would have prevented or forestalled;

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

“pleasure vessel” means—

(a) a vessel including a dive boat which at the time it is used is—

(i) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

- (ii) owned by a body corporate and where a person using it is an employee, officer or shareholder of the body corporate, or his or her immediate family or friend;
- (b) a vessel on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (c) any vessel wholly owned by or on behalf of a club formed for the purpose of sport or pleasure which, at the time it is used, is used only for the sport or pleasure of a member of the club or the immediate family of the member, and for the use of which any charges levied are paid into club funds and applied for the general use of the club;

“port” means a place or area on the Lake designated as such by notice;

“port authority” means the body or authority responsible for managing, regulating and maintaining a port;

“port of registry” in relation to a vessel, means the port at which the vessel is registered or is provisionally registered;

“proper return port“, in relation to a member of crew, means a port in the Partner State of the member of crew; or in the case of a discharged member of crew, the port agreed upon at the time of his discharge;

“Protocol” means the Protocol for Sustainable Development of Lake Victoria Basin;

“rating” means a member of crew other than the master or an officer;

“Receiver” means the Receiver of wrecks appointed under section 188;

“Registrar of members of crew” means the Registrar of members of crew in a Partner State;

“Registrar of vessels” means a Registrar of vessels in a Partner State;

“sailing vessel” means any description of vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion;

“sheltered waters” means areas of the Lake, within which the conditions are appropriate to apply basic standards of safety to a vessel operating on that part of the Lake;

“surveyor” includes any person or organization, duly appointed under section 74;

“tanker” means a cargo vessel constructed or adapted for the carriage of bulk inflammable liquid cargoes;

“vessel” 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;

“wages” include emoluments;

“wheelhouse” means the space in which all the equipment necessary for navigating and controlling the vessel is installed;

“wreck” includes flotsam, jetsam, lagan and derelict found in or on the shores of the Lake, the whole or any portion of a vessel lost, abandoned, stranded or in distress, any portion of cargo, stores or equipment of the vessel, and any portion of the personal property on board the vessel which is lost, stranded, abandoned or in distress, and includes when found in the Lake or on the shores of the Lake—

- (a) goods which are cast into the Lake and sank and remain under water;
- (b) goods which are cast or fall into the Lake and remain floating on the surface of the Lake;
- (c) goods which are sunk into the Lake, but are attached to a floating object in order that they may be found again;
- (d) goods which are thrown away or abandoned; and
- (e) a vessel abandoned without hope or intention of recovery.

Equivalents

6. Where this Act requires that a particular fitting, material, appliance, or apparatus is to be fitted or carried in a vessel, or that a particular provision is to be made, the Registrar of vessels may allow any other fitting, material, appliance or apparatus to be fitted or carried, or any other provision to be made in that vessel, where the Registrar of vessels is satisfied by trials or by any other means that, that fitting, material, appliance or apparatus is as effective as that required by this Act.

7. For the purposes of this Act, the Lake waters shall be classified and designated by the Council, as—

Classific-
ation of
Lake waters

(a) sheltered waters; or

(b) open waters.

PART II—ADMINISTRATION OF THE ACT

8. Subject to section 10, the Council shall be responsible for the administration of this Act.

Admini-
stration of
Act

9. The Council shall by notice in the *Gazette* delegate any of the powers conferred upon it under this Act to the Commission.

Power of
Council to
delegate to
Commission

10. (1) The Commission shall, in addition to the functions specified in the Protocol and the Lake Victoria Basin Commission Act—

Functions of
Commission

(a) coordinate the implementation of this Act;

(b) set and harmonise standards for accreditation and auditing of maritime training institutions;

(c) formulate programmes on maritime safety and security;

(d) facilitate exchange of information between the Commission and maritime administration units of the Partner States;

(e) advise the Community on legislative and other matters relating to the management of maritime safety and the implementation of relevant international conventions, treaties and agreements, having a bearing on safety on the Lake;

- (f) ensure that the maritime training standards together with the certification of members of crew employed on board vessels plying the Lake meet the minimum national and international standards;
- (g) ensure the setting up and maintenance of aids to navigation;
- (h) coordinate the conduct of investigations relating to accidents on the Lake including shipwrecks and any other maritime casualties;
- (i) harmonise the guidelines for the formulation of fees or charges for the use of any services rendered;
- (j) promote policies aimed at the control and prevention of marine pollution as prescribed by this Act; and
- (k) perform such other functions as the Council may assign to it or as may be incidental to or necessary to the exercise of any or all of the functions of the Commission provided in this Act.

(2) The Council shall, for the purposes of this Act, make regulations for the working arrangements between the Commission and the Partner States' maritime administration units.

Establishment of maritime administration units and appointment of personnel

11. (1) Subject to section 8, for the purpose of implementing this Act, each Partner State shall in accordance with the Partner State's legislation, establish a maritime administration unit.

(2) A maritime administration unit established under sub section (1) shall—

- (a) maintain and administer a registry of vessels registered or licenced in the Partner State;

- (b) enforce safety of navigation including compliance with construction regulations, safety standards and safety navigation regulations;
- (c) conduct regular inspection of vessels to ensure maritime safety and prevention of pollution on the Lake;
- (d) implement maritime training and adhere to safety standards;
- (e) set up and maintenance of aids to navigation;
- (f) conduct investigations relating to accidents on the Lake including wrecks and any other maritime casualties; and
- (g) any other function that may be assigned to the maritime administration unit by the Commission.

(3) A maritime administration unit of a Partner State shall appoint personnel who shall be responsible for the management and implementation of this Act.

(4) Any Act done by, to or before an officer of a Partner State's maritime administration unit or an officer of the Commission, in exercise or performance of any power, right or duty under this Act shall be deemed to have been done by, to or before the Commission.

12. No action shall lie against an officer of a Partner State's maritime administration unit, any public officer or any other person appointed or authorised to perform any function under this Act, in respect of anything done or omitted to be done by that officer, public officer or person in good faith, in the exercise or performance of any power, authority or duty conferred or imposed on that officer, public officer or person under this Act.

Protection
from
liability

Power of Council to give directions

13. The Council may give to the Commission such general directions, not inconsistent with the provisions of this Act or any regulations made under this Act, on the policy to be pursued in the administration of this Act, and the Commission shall take such steps as are necessary or expedient to give effect to the directions of the Council.

PART III—REGISTRATION OF VESSELS

Application of Part

14. (1) Subject to sub-section (2), the provisions of this Part shall apply to every vessel used on the Lake, for hire or reward or whose measurement exceeds such tonnage, or measurement as may be prescribed by the Council.

(2) Canoes, boats or sail boats with a sitting capacity of not more than 12 persons are exempted from the provisions of this Part.

Application for registration

15. An application for registration of a vessel shall be made in the case of an individual, by the person who requires to be registered as owner, or by the agent of that individual, and in the case of a body corporate by the agent of that body corporate.

Declaration of eligibility

16. A person shall not be entitled to be registered as owner of a vessel or as a shareholder until that person makes and signs a declaration of eligibility, containing the following particulars—

- (a) a statement of the qualifications of that person to operate a vessel on the Lake, and in the case of a body corporate, a statement of proof of ownership; and
- (b) a statement of the number of shares in the vessel, the legal title which is vested in that person or in the body corporate, whether alone or jointly with any other person or persons.

17. On the first registration of a vessel the evidence of legal title shall be produced as specified in the regulations for registration of vessels. Evidence of title on first registry

18. (1) A vessel of a gross tonnage of fifty tons or over, that is owned by a person qualified to be an owner of the vessel shall be registered under this Part. Obligations to register vessel

(2) A vessel registered in a Partner State shall be deemed to be registered under this Act.

(3) A person shall not use or permit to be used on the Lake a vessel to which the provisions of this Part apply unless—

- (a) the vessel is surveyed and registered in accordance with the provisions of this Act; and
- (b) there is in force in respect of the vessel, a valid certificate of registration.

(4) Any person who fails to register a vessel under this Part commits an offence and shall on conviction be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

19. (1) An application for registration of a vessel under this Act shall not be considered unless there is attached to the application a declaration by the person applying for registration of the vessel stating— Conditions of application for registration

- (a) that the vessel is owned by—
 - (i) a citizen of a Partner State; or
 - (ii) a body corporate incorporated in a Partner State;
- (b) that the vessel is in a seaworthy condition;

- (c) the names of the master and crew of the vessel and the full particulars of their certificates of competency;
- (d) that any foreign marine document relating to the vessel has been surrendered to the Government which issued it or has been cancelled by that Government; and
- (e) that satisfactory proof of the surrender or cancellation is attached to the declaration.

(2) An application for registration under this section shall be made to the Registrar of vessels or an officer authorised by the Registrar of vessels.

(3) Subject to the provisions of sub-section (4), the applicant shall attach to the declaration required under sub-section (1)—

- (a) a builder's certificate signed by the builder of the vessel or a bill of sale;
- (b) a true account of the proper denomination of the tonnage of the vessel as estimated by the builder;
- (c) the time and place where the vessel was built; and
- (d) the name of the person on whose account the vessel was built and if there has been any sale, the instrument under which the vessel vested in the applicant.

(4) Where the applicant declares that the time and place of the building of the vessel are unknown to the applicant or that the builder's certificate cannot be procured, the applicant shall attach to the declaration the instrument by which ownership of the vessel was acquired and a certificate from a surveyor at the last port of registration giving the estimated age and condition of sea worthiness of the vessel.

20. (1) An owner of a vessel shall at the registration of the vessel ensure that the vessel is marked permanently and conspicuously to the satisfaction of the surveyor as follows—

Marking of
vessel

- (a) the name of the vessel on each of the bows of the vessel;
- (b) the name of the vessel and the port of registry on the stern of the vessel on dark background in white or yellow letters or on a light background in black letters of not less than ten centimeters in length and of proportionate breadth;
- (c) the official number and the number denoting the registered net tonnage of the vessel cut in on the main beam of the vessel;
- (d) a scale of thirty centimeters denoting the vessel's draught of water on each side of its stern and its stern post in Roman capital letters or in figures of not less than ten centimeters in length, the lower line of which letters or figures shall coincide with the draught line denoted on it and which letters or figures shall be marked by being cut in or painted white or yellow on a dark background or in such other way as the Registrar of vessels may approve.

(2) The marks required under sub-section (1) shall not be altered except where any of the particulars of the vessel are altered in the manner provided by this Act.

(3) Where a surveyor certifies that a vessel is insufficiently or inaccurately marked, the surveyor may detain the vessel until the insufficiency or inaccuracy is remedied.

(4) The Registrar of vessels may, where he or she thinks fit, allow the marking required under sub-section (1) (d) to be in a system other than the metric system.

(5) The name of the vessel shall not be changed except with the approval of the Registrar of vessels.

(6) Where—

- (a) an owner or master of a vessel uses misleading marks to denote the draught of water or neglects to cause the vessel to be marked as required by this section or to keep the vessel marked; or
- (b) any person conceals, removes, alters, defaces or obliterates or permits any person under his or her control to conceal, remove, alter, deface or obliterate any of the marks, except in accordance with this Act, or for the purpose of escaping capture by an enemy, that owner, master or person commits an offence.

(7) An owner, master or person who commits an offence under sub-section (6) shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Survey and
inspection
of vessel

21. (1) A vessel shall, on application for registration, be surveyed in accordance with the provisions of this Act.

(2) An application for the survey of a vessel shall be made by the owner of the vessel at the port of registry where the vessel is situated, in the form and manner prescribed by the Council.

(3) After receipt of an application under sub-section (2), the surveyor shall survey the vessel for the purpose of determining—

- (a) whether the vessel is seaworthy;
- (b) whether the vessel is equipped in accordance with the provisions of this Act or regulations made under this Act;

- (c) the description, tonnage, dimensions, name and method of propulsion of the vessel;
- (d) the geographical limits or areas of the Lake outside which the vessel may not be used having regard to the construction, suitability for navigation and safe operation of the vessel;
- (e) the maximum number of passengers and the maximum quantity of cargo that may be carried on the vessel;
- (f) the crew to be carried on the vessel and standards of competency to be attained by the members of crew; and
- (g) any other matters as may be prescribed by the Registrar of vessels.

22. (1) A vessel operating on the Lake shall carry a certificate of seaworthiness attesting to compliance with the requirements of this Act. Certificate of seaworthiness

(2) The certificate of seaworthiness shall include a record of equipment carried onboard and shall have attached to it related information.

(3) A certificate of seaworthiness shall be valid for one year from the date of issuance, and shall be renewed on expiry in accordance with the conditions and requirements for its issuance, provided that the validity of the certificate may in exceptional circumstances, be extended for a period of not more than three months, in which case reasons for the extension shall be endorsed on the certificate.

23. (1) A surveyor shall issue a certificate of seaworthiness to a vessel after a survey is carried out, prior to the vessel being put into service, in order to ensure that the vessel complies with the requirements set out in this Act. Conditions and procedures for issuing certificates of seaworthiness

(2) On completion of a survey, a surveyor shall where satisfied that the vessel is seaworthy and equipped in accordance with the provisions of this Act, issue a certificate of seaworthiness in the prescribed form, setting out the safe limits of operation of the vessel and the surveyor's opinion on the limits of operation of the vessel.

(3) The safe limits of operation of a vessel referred to in sub-section (2) shall be classified as follows—

- (a) classification A – general service, suitable for operation in open waters;
- (b) classification B – restricted service, suitable for operation in sheltered waters; or
- (c) classification C – restricted service, suitable for operation in waters only on routes to be defined by the surveyor.

(4) Where a surveyor, finds a vessel to be unseaworthy or to lack equipment required under this Act, the surveyor shall make a full list of all the defects of the vessel and give a copy of the list to the owner of the vessel directing the owner to remedy the defects and notify him or her of the date by which the vessel may be produced for further examination.

(5) Where the defects of the vessel are subsequently remedied to the satisfaction of the surveyor, the surveyor shall issue a certificate of seaworthiness in accordance with the provisions of sub-section (2).

24. (1) Where a surveyor or other authorised officer determines upon inspection that—

- (a) the certificate of seaworthiness is invalid; or

(b) the vessel does not satisfy the requirements set out in the certificate of seaworthiness, but that the invalidity of the certificate of seaworthiness or the failure to satisfy the requirements of the certificate of seaworthiness does not constitute a manifest danger, the surveyor shall require the owner or the representative of the owner to take all necessary measures to remedy the situation.

(2) Where, upon making the inspection referred to in sub-section (1), the surveyor or authorised officer finds that the certificate of seaworthiness is not carried on the vessel or that the vessel constitutes a manifest danger, the surveyor may prevent the vessel from proceeding on the Lake until the necessary steps are taken to remedy the situation.

(3) The surveyor shall notify the owner or master of a vessel of any decision taken in respect of a vessel in the implementation of this section and shall state the reasons for the decision.

(4) An owner or master who is not satisfied with the decision of the surveyor under sub-section (3), may appeal to the Registrar of vessels.

(5) A person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or both such fine and imprisonment.

25. A surveyor may refuse to issue a certificate of seaworthiness where the surveyor is satisfied that it would be detrimental to the interests of the Partner States for the vessel to be registered, having regard to—

Refusal to
issue
certificate
of sea-
worthiness

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

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

- (c) the possibility that the vessel is being used for criminal purposes.

Certificate
of
registration

26. (1) Where a Registrar of vessels is satisfied that, in relation to an application for the registration of a vessel, the requirements for registration under this Act have been complied with and that the fees prescribed for the registration of the vessel have been paid, the Registrar of vessels shall issue to the applicant, a certificate of registration.

(2) A certificate issued under sub-section (1) shall be in the prescribed form and shall contain all the particulars of the vessel entered in the Register.

(3) Where it appears to the Registrar of vessels that a vessel in respect of which an application for registration is made is not entitled to be registered, having regard to sub-section (1), the Registrar of vessels shall inform the applicant and shall not register the vessel.

(4) An owner or master of a vessel who uses or attempts to use for the navigation of a vessel, a certificate of registration which is not legally issued in respect of the vessel, commits an offence, and shall on conviction be liable to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Custody of
certificate
of
registration

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

(2) A person, who has in his or her possession or under his or her control the certificate of registration of a vessel, who refuses to deliver the certificate on demand—

- (a) to a person entitled to the custody of the certificate for the purpose of the lawful navigation of the vessel; or

(b) to the surveyor or to an authorised officer,

commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

28. (1) Where it is proved to the satisfaction of the Registrar of vessels that the certificate of registration is lost, stolen or destroyed or has become defaced or illegible, the Registrar of vessels may issue to the owner of a vessel a duplicate of that certificate, which shall be marked as such. Loss of
certificate
of
registration

(2) Pending the issuance of a duplicate certificate of registration under sub-section (1), a Registrar of vessels may on receiving a declaration of loss of certificate of registration under sub-section (4), issue a provisional certificate of registration, which shall contain a statement of the circumstances under which it is issued.

(3) A provisional certificate of registration issued under this section shall be valid for a period of not more than sixty days.

(4) Where the certificate of registration is lost, stolen or destroyed or becomes defaced or illegible at a port which is not the port of registry, the owner or master of the vessel, or any other person having knowledge of the loss, theft, destruction, defacement or illegibility, shall make a declaration before the Registrar of vessels of the same.

(5) Where a duplicate certificate of registration is issued under sub-section (1), the original certificate, if subsequently found or recovered, shall be surrendered to the Registrar of vessels.

(6) Any person who fails, without reasonable cause to surrender a certificate of registration when required to do so under sub-section (5), commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Wrecked
and
abandoned
vessels

29. (1) Where a vessel is wrecked, abandoned, taken by pirates, burnt or broken up or ceases to be a vessel, the owner or master of the vessel shall, within fourteen days of obtaining knowledge of that event, give written notice of this to the Registrar of vessels.

(2) The Registrar of vessels shall on receiving a notice under sub-section (1), make an entry, of the notice in the register, and the registration of the vessel in the registry shall be cancelled except in so far as it relates to any unsatisfied mortgage.

(3) Except where the certificate of registration is lost or destroyed, the owner or master of the vessel shall in any of the events referred to in sub-section (1) deliver the certificate to the surveyor within seven days of its occurrence.

Re-
registration
of wrecked
or
abandoned
vessel

30. Where a vessel is wrecked or abandoned, the Registrar of vessels may, on application by the owner of the vessel, re-register the vessel if satisfied that a surveyor surveyed the vessel and certified it to be seaworthy.

Registrar of
vessels

31. (1) There shall be appointed, in accordance with the legislation of Partner States, Registrars of vessels responsible for the registration of vessels under this Act.

(2) For the purposes of this Act, the Council shall, by notice published in the *Gazette*, designate the officers appointed under sub-section (1) as Registrar of vessels under this Act.

Register of
vessels

32. (1) There shall be a register of all vessels on the Lake to be kept by a Registrar of vessels of the Partner States.

(2) The register may, consist of separate register books for the different classes and descriptions of vessels on the Lake.

(3) The register shall indicate—

(a) the name of the vessel;

- (b) the year of construction of the vessel;
- (c) the official number of the vessel;
- (d) details of ownership of the vessel;
- (e) particulars in respect of the origin of the vessel as stated in the declaration required under section 16;
- (f) the instruments of transfer of the vessel;
- (g) mortgages, including where the vessel was previously registered in another country, mortgages inscribed in the register of that country;
- (h) certificates of permanent and provisional registration; and
- (i) where the vessel was previously registered in another country, evidence that any foreign certificate of the previous registration of the vessel has been surrendered to the authority which issued it or has been cancelled by that authority.

(4) The register shall be available for public inspection at a fee prescribed by the Council.

(5) Upon payment of the prescribed fee, any person who satisfies the Registrar of vessels of his or her interest in a vessel may during working hours obtain certified copies of any entry in the register.

(6) An owner of a vessel who wishes to change the address of ownership of the vessel shall notify the Registrar of vessels of the change within seven days.

(7) Upon registration of a vessel, the Registrar of vessels shall retain—

- (a) the declaration required under section 16;
- (b) a certified copy of the certificate of seaworthiness;
- (c) a copy of builder's certificate required under section 19; and
- (d) the instruments of transfer required under sub-section (3) (f).

(8) The register shall be maintained in accordance with the regulations for registration of vessels made under this Act and any directions given by the Registrar of vessels.

Port of
registry

33. (1) The Partner States in consultation with the Council may, by notice in the *Gazette*, designate places or areas of the Lake as ports.

(2) The port at which a vessel is registered shall be deemed to be the port of registry of that vessel and the port to which the vessel belongs.

(3) A Registrar of vessels shall, in respect of the port of registry for which the Registrar of vessels is appointed, maintain in the prescribed form and manner, a register of vessels registered in the port.

Suspension
and
cancellation
of
certificate
of
registration

34. (1) Where a Registrar of vessels is satisfied that an owner or master of a vessel has—

- (a) failed to comply with the condition of registration imposed by this Act;
- (b) failed to comply with or acted in contravention of, any regulations under this Act; or
- (c) been convicted of an offence under this Act,

the Registrar of vessels may suspend or cancel the certificate of registration.

(2) Where a Registrar of vessels suspends or cancels a certificate of registration, the Registrar of vessels shall cause written notice of the cancellation or suspension to be served on the owner or master of the vessel.

(3) The Registrar of vessels shall publish a notice of the suspension or cancellation of a certificate of registration of a vessel, in newspapers of national circulation in the Partner States and in the *Gazette* of the Community.

35. (1) On receipt of a notice under section 34, the owner or master of the vessel shall within seven days of receipt of the notice, surrender the certificate of registration of the vessel to the Registrar of vessels.

Surrender of
certificate
of
registration

(2) An owner or master of a vessel, whose certificate of registration is suspended or cancelled, shall not navigate the vessel on the Lake.

(3) An owner or master of a vessel who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

36. A certificate of registration issued under this Act shall be valid for a period of five years.

Duration of
certificate
of
registration

37. (1) An application for renewal of a certificate of registration shall be made by the owner or master of the vessel in the form and manner prescribed under section 19, within one month of the expiry of the certificate.

Renewal of
certificate
of
registration

(2) Where the owner or master of a vessel makes an application for renewal of a certificate of registration in accordance with the provisions of sub-section (1), the certificate of registration shall remain in force and be deemed to be a valid certificate of registration until the owner or master is notified in writing of the results of the application.

Application
for
registration
of alteration
of vessel

38. (1) Where a vessel registered under this Act is altered so as not to correspond with the particulars relating to the tonnage or description contained in the register, the Registrar of vessels shall on application—

- (a) cause the alteration to be registered; or
- (b) re- register the vessel.

(2) An owner or master of a vessel who gives false information for re-registration of a vessel after it is altered or who fails to register the alteration, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) In addition to the penalties in sub-section (2), the Registrar of vessels may detain the vessel.

Conditions
for
registration
of alteration

39. (1) Where an alteration is made to a vessel, the owner or master of a vessel shall within thirty days after the completion of the alteration, notify the Registrar of vessels of the alteration and produce a certificate from a surveyor stating the particulars of the alteration.

(2) The owner or master of a vessel shall register the alteration on a vessel within twenty one days after the alteration and submit the certificate of registration to the Registrar of vessels, who shall—

- (a) retain the certificate and issue a new certificate of registration containing a description of the vessel as altered; or
- (b) endorse and sign on the existing certificate a memorandum of the alteration.

(3) On receipt of the notice of alteration under sub-section (1), the Registrar of vessels shall cause the alteration to be registered or direct that the vessel be re-registered.

(4) Where the owner or master of vessel contravenes the provisions of sub-section (1), the owner or master of the vessel commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(5) In addition to the penalty in sub-section (4), the Registrar of vessels may cancel or suspend the certificate of registration of the vessel and detain the vessel until the owner or master of the vessel complies with the requirements of this section.

40. Where the ownership of a vessel is changed, the Registrar of vessels may, on the application of the owners of the vessel, register the vessel.

Re-
registration
on change
of
ownership

41. (1) Where a vessel is to be re-registered outside the port of registry of the vessel, the Registrar of vessels at the port where the vessel is to be re-registered shall, upon application, issue to the owner or master of the vessel either a provisional certificate, describing the vessel as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

Provisional
certificate
where a
vessel is re-
registered

(2) An owner or master of a vessel in respect of which a provisional certificate is granted or a certificate is endorsed under this section shall, within ten days of the arrival of the vessel at the port of registry of the vessel or within one month of the date of issue or endorsement of the certificate, whichever is earlier, deliver that certificate to the Registrar of vessels of the port of registry of the vessel.

(3) An owner or a master of a vessel, who fails to comply with sub-section (2), commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(4) Where any vessel in respect of which a provisional certificate is granted or a certificate is endorsed under this section arrives at the port of registry of the vessel, an application for re-registration of that vessel shall be made to the Registrar of vessels of vessels of that port of registry in the prescribed form.

(5) An owner or master of a vessel who contravenes the provisions of sub-section (4), commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

Procedure
for re-
registration

42. (1) Where a vessel is to be re-registered, the Registrar of vessels shall use the procedure for registration, and on the surrender to the Registrar of vessels of the existing certificate of registration, or in the case of a change of ownership and on compliance with any requirements for registration as the Registrar of vessels may think fit, the Registrar of vessels shall re-register the vessel, and grant a new certificate of registration.

(2) When a vessel is re-registered, the registration in respect of the vessel shall be considered cancelled, except in so far as it relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered on the register, and the names of all persons appearing on the former register as owners or mortgagees shall be entered in the register.

Amendment
of certificate
of
registration
and register

43. (1) Subject to the provisions of sub-section (3), where any particular concerning a vessel in respect of which a certificate of registration is in force is so altered as not to correspond with the particulars in the register of vessels under section 32, the owner shall, not later than twenty one days after the alteration, submit the certificate of registration to the Registrar of vessels who issued it, for necessary amendment of the particulars in the certificate and the register of vessels.

(2) Where the Registrar of vessels is satisfied that a vessel is permanently removed from the Lake or is permanently incapacitated for use, the Registrar of vessels may—

- (a) amend the certificate; or
- (b) cancel the certificate of registration and delete the entries in the register.

(3) Where amendment in a certificate of registration is required as a result of—

- (a) an alteration in the dimensions, superstructure, tonnage, appearance or propulsion of the vessel, or an addition of the superstructure to the vessel; or
- (b) a change in the use of a vessel,

the Registrar of vessels shall not make the amendment unless the certificate submitted under sub-section (1) is accompanied by a valid surveyor's certificate issued, as the case maybe, after the completion of the alteration, and before the use of the vessel.

(4) Where an owner fails to comply with the provisions of sub-section (1), the certificate of registration shall, unless the Registrar of vessels directs, be invalid.

(5) Subject to the provisions of this section, the registration of a vessel may be transferred to another port of registry upon written application by the owner to the Registrar of vessels of that other port.

(6) The certificate of registration to be amended shall accompany the application in sub-section (5).

(7) Upon receiving an application under sub-section (5), the Registrar of vessels concerned shall transmit notice of the application to the Registrar of vessels of the proposed port of registry together with the certificate of registration and a copy of all particulars relating to the vessel as noted in the register under the control of that Registrar of vessels.

(8) On receipt of the documents required under sub-section (7) the Registrar of vessels at the proposed port of registry shall, subject to provisions of sub-section (2), enter in the register of the proposed port of registry, all the particulars relevant to the vessel in question and issue a new certificate of registration and the vessel shall then be considered for the purposes of this Act as registered at the new port of registry.

(9) Where the registration of a vessel is transferred to a new port of registry under sub-section (5), the new certificate of registration issued under sub-section (8) shall, unless otherwise provided under the Act, remain in force and be deemed to be a valid certificate of registration until the date of expiry of the certificate which it replaces.

(10) Where a new certificate of registration is issued after a survey required under sub-section (3), the period of validity of that certificate shall commence on the date on which was issued.

Termination
of
registration

44. (1) A Registrar of vessels may, subject to sub-section (5), terminate the registration of a vessel—

(a) where the Registrar of vessels is satisfied that—

(i) it would be detrimental to the interests of the Partner State for a registered vessel to continue to be registered;

(ii) any fine imposed on the owner of a registered vessel in respect of a contravention of this Act, remains unpaid for a period of more than three months and no appeal is pending against the fine; or

(iii) summons for the contravention has been duly served on the owner of a registered vessel and the owner has failed to appear

at the time and place appointed for the trial of the charge or complaint in question and a period of not less than three months has elapsed since that time;

- (b) where the owner of the registered vessel fails to pay the annual tonnage fee for a period exceeding two years;
- (c) on application by the owner stating that the owner wishes to terminate the registration of the vessel;
- (d) upon a registered vessel becoming a total loss, being destroyed by fire, sinking or being wrecked or demolished.

(2) In the event of a registered vessel being in any condition referred to in sub-section (1) (d), the owner of the vessel or any shareholder shall immediately inform the Registrar of vessels who shall make an entry of such condition in the register.

(3) Where the registration of a vessel is terminated under sub-section (1), the Registrar of vessels shall notify all registered mortgagees of the termination of the registration of the vessel.

(4) Where the registration is terminated under sub-section (1) (c) or (1)(d), the Registrar of vessels shall immediately issue a closure transcript to the owner of the vessel.

(5) On receipt of the closure transcript referred to in sub-section (4), the owner shall immediately surrender the certificate of registration of the vessel to the Registrar of vessels for cancellation.

(6) Where the circumstances referred to in sub-section (1)(a) apply, and it appears to the Registrar of vessels that sub-section (1) (b) or (d) apply, the Registrar of vessels may serve notice on the owner or on any representative for the time being appointed in relation to that vessel, as the case may be, to produce, within twenty one days, evidence sufficient to satisfy the Registrar of vessels, that the vessel is eligible to remain on the register; and if at the expiry of that period the Registrar of vessels, is not satisfied, the Registrar of vessels may—

- (a) extend the notice and ask for further information or evidence; or
- (b) serve a final notice informing the owner or the representative of the owner, of the termination of the registration of the vessel, and that termination shall take effect seven days after service of that notice.

(7) Where the Registrar of vessels serves a notice under sub-section (6) on the owner of a vessel in respect of which a mortgage is registered, the Registrar of vessels shall send a copy of that notice to the mortgagee at the address recorded in the register.

(8) A person who—

- (a) fails, without reasonable cause to surrender a certificate of registration when required to do so under sub-section (5);
- (b) in connection with the making of any representations in pursuance of sub-section (6), knowingly or recklessly furnishes information which is false in a material particular; commits an offence and shall on conviction be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Restriction
on de-
registration
of vessel

45. Subject to section 58, the Registrar of vessels shall not permit the de-registration of a vessel, except after giving prior notification in writing to all registered holders of mortgages on the vessel registered under this Act.

Certificate
of de-
registration
of vessel

46. (1) Upon de-registration of a vessel, the Registrar of vessels shall issue to the owner a certificate of de-registration in the prescribed form.

(2) An owner shall prior to the issuance of the certificate of de-registration referred to in sub-section (1), surrender the certificate of registration of the vessel to the Registrar of vessels for cancellation.

(3) A person who fails, without reasonable cause to surrender a certificate of registration when required to do so, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

47. (1) An owner or master of a vessel shall retain the certificate of seaworthiness and the certificate of registration on the vessel at all times when the vessel is on voyage and shall upon demand by an authorised officer, produce the certificates for inspection. Retention of certificates

(2) The owner or master who contravenes the provisions of sub-section (1) commits an offence.

48. (1) An owner or a master of a vessel registered under this Act, who— Offences

- (a) has on board the vessel excess passengers or cargo, as the case may be, contrary to the certificate of seaworthiness of the vessel;
- (b) employs the vessel in navigation on the Lake beyond the limits specified in the certificate of seaworthiness of the vessel as the suitable limits for navigation; or
- (c) willfully obstructs, hinders or resists an authorised officer or a police officer in the exercise of powers under this Act, commits an offence and

shall on conviction be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

PART IV—TRANSFERS AND TRANSMISSION

Transfers

49. (1) Where a vessel registered under this Act or a share in that vessel is disposed of to a person qualified to own a vessel under this Act, the vessel or share shall be transferred by a bill of sale.

(2) The bill of sale under sub-section (1) shall contain the description of the vessel contained in the certificate of seaworthiness, or any other description sufficient to identify the vessel to the satisfaction of the Registrar of vessels, and shall be executed by the transferor in the presence of a witness.

Form of
Transfer

50. (1) A transfer of a vessel including a transfer on sale, shall be made in writing accompanied by a declaration by the transferee of the vessel, stating—

(a) that the new owner of the vessel is—

(i) a citizen of any of the Partner States; or

(ii) a body corporate incorporated in any of the Partner States;

(b) that the vessel is in a seaworthy condition;

(c) the names of the new master and crew of the vessel and the full particulars of their certificates of competency;

(d) that any foreign marine document relating to the vessel has been surrendered to the government which issued it or has been cancelled by that government; and

- (e) that satisfactory proof of the surrender or cancellation has been attached to the declaration.

(2) An application for transfer of a vessel under this section shall be made to the Registrar of vessels or an officer authorised by the Registrar of vessels.

(3) Subject to the provisions sub-section (4), the transferee shall attach to the declaration required under sub-section (1)—

- (a) a builder's certificate signed by the builder of the vessel or a bill of sale;
- (b) a true account of the proper denomination of the tonnage of the vessel as estimated by the builder;
- (c) the time and place where the vessel was built;
- (d) the name of the person on whose account the vessel was built; and
- (e) the instrument under which the vessel vested in the transferee.

(4) Where the transferee declares that the time and place of the building of the vessel are unknown to the transferee or that the builder's certificate cannot be procured, the transferee shall attach to the declaration, the instrument by which ownership of the vessel was acquired and a certificate from a surveyor at the last port of registration giving the estimated age and condition of sea worthiness of the vessel.

(5) A transfer of a vessel shall be made before the Registrar of vessels in the presence of, and attested by, two witnesses.

Instrument
witnessing
transfer of
vessel

51. An instrument of transfer of a vessel in section 52, shall together with the declaration required under section 16 be produced to the Registrar of vessels within twenty-one days of the transfer, who shall—

- (a) enter in the register the name of the transferee as owner of the vessel; and
- (b) endorse that entry on the instrument of transfer and the date on which it is made.

Declaration
of transfers

52. (1) Where a vessel registered or licensed under this Act or a share in a vessel is transferred, the transferee shall not be entitled to be registered as owner 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, makes and signs a declaration of transfer containing a statement of the qualification of the transferee to own a vessel registered or licensed under this Act.

(2) A declaration under sub-section (1) shall contain the same description of the vessel as is specified in the certificate of registration or the licence and shall be regarded for all purposes as an instrument of transfer of the vessel and be registered as required under Part III or Part IV of this Act.

Registration
of transfers

53. (1) A bill of sale for the transfer of a vessel registered or licenced under this Act or a share in a vessel, when duly executed, shall be produced to the Registrar of vessels with the declaration of transfer, and upon being satisfied that the vessel qualifies to be registered or licensed under this Act, the Registrar of vessels shall enter in the register the name of the transferee as owner of the vessel or share, and shall endorse on the bill of sale the fact of that entry having been made, with the date and time of the entry.

(2) A bill of sale for the transfer of a vessel or of a share in the vessel shall be entered in the register in the order of their receipt by the Registrar of vessels.

(3) Upon the transfer being registered in the manner provided for in sub-section (1), the Registrar of vessels shall issue a new certificate of registration.

54. (1) Where the ownership in a registered vessel or share is transmitted to any person by any lawful means other than a transfer under section 51 and a majority interest remains in the original owner—

Trans-
mission of
ownership
in vessel on
death,
bankruptcy,
marriage
etc.

- (a) that owner shall authenticate the transmission by making and signing a declaration of transmission identifying the vessel and containing the statement specified in section 54 and a statement of the manner in which the property was transmitted;
- (b) where the transmission is consequent upon bankruptcy, the declaration of transmission shall be accompanied by evidence of proof of the title of the person claiming under a bankruptcy;
- (c) where the transmission is consequent upon death, the declaration of transmission issued under the legislation relating to succession and public trustee in the Partner State;
- (d) where the transmission was consequent upon an order of a Court, a copy of the order or judgement of that Court; and
- (e) where the transmission took place by virtue of marriage the declaration shall be accompanied by a copy of the certificate of marriage or other evidence of the marriage.

(2) The owner or transferee of a vessel shall make a declaration in accordance with sub-section (1), before the Registrar of vessels in the presence of, and attested by, two witnesses.

(3) The Registrar of vessels shall, on receipt of the declaration of transmission under sub-section (1), enter in the register the name of the transferee to be registered as owner of the vessel or share under the transmission, the ownership which is transmitted, and where there is more than one transferee, the transferees shall be considered as one transferee.

(4) Where on the death or bankruptcy of the owner of a vessel, or on the distribution of the assets of the owner, the ownership of the vessel is vested in a person who is not entitled to own the vessel, that person shall, within six months of the transmission of the ownership of the vessel, sell the vessel and where that person fails to do so, the ownership of the vessel shall vest in the Public Trustee under the relevant law of the port of registry.

(5) Where the ownership of the vessel is vested in the Public Trustee under sub-section (4), the Public Trustee shall sell the vessel and pay to the person in whom the ownership of the vessel was originally transmitted the price obtained on the sale after deduction of the expenses incurred on the sale.

Mortgage of
vessel

55. (1) A vessel may be under a mortgage, a charge or a lien as provided by the law governing mortgages, charges and liens in a Partner State.

(2) The Registrar of vessels shall maintain a register of mortgages, charges and liens, as the case may be, on vessels registered or licensed under this Act.

PART V—LICENSING

Licensing
arrange-
ments

56. A vessel which is not registered under Part III shall be licensed under this Part.

57. A person applying for a licence for a vessel shall submit an application in writing to a Registrar of vessels, indicating—

Procedure
for
application
for licence

- (a) the type of vessel to be licensed;
- (b) the construction and horsepower of the vessel;
- (c) the total number of crew to be carried on the vessel;
- (d) the number of passengers the vessel is intended to carry;
- (e) the type of cargo to be carried by the vessel;
- (f) the places between which the vessel is intended to navigate including places, if any, between Partner States and the services to be provided; and
- (g) any other particulars as the Registrar of vessels may require in relation to the application.

58. (1) A Registrar of vessels may issue or refuse to issue a licence and where the Registrar of vessels issues a licence, the licence shall be subject to such conditions as the Registrar of vessels may consider necessary.

Discretion of
Registrar of
vessels to
grant or
refuse
licence

(2) In exercising the powers under sub-section (1), the Registrar of vessels shall have regard to the following matters—

- (a) the desirability of encouraging the provision of adequate and efficient services; and
- (b) the co-ordination of transport on the Lake.

59. (1) A licence shall, unless revoked, be valid for a period of one year from the date of issuance.

Duration of
licence

(2) A short-term licence may be granted for a period of not more than three months to enable a vessel to be used temporarily for—

- (a) seasonal business;
- (b) the execution of a particular piece of work; or
- (c) any other purpose of limited duration.

Licence not transferable

60. A licence shall not be transferable except with the written consent of the Registrar of vessels.

Form of licence

61. A licence shall be in the prescribed form and a separate licence shall be issued in respect of each vessel.

Marking of vessels

62. A vessel shall, before licensing, be marked permanently and conspicuously to the satisfaction of the surveyor as follows—

- (a) the name of the vessel on each of the bows of the vessel;
- (b) the name of the vessel and the port of registry on the stern of the vessel on dark background in white or yellow letters or on a light background in black letters of not less than ten centimetres in length and of proportionate breadth; and
- (c) the licence number of the vessel.

Conditions of licence

63. (1) A licence shall be issued on the following conditions—

- (a) that the vessel in respect of which it is issued is maintained in a fit and serviceable condition; and
- (b) that the vessel in respect of which the licence is issued, complies with the provisions of any law relating to prevention and control of pollution, the limits of weight laden and unladen, the loading of vessels and the number of passengers to be carried; and

(c) that the vessel in respect of which the licence is issued is seaworthy and will not endanger the safety of passengers, crew and cargo.

(2) Without prejudice to the generality of the provisions of sub-section (1) a Registrar of vessels may attach to a licence any of the following conditions—

(a) that the vessel in respect of which the licence is issued shall only be used in a specified area or over specified routes;

(b) that only specified classes or descriptions of goods shall be carried;

(c) the specification of the maximum laden weight of the vessel;

(d) that only passengers may be carried on the vessel;

(e) specification of the maximum number of passengers, which may be carried; and

(f) any other condition.

(3) The Registrar of vessels may cancel or vary any condition of a licence.

(4) A vessel licensed under this Act shall only be used for the purpose for which it is licensed.

(5) A person who fails to comply with any condition of a licence issued under this Part commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

64. (1) A Registrar of vessels may suspend or revoke a licence where any of the conditions of the licence have not been complied with.

Power to
suspend or
revoke
licence

(2) Where a licence is suspended or revoked under sub-section (1), the Registrar of vessels shall notify the licence holder in writing and state the reasons for the revocation or suspension.

Appeals in connection with licences

65. A person may appeal to the Minister responsible for maritime safety and security in the Partner States , who—

- (a) being an applicant for a licence, is aggrieved by the decision of a Registrar of vessels with regard to the application; or
- (b) being the holder of a licence, is aggrieved by the revocation or suspension of the licence, or by the variation of any of the conditions of the licence.

Register of licenced vessels

66. (1) The Registrar of vessels shall keep a register of the vessels licensed under this Part in which shall be entered—

- (a) the name of the vessel;
- (b) the year of manufacture of the vessel;
- (c) the official number of the vessel;
- (d) details of ownership of the vessel;
- (e) particulars respecting the origin of the vessel as stated in the declaration required under section 16;
- (f) the instruments of transfer of the vessel; and
- (g) where the vessel was previously licensed in another Partner State, evidence that the previous licence has been surrendered to the Registrar of vessels who issued or cancelled the licence.

(2) The register shall be available for public inspection at a fee prescribed by the Council.

(3) Upon payment of the prescribed fee, any person who satisfies the Registrar of vessels of his or her interest in a vessel may during working hours obtain a certified copy of any entry in the register.

(4) An owner who wishes to change the address of the ownership of the vessel shall notify the Registrar of vessels of any change in the address within seven days.

(5) On registration of a vessel the Registrar of vessels shall retain—

- (a) the declaration required under section 16;
- (b) a certified copy of the seaworthiness certificate required under section 22;
- (c) any builder's certificate required under section 19 (3); and
- (d) the instruments of transfer of the vessel required under sub-section (1) (f).

PART VI—SURVEYS AND INSPECTIONS

67. (1) A surveyor or an authorised officer may carry out a survey or an inspection of a vessel for the purposes of this Act. Surveys and inspections

(2) A survey or inspection of a vessel shall be in respect of the condition of the following—

- (a) the hull, boilers and machinery of a vessel;
- (b) the equipment of a vessel including the tackles, furnishings and appurtenances;
- (c) the life-saving, fire fighting and other safety installations and appliances of a vessel;
- (d) the navigation and communication equipment;
- (e) the stowage and manner of loading of cargoes and stowage of dangerous goods;

- (f) the accommodation and facilities of the master, members of crew and passenger; and
- (g) any other related matters.

(3) A surveyor or an authorised officer shall survey and inspect vessels for the enforcement of this Part, subject to such conditions as the Registrar of vessels may impose.

(4) A surveyor shall on completion of an inspection, where satisfied that the vessel is seaworthy and equipped in accordance with the provisions of this Act, issue an inspection certificate in the prescribed form, setting out the safe limits of operation of the vessel and the surveyor's opinion on the limits of operation of the vessel.

Surveyor's
powers to
inspect

68. (1) A surveyor or an authorised officer may at any reasonable time inspect a vessel for the purpose of ensuring that it complies with the provisions of this Act and any regulations made under this Act.

(2) Where the surveyor or an authorised officer finds that this Act or regulations made under this Act have not been complied with, the surveyor shall give written notice to the owner or master of the vessel stating the deficiency and the action which is required to rectify the deficiency.

(3) A notice given under sub-section (2) shall be communicated in a manner directed by the Registrar of vessels to a customs officer of any port at which the vessel may seek clearance.

(4) A port officer or a customs officer shall not grant clearance to the vessel and may detain the vessel where the deficiency stated under sub-section (2) is not rectified.

(5) Where the surveyor or an authorised officer considers a vessel to be unsafe, or, where a passenger vessel is unfit to carry passengers, or the machinery or equipment of the vessel is defective in a way which may expose persons on board to serious danger, the surveyor shall detain that vessel.

(6) A surveyor or an authorised officer may detain a vessel in respect of which any of the provisions of this Act have not been complied with, if in the opinion of the surveyor the detention is warranted in the circumstances.

(7) Where a surveyor or an authorised officer boards a vessel the surveyor or authorised officer may request for information from the owner or the agent of the owner, the master or chief engineer, or any other person on board and in charge of the vessel, concerning the vessel or any accident that may have occurred on the vessel.

(8) A person from whom information is requested under sub-section (7) shall provide full and truthful information and any person who fails to do so or gives false information commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(9) A surveyor or an authorised officer may, in order to facilitate a full and proper survey, require—

- (a) the vessel to be put out of the water;
- (b) operational trials to be conducted;
- (c) proof of the strength of the hull by calculations;
- (d) proof by calculation of stability, where necessary, on the basis of an inclining experiment;
- (e) that a machinery of a vessel be put in motion so as to be satisfied of its condition;
- (f) that the owner supplies a boat, appropriate for the use of the surveyor;
- (g) the owner or master of a vessel to avail personnel and facilitate the examination of parts of the hull or installations that are not directly accessible or visible; or

- (h) the owner, agent of the owner, the master, engineer or any other person on board or in charge of the vessel to activate or dismantle any machinery of the vessel.

(10) A person who does not facilitate the surveyor as required under sub-section (9), commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Surveyor to
report to
Registrar of
vessels

69. A surveyor shall, where satisfied on inspection of a vessel forward a report of the inspection to the Registrar of vessels, which shall contain a statement showing that—

- (a) the hull and machinery are sufficient for the service intended and in good condition;
- (b) the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) the safety equipment and radio installations required under this Part are on board and in good condition; and
- (d) the persons who are required to be certificated are duly certificated as required under this Act and that the members of crew are sufficient and efficient.

Record of
inspection
and
certificates

70. A surveyor shall make and keep a record of the inspections made and of the inspection certificates issued by the surveyor in such form and with such particulars as the Registrar of vessels may direct, and shall furnish copies of the record and any other information pertaining to the duties of the office of the surveyor, which the Registrar of vessels may require.

71. A surveyor or an authorised officer shall after a survey, send, or cause to be sent, a report of the survey, to the Registrar of vessels.

Survey reports

72. (1) The ISM code shall with the necessary modifications and adaptations, apply to a vessel with a gross registered tonnage of one hundred and twenty five tons or above.

Res-
ponsibilities
of owner
and master
in
compliance
with ISM
Code

(2) An owner and a master of a vessel shall ensure that—

(a) the condition of the vessel, including its structure, machinery and equipment, is maintained in accordance with the provisions of this Part;

(b) after any survey required by this Part is completed, no material change is made to the structure, machinery and equipment of the vessel without the approval of the Registrar of vessels, except by direct replacement; and

(c) whenever an accident occurs to a vessel or a defect is covered either of which affects the safety of the vessel or the efficiency or completeness of the vessel, including its structure, machinery and equipment—

(i) it is reported at the earliest opportunity to a surveyor or an authorised officer; or

(ii) if a vessel is in a port which is not its port of registry, it is reported to the Registrar of vessels of the port of registry of the vessel.

(3) Whenever an accident or defect is reported to a surveyor or to an authorised officer under sub-section (2)(c)(i), the surveyor or authorised officer, shall initiate investigations to determine whether a survey is necessary and shall, in that event, require a survey to be carried out.

(4) For the purposes of this section, “ISM code” means the International Safety Management Code for the safe operation of ships and for pollution prevention, adopted by the International Maritime Organisation.

Procedure to be adopted when the vessel, including its structure, machinery and equipment, is deficient

73. (1) In any case where a surveyor determines that the condition of a vessel including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the vessel is not fit to navigate on the Lake, without danger to the vessel or persons on board, the surveyor shall advise the owner or master of the vessel of the corrective measures required, and shall notify the Registrar of vessels.

(2) Where the owner or master of a vessel does not take corrective measures within the period specified by the surveyor, the surveyor, shall, at the expiration of that period, notify the Registrar of vessels who may, on receipt of such notification, suspend the certificate issued in respect of the vessel and give notice of the suspension to the owner or master of the vessel and to the surveyor.

Appointment of surveyor

74. (1) There shall be appointed, in accordance with the legislation of a Partner State, an individual or an organization as a surveyor for purposes of this Act.

(2) For purposes of this Act, the Council shall by notice published in the *Gazette*, designate officers appointed under sub-section (1) as surveyors under this Act.

Survey of vessel

75. (1) A vessel shall be surveyed—

- (a) before the vessel is put into service;
- (b) at intervals of not more than twelve months; and
- (c) at such other times as may be required by the Registrar of vessels.

(2) Notwithstanding sub-section (1), the hull, machinery and equipment of a cargo vessel and a fishing vessel shall be surveyed before it is put into service and at intervals of not more than four years or, where the surveyor so directs, at shorter intervals.

76. (1) An initial survey of a vessel shall be carried out before the vessel is put into service and shall include a complete inspection of the hull, machinery and equipment of the vessel. Initial
survey

(2) The survey under sub-section (1) shall ensure that the arrangement, materials and scantling of the—

- (a) hull;
- (b) boiler and other pressure systems;
- (c) main and auxiliary machinery;
- (d) electrical installations;
- (e) radio installations;
- (f) radio installations in motor life-boats;
- (g) portable radio apparatus of survival craft;
- (h) life-saving appliances;
- (i) fire detecting and extinguishing appliances;
- (j) pilot ladders; and
- (k) other equipment, including navigation aids,

comply with international conventions to which Partner States are parties, this Act and any regulations made under this Act and are in all respects satisfactory for the service for which the vessel is intended.

(3) The survey under sub-section (1) shall also ensure that—

- (a) the workmanship of all parts of the hull, machinery and equipment is satisfactory; and
- (b) the vessel is provided with the lights and sound signals that are required by any international conventions to which the Partner States are parties.

Periodic
survey

77. (1) A periodic survey shall be carried out to ensure that—

- (a) the equipment referred to in section 76 is in satisfactory condition and fit for the service for which it is intended and complies with the requirements of any international safety conventions to which the Partner States are parties, this Act and any regulations made under this Act; and
- (b) the light, sound and distress signals of the vessel are in working order.

(2) A surveyor shall determine when a periodic survey of a vessel is to be carried out under this Act.

Additional
survey

78. (1) The Registrar of vessels may require an additional survey where—

- (a) an accident occurs on or to the vessel;
- (b) a defect that affects the safety of the vessel or the efficiency or completeness of the life-saving appliances is discovered; or
- (c) major alterations, repairs, modifications or renewals are made to the vessel.

(2) The additional survey carried out under subsection (1) shall ensure that—

- (a) the necessary repairs, renewals or modifications are effectively made;

- (b) the material and workmanship of the repairs, renewals or modifications are in all respects satisfactory; and
- (c) the vessel complies in all respects with any international safety convention to which the Partner State are parties.

79. (1) Where major alterations or repairs that modify the structural soundness or characteristics of a vessel are made, the vessel shall undergo, prior to any further voyage, the survey provided for in section 67.

Major alterations or repairs

(2) After the survey in sub-section (1), a new certificate of seaworthiness consistent with the modified technical characteristics of the vessel shall be issued in respect of the vessel.

80. A surveyor may inspect a vessel to which this Part applies for the purpose of verifying that the provisions of this Part are complied with.

Inspection of vessels

81. The Council may make regulations prescribing safety requirements and providing for the issue of certificates of seaworthiness in respect of—

Regulations for safety and seaworthiness certificates

- (a) a vessel or class of vessels to which an international safety conventions to which the Partner States are parties does not apply; or
- (b) any matter for which an international safety convention to which the Partner States are parties does not make express safety provisions in respect of a vessel or class of vessels to which the convention applies.

82. On receipt of an inspection certificate or a certificate of seaworthiness, the owner or master of the vessel in respect of which the certificate is issued, shall post the certificate in a conspicuous place on board the vessel for the information of all persons on board.

Posting of certificates

Alteration
to vessel

83. Any owner or master of a vessel in respect of which an inspection certificate or a certificate of seaworthiness is issued, who without reasonable cause, does or causes to be done to the vessel, anything which makes the certificate inapplicable to the vessel or to any other matters to which the certificate relates, commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

PART VII—CERTIFICATES OF COMPETENCY AND MANNING

Application
of Part

84. This Part applies to vessels of a gross registered tonnage of twenty five tons and above.

Manning to
ensure
safety

85. A vessel on the Lake shall be manned by a sufficient and efficient crew, to ensure safety of life.

Sailing
under-
manned

86. (1) Where a vessel sails without carrying the officers required to be carried in accordance with section 85 and regulations made under section 87, the owner or master of the vessel commits an offence and shall on conviction be liable to a fine not exceeding three thousand dollars or to a term of imprisonment for a term not exceeding one year or both such fine and imprisonment.

(2) The Registrar of vessels may suspend or cancel the certificate of registration of a vessel or detain the vessel until the vessel is properly manned in accordance with section 85 and regulations made under section 87.

Regulations
for grant of
certificate
of
competency

87. The Council may make regulations for—

- (a) the requirements and standards of certification of officers;
- (b) the classes of vessels to be provided with certificated officers;

- (c) the grant of certificates of competency;
- (d) classes of vessels described by tonnage, dimension or the purpose for which they are to be used and for vessels which are not to be used on the Lake except where they are under the command or in the charge of a competent master;
- (e) the number and standards of competency of persons to be carried as members of crew in a vessel; and
- (f) other matters in relation to the issuance of certificates of competency.

88. (1) A maritime administration unit shall, for the purpose of granting certificates of competency to certificated officers, appoint an assessment and verification panel.

Assessment
and
verification
panel

(2) The assessment and verification panel appointed under sub-section (1) shall—

- (a) assess the validity of all certificates of competency and issue operational certificates; and
- (b) issue recognition certificates for the certificated officers who hold foreign certificates of competency.

(3) Where a person who holds a foreign certificate of competency applies to serve on a vessel registered or licensed under this Act, the assessment and verification panel may direct that—

- (a) where the person is a citizen of a Partner State, that person is granted a certificate of equivalent grade under this Act or regulations made under this Act; and

(b) where the person is not a citizen of a Partner State, that person is issued with a licence authorizing him or her to serve on a vessel registered or licensed under this Act.

(4) A licence issued under sub-section (3) (b) shall be subject to such conditions as the assessment and verification panel may impose.

Certification
for rating
crew

89. The Executive Secretary may, with the approval of the Council, regulate the issuance of mandatory certificates for rating crew.

Register of
certificates
and licences

90. (1) The Registrar of vessels shall maintain a register of all certificates and licences issued under this Part.

(2) The register shall contain all matters relating to certificates and licences, including their issuance, cancellation, suspension and amendment.

Production
of
certificates

91. (1) A person serving or engaged to serve on a vessel registered or licensed under this Act, who holds a certificate of competency or a licence, shall on demand produce the certificate of competency or licence to a surveyor or an authorised officer.

(2) Any person who fails, without reasonable cause, to comply with sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment

Loss of
certificate
of
competency
or licence

92. Where a certificated officer satisfies the Registrar of vessels that he or she has lost a certificate of competency or a licence issued under this Act, the Registrar of vessels may, on payment of the prescribed fee, issue a certified copy of the certificate of competency or the licence to the certificated officer.

PART VIII—SAFETY OF NAVIGATION

93. (1) An owner or master of a vessel shall carry on board the vessel written information regarding the stability of the vessel, necessary for the guidance of the owner or master of the vessel in the loading and ballasting of the vessel. Stability of vessel

(2) The information required under sub-section (1) shall be in such form as the Council may prescribe.

(3) An owner or master of a vessel, who contravenes this section, commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) This section shall apply to all vessels registered or licensed under this Act.

94. (1) An owner or master of a vessel shall not navigate a power-driven vessel of five to twenty five metres in length unless that vessel is equipped with at least one compass. Compasses and Navigation

(2) A power-driven vessel of more than twenty five metres in length, shall be equipped with—

- (a) a standard magnetic compass except as provided in sub-section (5);
- (b) a steering magnetic compass, unless heading information provided by the standard compass required in accordance with paragraph (a) is made available and is legible to the helmsman in the wheelhouse;
- (c) adequate means of communication between the standard compass position and the normal navigation control position to the satisfaction of the Registrar of vessels; and

(d) means for taking bearings as nearly as practicable over an arc of the horizon of 360^o.

(3) Magnetic compasses required by sub-section (2) shall be properly adjusted to the requirements prescribed by the Council by regulations and their table or curve of residual deviations shall be available on board at all times.

(4) A vessel of more than twenty five metres in length shall carry a spare magnetic compass, interchangeable with the standard compass, unless the steering compass required by sub-section 2(a) or a gyrocompass is fitted.

(5) Where the Registrar of vessels considers it unreasonable or unnecessary to require a standard magnetic compass to be fitted, the Registrar of vessels may exempt individual vessels or classes of vessels from this requirements if the nature of the voyage, the proximity of the route to land or the type of vessel does not warrant carriage of a standard compass.

(6) Where a vessel is exempted under sub-section (5), a suitable steering compass shall be carried with means for taking bearings.

(7) A vessel of ten metres or more in length shall be fitted with a Global Positioning System Receiver, where required to do so by the Registrar of vessels.

(8) A vessel of fifteen metres or more in length shall be fitted with a radar installation capable of operating in the 9 GHz frequency band but may be exempted from compliance with this requirement at the discretion of the Registrar of vessels, provided that the equipment fitted is fully compatible with the radar transponder for search and rescue where required.

(9) A vessel of fifteen metres or more in length shall be fitted with an echo sounder, unless exempted by the Registrar of vessels.

95. (1) An owner or master of a vessel shall not navigate the vessel on the Lake unless that vessel is equipped with—

Navigation and other lights and sound signals

- (a) an efficient signaling lamp or navigational lights;
- (b) light and sound signals.

(2) The owner or master of a vessel, shall be responsible for—

- (a) displaying the lights and shapes prescribed by this Part; and
- (b) making the signals prescribed by this Part and collision regulations made under this Act.

(3) This section shall apply to all vessels registered or licensed under this Act.

96. (1) An owner or master of a vessel shall upon encountering any of the dangers to navigation specified in subsection (2), send information by any means of communication at the disposal of the owner or master, to any vessel in the vicinity and to the nearest appropriate station on shore.

Owner or master to notify hazards to navigation

(2) The dangers to navigation referred to in subsection (1) include—

- (a) a dangerous derelict;
- (b) a storm; and
- (c) any other direct danger to navigation.

(3) A person in charge of a transmission station in a Partner State or on board a vessel shall, on receiving a signal indicating that a message is about to be sent relating to hazards to navigation, refrain from sending messages for a time sufficient to allow other stations to receive the message.

(4) An owner or master who fails to comply with this section, commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

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

(6) For the purposes of this section “storm” means a hurricane, typhoon, cyclone or other storm of a similar nature on the lake, and an owner or master of a vessel shall be deemed to have encountered a a storm where the owner or master has reason to believe that there is such a storm in the vicinity.

(7) This section shall apply to all vessels registered or licensed under this Act.

Owner or
master to
notify
hazards to
navigation

96. (1) An owner or master of a vessel shall upon encountering any of the dangers to navigation specified in sub-section (2), send information by any means of communication at the disposal of the owner or master, to any vessel in the vicinity and to the nearest appropriate station on shore.

(2) The dangers to navigation referred to in sub-section (1) include—

- (a) a dangerous derelict;
- (b) a storm; and
- (c) any other direct danger to navigation.

(3) A person in charge of a transmission station in a Partner State or on board a vessel shall, on receiving a signal indicating that a message is about to be sent relating to hazards to navigation, refrain from sending messages for a time sufficient to allow other stations to receive the message.

(4) An owner or master who fails to comply with this section, commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

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

(6) For the purposes of this section “storm” means a hurricane, typhoon, cyclone or other storm of a similar nature on the lake, and an owner or master of a vessel shall be deemed to have encountered a a storm where the owner or master has reason to believe that there is such a storm in the vicinity.

(7) This section shall apply to all vessels registered or licensed under this Act.

97. (1) An owner or master of a vessel shall not proceed on a voyage unless the vessel is equipped with means of making distress signals which shall be efficient and kept in working order at all times.

Distress
signals and
equipment

(2) The minimum equipment to be carried on a vessel is an electric torch or a lantern and a hand flag.

(3) The signals that shall be used or displayed when a vessel is in distress and requires assistance are specified in section 95.

(4) A person shall not use any of the signals referred to in section 95, or any signals that may be confused with such signals, except for the purpose of indicating that a vessel is in distress.

(5) This section shall apply to all vessels registered or licensed under this Act.

98. (1) An owner or master of a vessel, an aircraft or survival craft or any person in distress shall send a distress signal to any vessel in the vicinity and to the nearest appropriate station requesting for assistance.

Assistance
in distress

(2) An owner or master of a vessel, aircraft, survival craft or any person in distress shall request the master of a vessel which answers the distress signal to render assistance.

(3) The owner or master of a vessel which receives a signal from any source that a vessel, aircraft, survival craft or any person is in distress, shall proceed to the assistance of the vessel, aircraft, survival craft of the person in distress and inform the person in charge of the vessel, aircraft or survival craft or the person in distress, if possible, that he or she is doing so.

(4) Where the master is unable, or considers it unreasonable or unnecessary to comply with the requirements of sub-section (3), the owner or master shall enter the reasons for not complying in the official logbook of the vessel.

(5) This section shall apply to all vessels registered or licensed under this Act.

Nautical
publications

99. (1) An owner or master of a vessel shall carry adequate, proper, and up-to-date charts, sailing directions, lists of aids to navigation, notices to mariners, tide tables and any other nautical publications necessary for the intended voyage.

(2) A person who contravenes the provisions of sub section (1) commits an offence and shall on conviction be liable to a fine of not less than one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(3) In addition to the penalty provided under sub-section (3), a person convicted shall be required to pay for the expenses of making good any damage occasioned by the commission of the offence.

(4) This section shall apply to all vessels registered or licensed under this Act.

100. An owner or master of a vessel shall not proceed nearer than a point of ninety metres upstream from a boom above any dam wall. Proximity to booms

101. An owner or a master of vessel shall comply with any instructions or notices published by the Council for the purpose of ensuring maritime safety. Instructions and notices to mariners

102. An owner or master of a vessel shall not when a vessel is navigating, issue any orders that may endanger the safety of the vessel or any other vessel on the Lake. Giving helm orders

103. (1) Where damage to property arises from the non-observance of collision regulations, the damage shall be presumed to have been caused by the willful default of the owner or master of the vessel. Collision liability

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

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

(4) Where the collision is accidental or caused by force majeure, or if the cause is not proved, the costs damage shall be borne by those who suffer the damage, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the casualty.

(5) Where the collision is caused by the fault of one of the vessels, liability to make good the damage shall be attached to the vessel which causes the collision.

(6) Where a collision causes death or a personal injury, the owners or masters of the vessels which cause the collision shall be jointly and severally liable to the third parties.

(7) Notwithstanding sub-section (6), the owner or master of a vessel which pays a larger part than that which in accordance with the provisions of sub-sections (2) and (3) the owner or master ought to bear, shall obtain a contribution from the owner or master of the other vessel which caused the collision.

Duty to
render
assistance
following
collision

104. (1) Where there is a collision between vessels, the owner or master of each vessel shall, where that owner or master can do so without damage to his or her own vessel, members of crew and passengers, if any—

- (a) render to the other vessel, the owner or master, members of crew and passengers of that other vessel, such assistance as may be practicable and necessary and remain by the other vessel until the owner or master ascertains that that vessel has no need for further assistance; and
- (b) give the owner or master of that other vessel the name and port of registry of his or her vessel, and the names of the ports from which the vessel sailed and to which it is bound.

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

(3) An owner or master who fails, without reasonable cause, to comply with this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

105. (1) Where a vessel is involved in an accident occasioning—

- (a) loss of life or any serious injury to any person; or
- (b) any damage affecting the seaworthiness or her efficiency,

the owner or master of the vessel shall, within twenty-four hours of the occurrence of the accident or as soon as possible thereafter, transmit to the Registrar of vessels a written report of the accident.

(2) A report of an accident or damage to a vessel under sub-section (1) shall be signed by the owner or master of the vessel and shall state—

- (a) the name of the vessel;
- (b) the port of registry of the vessel;
- (c) the particulars of the vessel;
- (d) the location of the vessel;
- (e) the circumstances in which the accident or damage occurred; and
- (f) the probable cause of the accident or damage.

(3) Where the Registrar of vessels receives a report under this section, the Registrar of vessels shall cause an investigation to be conducted.

(4) An owner or master of a vessel who fails, without reasonable cause, to comply with this section commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Eligibility
for load line
certificate

106. All vessels shall be issued with load line certificates, except—

- (a) an existing vessel of a gross registered tonnage of less than one hundred and fifty tons;
- (b) a new vessel of less than twenty four meters in length;
- (c) a vessel solely engaged in fishing; or
- (d) a pleasure yacht not used for hire or reward.

(2) For purposes of this Part, a vessel shall be deemed to be loaded beyond the limits specified in the load line certificate of the vessel where the vessel is so loaded as to submerge the appropriate load line on each side in water where the vessel has no list.

Load line
certificate

107. (1) The Registrar of vessels shall issue a load line certificate to a vessel that complies with the provisions of this Part in such form and manner, as may be prescribed by the load line regulations.

(2) Where a vessel to which this Part applies has been surveyed and marked in accordance with the load line regulations, the appropriate certificate shall on application be issued to the owner of the vessel.

Vessel
without load
line
certificate

108. (1) A vessel shall not set sail without a valid load line certificate.

(2) An owner or master of a vessel issued with a load line certificate shall, when requested, produce to the Registrar of vessels, a valid load line certificate.

(3) Where an owner or master of a vessel issued with a load line certificate does not produce a valid load line certificate, the Registrar of vessels may detain the vessel until the load line certificate of the vessel is produced as required under sub-section (2).

109. (1) An owner or master of a vessel issued with a load line certificate shall— Display of load line certificate

- (a) cause the load line certificate to be posted in a conspicuous place on board the vessel for the period of its validity; and
- (b) immediately enter in the official logbook the particulars as to the position of the deck line and load line which are specified in the certificate.

(2) Before a vessel sets sail, the owner or master of the vessel shall—

- (a) enter in the official logbook the particulars relating to the depth to which the vessel is for the time being loaded; and
- (b) cause a notice in such form and containing such particulars as may be specified in the load line regulations to be posted in a conspicuous place on board the vessel.

(3) Where an owner or master of a vessel fails to comply with any requirement imposed by sub-sections (1) and (2), the owner or master commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

110. A surveyor may board a vessel within any port or place in a Partner State for the purpose of examining the load line certificate of the vessel. Inspection of a vessel for load line certificates

111. (1) Where a load line certificate expires, is suspended or cancelled the owner or master of the vessel to which the certificate relates, shall surrender the certificate to the Registrar of vessels. Surrender of load line certificate

(2) The owner or master of a vessel, who without reasonable cause, fails to comply with a requirement under sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Cancellation
of
suspension
of load line
certificate

112. (1) A load line certificate issued under this Part may be suspended or cancelled by the Registrar of vessels, where the Registrar of vessels has reason to believe that—

- (a) the survey on the basis of which the certificate was issued was fraudulent or made in error;
- (b) the certificate was issued on false or erroneous information;
- (c) since the survey, material alterations have taken place in the hull or superstructure of the vessel in contravention of this Act; and
- (d) the fittings and appliances for the protection of openings, the guard-rails, the freeing ports or the means of access to the quarters of the crew have not been maintained on the vessel in as effective a condition as they were when the certificate was issued.

(2) Where the load line certificate is suspended or cancelled, the Registrar of vessels may require the owner or master of the vessel to have the vessel surveyed again before the re-issuance of the certificate or the issuance of a new certificate.

Load line
regulations

113. The Council may, make regulations to provide for—

- (a) the survey and determination of load lines, including conditions of assignment of freeboards;
- (b) the stability, loading and ballast of vessels;

- (c) the issuance of certificates and the forms of the certificates; and
- (d) any other matter relating to load lines.

PART IX—CREW ENGAGEMENT

114. (1) An owner of a vessel registered or licensed under this Act shall enter into an agreement in writing with every member of crew who the owner engages as a member of crew. Crew Agreement

(2) A crew agreement shall be dated at the time it is first signed.

(3) A person shall not be engaged as a member of crew unless such person is trained and qualified under this Act.

115. (1) A person employed as a member of crew of a vessel and the owner of the vessel shall enter into a crew agreement which shall be signed by both parties or by persons acting on their behalf. Contents of crew agreement

(2) The crew agreement shall state—

- (a) the place at which it is made;
- (b) the full names of the member of crew;
- (c) the place of birth of the member of crew;
- (d) the age and date of birth of the member of crew;
- (e) the name of the vessel on which the member of the crew undertakes to serve;
- (f) the nature of the engagement;
- (g) the period of the engagement whether for a single voyage, a series of voyages or permanent;
- (h) the intended port of discharge of the member of the crew;

- (i) any place or ports of Partner States to which the voyage or engagement applies;
 - (j) the place and date at which the member of crew is to be on board the vessel or to begin work;
 - (k) the capacity in which the member of crew is to serve;
 - (l) the amount of wages that the member of crew is to receive, including any payment in advance or any allotment during his or her absence as provided under sections 125 and 126;
 - (m) the scale of the provisions that are to be supplied to the member of crew;
 - (n) the leave to which the member of crew is entitled;
 - (o) the rights and obligations of the owner and the member of the crew;
 - (p) any regulations as to the conduct of the member of the crew on board the vessel including fines, and other lawful punishment for misconduct which the parties agree to adopt; and
 - (q) any contributions to be made by the owner and the member of crew towards a pension fund.
- (3) A crew agreement may contain any other stipulations as are agreed upon by the owner of the vessel and the member of the crew.
- (4) A crew agreement shall—
- (a) be read over and explained to a member of crew to ascertain that the member of crew understands the agreement before signing it; and
 - (b) be signed in duplicate, and one copy retained by owner and the other by the member of crew.

(5) Where a substitute is engaged in the place of a member of the crew who duly signed a crew agreement and whose services are, within twenty-four hours of the vessel setting sail lost by death, desertion or other unforeseen cause, the owner or master shall before the vessel sets sail, if practicable, and if not, as soon as possible thereafter, cause the agreement to be read over and explained to the substitute, and the substitute shall then sign the agreement in the presence of a witness who shall attest the signature.

116. A master of a vessel shall, at the commencement of every voyage, post a specimen the crew agreement in a conspicuous part of the vessel that is accessible to the members of crew.

Posting of specimen crew agreement

117. (1) An owner or master of the vessel which sets sail in contravention of the requirements of section 115, commits an offence and shall on conviction be liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Offences relating to crew agreement

(2) The Registrar of vessels may in addition to the penalty in sub-section (1), detain the vessel.

118. (1) There shall be appointed in accordance with the legislation of Partners States, a Registrar of members of crew.

Registrar of members of crew

(2) The Registrar of members of crew shall conduct all business connected with the engagement and discharge of members of crew who serve on board of a vessel registered or licensed under this Act.

(3) For the purposes of this Act, the Council shall, by notice published in the *Gazette*, designate the officers appointed under sub-section (1) as Registrar of members of crew under this Act.

Employment
of person
below the
age of 18
years

119. (1) A person who has not attained the age of eighteen years shall not—

- (a) be engaged to work on board a vessel unless that person obtains the written consent of his or her parent or guardian; and
- (b) be employed to work in the engine room of a vessel unless that person is an apprentice working under supervision.

(2) An authorised representative of an apprentice engaged under this section, shall sign a contract of apprenticeship with the owner of the vessel in the presence of the Registrar of vessels.

(3) The Registrar of vessels shall attest to the signing of the contract of apprenticeship where the Registrar of vessels is satisfied that the authorised representative of the apprentice—

- (a) understands the contents and provisions of the contract;
- (b) freely consents to be bound by the contract;
- (c) has attained the age of 18 years; and
- (d) is in possession of a certificate of a medical practitioner, approved under regulations made under this Act, confirming to the physical fitness of the apprentice, for purposes of the apprenticeship.

Payment of
wages of
member of
crew

120. (1) An owner or master of a vessel shall pay to a member of crew engaged on the vessel, wages within two working days after the arrival of the vessel at the port where the crew is to be discharged or on the discharge of the member of crew whichever is the earlier.

(2) The final wages of a member of crew, may, with his consent, be paid over to the Registrar of members of crew and the receipt of final wages by the Registrar of members of crew shall constitute an absolute discharge to the member of crew.

121. (1) An owner of a vessel shall, before discharging a member of crew, deliver to the member of crew a full and true account of the wages of the member of crew. Account of wages

(2) The account of the wages in sub-section (1) shall be delivered to the member of crew within twenty-four hours of the discharge of that member of crew.

122. (1) The master of a vessel shall, before discharging a member of crew, deliver to him a full and true account of the wages of the member of crew which shall indicate the various matters in respect of which any deductions are made during the voyage. Deductions from wages

(2) A master shall, during the voyage, enter the various matters in respect of which the deductions are made under sub-section (1), in a book kept for that purpose, and shall if required produce the book at the time of the payment of wages and upon the hearing before any competent authority of any complaint or question relating to that payment.

123. (1) Subject to sub-section (2), where the wages of a member of crew are not paid or settled as provided in this Part, the wages shall remain payable until the time of the final settlement of the wages. Settlement of Wages

(2) Sub-section (1) shall not apply where—

(a) the delay in the payment of the wages of the member of crew is attributed solely to the act or default of the member of crew;

(b) a reasonable dispute as to the liability of the owner or master of the vessel arises; or

(c) the delay is due to any other cause outside the control of the member of crew, owner or master of the vessel.

(3) Where a member of crew is discharged from a vessel and the settlement of his or her wages is completed, the member of crew shall endorse the discharge on the crew agreement, and sign a release of all claims in respect of the voyage or engagement for which the wages are settled.

(4) The master of the vessel shall deliver a copy of the release so signed and attested, to the Registrar of members of crew.

Rate of
exchange

124. Where a member of crew agrees with the owner of a vessel for payment of wages in a specified currency, any payment of or on account of the wages if made in any currency other than that stated in the agreement, shall be made at the official rate of exchange for the currency at the place where, and on the day on which, the payment is made.

Payment in
advance

125. A crew agreement may contain a stipulation for payment in advance, to or on behalf of a member of crew conditionally on commencement of work in pursuance of the agreement, or a sum not less than the equivalent of two weeks' wages payable to the member of crew under the agreement.

Payment of
wages of
member of
crew to
another
person

126. (1) A crew agreement may contain a stipulation that part of the wages due to a member of crew, during the absence of the member of crew from the Partner State or the port of registry, be paid to such person and at such times as may be specified in the crew agreement.

(2) The amount that may be specified under subsection (1) shall not exceed fifty percent of the monthly wages of the member of crew.

(3) A person who becomes entitled to a payment of wages under this section may sue and recover the amount of the payment as if it were a debt owed to that person.

127. The right to wages and provisions of a member of crew shall begin at the time— Right to wages and provisions

- (a) the member of crew commences work, or
- (b) specified in the agreement for commencement of work or presence on board, whichever is the earlier.

128. An crew agreement shall be null and void, where a member of crew— Abandonment of wages and salvage

- (a) abandons any privilege the member of crew may have under any enactment in respect of wages;
- (b) is deprived of any remedy for the recovery of his or her wages;
- (c) abandons his or her right to wages against the owner of the vessel; or
- (d) abandons any right that he or she may have or obtain in the nature of salvage,

129. (1) Where the service of a member of crew terminates before the date contemplated in the agreement and the member of crew is left on shore by reason of being unfit or unable to proceed on the voyage, except injury at work, the member of crew shall be entitled to wages for time served up to the time of that termination and for any travel expenses to his or her home port. Premature termination of service

(2) Where the service of a member of crew terminates before the date contemplated in the crew agreement by reason of the loss or foundering of the vessel on which the member of crew was employed, the member of crew shall be entitled to receive

wages in respect of each day on which that member of crew is unemployed during a period of two months from the date of termination of service at the rate stipulated in the crew agreement.

(3) Sub-section (2) shall not apply where the member of crew obtains other suitable employment on the day or for the period on which that member of crew is unemployed on the vessel.

Wages
during
sickness

130. (1) A member of crew shall be entitled to wages during sickness on board a vessel or on shore.

(2) Notwithstanding sub-section (1), where a member of crew is by reason of sickness incapable of performing his or her duty and it is proved that the sickness—

(a) is caused by a willful act or default of the member of crew; or

(b) is a sickness or an infirmity willfully concealed at the time of engagement, the member of crew shall not be entitled to wages for the time during which the member of crew is by reason of the sickness, incapable of performing his or her duty.

Wages on
improper
discharge

131. Where a member of crew who signed a crew agreement is discharged in violation of the terms of the agreement without fault and consent, the member of crew shall be entitled to receive from the owner or master of the vessel, in addition to any wages the member of crew may have earned, due compensation for the damage caused to him or her by the discharge, not less than the total amount of the outstanding wages of remaining period of the crew agreement; and the member of crew may recover that compensation as if it were wages duly earned.

Annual
leave

132. (1) A member of crew shall be entitled after twelve months' continuous service on a vessel, or with the same employer, to an annual leave with pay, the duration of which shall be stipulated in the crew agreement.

(2) Where the continuous service of the member of crew is less than twelve months, the member of crew shall be entitled to leave proportionate to the period served.

133. (1) Where a member of crew serving on a vessel dies during a voyage, the master of the vessel shall take charge of the property on the vessel, belonging to the deceased member of crew.

Custody of property of deceased member of crew

(2) The master of the vessel shall enter in the official log book—

- (a) a statement of the amount of money and a description of the personal effects; and
- (b) a statement of the wages due to the deceased, the amount of deductions, if any, to be made from the wages and the balance of the wages due.

(3) The entry in the official log book shall be signed by the master and attested by a mate or another member of crew.

(4) The master of the vessel may, if the master thinks fit, cause any of the personal effects of a deceased member of crew to be sold.

(5) The master of the vessel shall without delay furnish the Registrar of members of crew with a statement of the property of the deceased member of crew.

(6) In this section “property” means the money, personal effects and balance of wages and the proceeds of the sale of the property of a deceased member of crew.

134. (1) Subject to sub-section (2), the property of a deceased member of crew shall on being claimed be delivered, by the master of the vessel by the most practicable means, to the next of kin of the deceased member of crew or, where there is no next of kin, to the Registrar of vessels for disposal in accordance with the relevant laws of the Partner States relating to the distribution or succession of personal property of deceased persons.

Delivery of property of deceased member of crew

(2) A master may deduct from the proceeds of sale of the property of the deceased member of crew, any expenses properly incurred in complying with sub-section (1).

(3) After complying with sub-section (1), the master of the vessel shall deliver a statement of account to the Registrar of vessels in respect of the property of the deceased member of crew.

(4) Where no claim to the property of a deceased member of crew is made, the Registrar of members of crew shall cause the property to be sold by public auction and the net proceeds be dealt with in accordance with the relevant laws of the Partner States relating to the distribution or succession of personal property of deceased persons.

Complaints
as to
provisions
or water

135. (1) Where four or more members of crew of a vessel consider that the provisions or water provided for the use of the crew at any time are substandard or deficient in quantity and quality, the members of crew may make a complaint to that effect—

- (a) in the first instance, to the owner of the vessel; and
- (b) where there is no improvement, to the Registrar of members of crew or to any authorised officer who may either examine the provisions or water complained of or cause them to be examined.

(2) Where the person carrying out an examination under this section finds that the provisions or water are substandard or deficient in quality, that person shall inform the owner of the vessel in writing, and where the owner does not thereafter provide proper provisions or water, the owner commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

136. (1) A master of a vessel in which provisions are supplied to the crew shall keep on board proper weights and measures for determining the quantities of the provisions supplied.

Compensation for deficient provisions

(2) Where during the voyage of a vessel the allowance for provisions supplied to a member of crew is deficient in quantity or where any of those provisions are substandard, the member of crew shall receive by way of compensation for the deficiency for so long as it lasts, an amount of money to be determined by the Registrar of members of crew.

137. A vessel of a gross registered tonnage of fifty tons or more shall, where passengers and members of crew are provided with food, carry a qualified crew cook and a qualified passenger cook.

Qualified cook

138. (1) An owner or a master of a vessel shall ensure that the vessel carries medicine, medical stores and appliances in accordance with regulations made under this Act.

Medical requisites

(2) Where an authorised officer is of the opinion that the medicine, medical stores and appliances on a vessel are deficient in quantity or quality or are placed in improper receptacles, the authorised officer shall give notice of the deficiency in writing to the owner or master of the vessel and report the matter to the Registrar of vessels.

(3) The Registrar of vessels may, on receiving a report under sub-section (2), suspend the certificate of registration or the licence of the vessel and detain the vessel until the Registrar of vessels is satisfied that the default is remedied.

139. (1) Where a member of crew of a vessel receives, any surgical, medical, dental or optical treatment, the expense of the treatment shall be borne by the owner of the vessel.

Expenses for medical treatment or burial

(2) Where a member of crew of a vessel dies and is buried or cremated outside his or her country of residence, the expenses of the burial or cremation shall be borne by the owner of the vessel.

Certificate
of discharge
of member
of crew

140. (1) Subject to section 121, a master of a vessel shall sign and give to a member of crew discharged from the vessel, on discharge of the member of crew or on payment of the wages of the member of crew, a certificate of the discharge in an approved form specifying the period of service and the time and place of discharge.

(2) A certificate of discharge issued under sub-section (1), shall not contain any statement as to the wages or the quality of work of the discharged member of crew.

(3) The master of a vessel shall, upon the discharge of a certificated officer whose certificate of competency was delivered to and retained by the master, return the certificate to the certificated officer.

Continuous
discharge
book

141. (1) The Registrar of members of crew shall issue to a member of crew engaged on a vessel, a book, known as a continuous discharge book, which shall contain a record of service of the member of crew.

(2) A master of a vessel shall, on the discharge of a member of crew from the vessel, make an entry in the continuous discharge book, of the time and place of discharge and shall sign the entry.

(3) An entry under this section shall not contain any statement as to wages or the quality of work of the discharged member of crew.

Character
report

142. (1) Where a member of crew is discharged from a vessel, the master of the vessel shall make and sign a report known as a character report, in the prescribed form, in which the master—

- (a) shall report on the conduct, character and qualifications of the member of crew who is being discharged; or
- (b) may state that the master declines to give any report on the conduct, character and qualifications of the member of crew who is being discharged.

(2) A master of a vessel before whom the discharge of a member of crew is made shall, subject to section 147, and where the member of crew so desires, give the member of crew a copy of the character report on that member of crew.

(3) A person who—

- (a) makes a false character report knowing the same to be false;
- (b) forges or fraudulently alters any certificate of discharge or character report or copy of a character report;
- (c) fraudulently uses any certificate of discharge or character report, that is forged or altered or that does not belong to that person,

commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

143. (1) Where a vessel is sold, transferred or disposed of in any other way a member of crew may be discharged or may in writing consent to be employed to complete the voyage of the vessel on terms and conditions not less favorable than those stipulated in the agreement under which the member of crew was engaged to serve on the vessel.

Discharge
on change
of owner

(2) Where a member of crew is discharged under this section the provisions of this part relating to the continuous discharge book and the return of the member of crew to a proper return port shall apply as if the service of the member of crew had been terminated other than by his or her consent to be discharged during the currency of the agreement.

Misconduct
endangering
vessel or
life

144. A member of crew, who, by willful breach of duty or by reason of drunkenness—

- (a) does any act in a manner that may cause the immediate loss, destruction or serious damage to the vessel or that may pose an immediate danger to the life or limb of any person on board the vessel or another vessel; or
- (b) refuses or omits to do any lawful act, proper and requisite to be done by the member of crew, for preserving the vessel from immediate loss, destruction or serious danger to the vessel or any immediate danger to life or limb,

commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both.

Offences by
member of
crew

145. A member of crew who—

- (a) deserts a vessel;
- (b) neglects or refuses to join a vessel or to set sail in the vessel;
- (c) is absent from the vessel, without leave;
- (d) assaults the master or any member of crew or passenger;
- (e) joins any member of crew—

- (i) to neglect any duty which is required to be discharged at such a time;
- (ii) to impede, the progress of a voyage or the navigation of the vessel;
- (iii) to disobey lawful commands which are required to be obeyed while the is vessel on the Lake; or

(f) willfully damages a vessel or misappropriates any of the stores or cargo of the vessel,

commits an offence and shall on conviction be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

146. For the purpose of maintaining discipline on board a vessel on the Lake, the Council may make regulations to provide for—

Regulations
for
disciplinary
offences

- (a) the conduct of a member of crew on board a vessel and the disciplinary measures for cases of misconduct;
- (b) the procedure for the hearing of appeals against fines for disciplinary offences;
- (c) the setting up of a disciplinary committee of persons employed on the vessel and for the exercise by all or any of those members, of the powers of the master of a vessel in dealing with disciplinary offences;
- (d) the payment of fines for disciplinary offences.

147. (1) Where it appears to the Registrar of vessels that a member of crew—

Inquiry into
fitness or
conduct of
member of
crew by
Registrar of
members of
crew

- (a) is unfit to discharge his or her duties, by reason of incompetence, misconduct or for any other reason;

- (b) has been seriously negligent in the discharge of his or her duties; or
- (c) has failed to comply with the provisions of this Act,

the Registrar of members of crew may cause an inquiry to be held by one or more persons appointed by the Registrar of members of crew and where the Registrar of members of crew thinks fit, suspend, pending the outcome of the inquiry, the certificate issued to the member of crew in pursuance of section 88 and require the member of crew to deliver it to the Registrar of members of crew.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 151(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

(3) A person holding an inquiry into the fitness or conduct of a member of crew, under this section—

- (a) may, if satisfied with any of the matters mentioned in sub-section (1), suspend or cancel any certificate issued to the member of crew or censure the member of crew;
- (b) may make an order with regard to the costs of the inquiry as they think just;
- (c) shall make a report to the Registrar of members of crew;
- (d) shall, where the certificate is suspended or canceled collect the certificate of the member of crew or cause it to be delivered to the Registrar of members of crew.

(4) Any costs which a person is ordered to pay under sub-section (3) (b) may be recovered from the member of crew by the Registrar of members of crew.

148. (1) Where it appears to the Registrar of members of crew that a person who is a holder of a certificate to which this section applies is unfit to be the holder of that certificate, by reason of incompetence, misconduct or for any other reason, the Registrar of members of crew may give that person a notice in writing of the consideration to suspend or cancel the certificate.

(2) The notice issued under sub-section (1) shall state the reasons why it appears to the Registrar of members of crew that the person is unfit to be a holder of the certificate and shall state the period within which that person may make a written representation or request to make oral representation to the Registrar of members of crew.

(3) After considering any representations made under sub-section (2), the Registrar of members of crew may suspend or cancel the certificate and shall give a written notice of the decision taken, to the holder of the certificate.

(4) Where the Registrar of members of crew decides to suspend or cancel the certificate, the Registrar of members of crew shall issue a notice stating the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Registrar of members of crew not later than the date so specified unless before that date the holder requires the case to be dealt with by an inquiry under section 147.

(5) A holder of a certificate of competency or licence who fails to deliver the certificate or licence commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(6) Where, before the date specified in the notice, the Registrar of members of crew requires the case to be dealt with by an inquiry, then, unless the Registrar of members of crew withdraws the requirement, the suspension or cancellation shall not take effect except as ordered under the inquiry.

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

(8) This section applies to every certificate issued under section 93.

Inquiry into
fitness or
conduct of
member of
crew by the
Council

149. (1) Where a member of crew, before the date mentioned in section 148 (4), required his or her case to be dealt with by an inquiry under this section, the Council shall cause an inquiry to be held by one or more persons appointed by the Council.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 151 (1) and shall be held with the assistance of one or more assessors.

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

(a) may confirm the decision taken under section 147 and cancel or suspend the certificate accordingly;

(b) may, where the decision was to cancel the certificate, instead suspend the certificate;

(c) may, where the decision was to suspend the certificate, suspend it for a different period;

(d) may, instead of confirming the decision taken under section 147, censure the holder of the certificate or take no further action;

(e) may make an order with regard to the costs of the inquiry as they think fit; and

(f) shall make a report on the case and submit it to the Council.

(4) Where the certificate is suspended or canceled it shall be delivered immediately to the persons holding the inquiry or to the Registrar of members of crew.

(5) Any costs which a member of crew is ordered to pay under sub-section (3)(e) may be recovered from him by the Registrar of vessels.

150. (1) Where an inquiry has been held under section 147 or 149 and—

Re-hearing
and appeal
from
inquiry

(a) new and important evidence which could not be produced at the inquiry is discovered; or

(b) it appears to the Council that there are grounds for suspecting that a miscarriage of justice may have occurred,

the Council may order the whole or part of the case to be reheard.

(2) An order under sub-section (1) may provide for the rehearing to be by a court.

(3) Where the persons holding the inquiry decide to cancel or suspend the certificate of any person or find any person at fault, then, if no application for an order under sub-section (1) is made, or where an application is refused, that person or any other person having an interest in the inquiry, who appeared at the hearing and is affected by the decision or finding, may appeal to court.

151. (1) The Council may make rules for the conduct of inquiries under sections 147 and 149 and for any re-hearing under section 150.

Rules as to
inquiries
and appeals

(2) Without prejudice to the generality of sub-section (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.

Failure to deliver suspended or cancelled certificate

152. Any person, who fails to deliver a certificate as required under sections 147, 148, or 149 commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Review by Registrar of vessels

153. Where a certificate is suspended or cancelled under sections 147, 148, 149, or 150, the Registrar of members of crew may re-issue the certificate or, reduce the period of suspension and return the certificate or issue a new certificate of the same or a lower grade in place of the suspended or cancelled certificate.

Official logbook to be kept and delivered

154. (1) A master of a vessel registered or licensed under this Act shall, in addition to the logbook of the vessel, keep an official logbook.

(2) An entry required to be made in an official logbook shall—

- (a) be made as soon as possible after the occurrence to which it relates;
- (b) where it is not made on the same day as the occurrence, be made and dated to show the date of the occurrence and the entry in respect to it; and
- (c) where it is made in respect of an occurrence happening before the arrival of the vessel at the final port of discharge of the vessel, be made not later than twenty-four hours after arrival.

(3) An entry in the official logbook shall be signed by a master and another member of crew, and where it is an entry of illness, injury or death, it shall be signed by any medical practitioner on board.

(4) A master of a vessel shall, within forty-eight hours after the arrival of the vessel at the final port of destination of the vessel or on the discharge of the crew, whichever happens first, deliver the official logbook of the voyage to the Registrar of vessels.

(5) Where a vessel is lost or abandoned, the owner or master of the vessel shall, where practicable, and as soon as possible, deliver or transmit to the Registrar of vessels an official logbook duly made out up to the time of the loss or abandonment.

(6) Where the official logbook of a vessel ceases to be required, by reason of the transfer of the ownership of a vessel, the owner or master of the vessel shall within fifteen days of the transfer of ownership, deliver or transmit to the Registrar of vessels an official logbook duly made out up to the time of the transfer.

155. A master of a vessel shall enter or cause to be entered in the official logbook particulars of— Particulars
of entry

- (a) every conviction by a court of a member of crew and the punishment imposed;
- (b) every offence committed by a member of crew for which the owner or master intends to institute proceedings, or for which punishment has been imposed on board the vessel;
- (c) every case of illness or injury happening to a member of crew, with the nature of the illness or injury and any medical treatment given;

- (d) every refusal by a member of crew to take any medicine;
- (e) every birth and death happening on board the vessel;
- (f) the name of every member of crew who ceases to be a member of crew other than by death, stating the place, time, manner and cause of the cessation;
- (g) the wages due to any member of crew who dies during a voyage, and the gross amount of all deductions to be made from those wages;
- (h) the sale of the personal effects of any member of crew with a statement of each article sold and the sum received for it;
- (i) every collision with any other vessel and the circumstances in which it occurred;
- (j) the date and time of posting up in the vessel of a notice containing particulars of the draught and freeboard of the vessel; and
- (k) any other entry directed by this Act to be entered in the log-book.

Breaches in respect of official logbook

156. (1) Where an official logbook is not kept or delivered as required by section 154 or where an entry required under section 155 is not made in accordance with that section the master of the vessel commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) Any person who willfully destroys or mutilates or renders illegible any entry in an official logbook or willfully makes or procures to be made a false or fraudulent entry in an official logbook commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

157. (1) A vessel 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. Other logbooks

(2) The entries in the deck log book and engine room log book referred to in sub-section (1), 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.

(3) A person who willfully destroys, mutilates or renders illegible any entry in a log book commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

158. (1) Where a member of crew—

(a) is left behind at a port other than at his or her home port; or

(b) who became so employed under an agreement entered into outside the port of engagement of the member of crew, on being shipwrecked, the owner or master of the vessel who last employed the member of crew shall make such provision for the return, relief and maintenance of the member of crew until his or her return and such other provisions as may be required by regulations made by the Council.

Relief and return of member of crew left behind or where vessel wrecked

(2) The Council may make regulations to provide for the relief and return of a member of crew left behind a port other than his or her home port or where a vessel is wrecked.

(3) This section applies to a member of crew who is left behind where a vessel changes ownership in accordance with section 143.

Return on
loss or
abandonment
of vessel

159. Where a vessel is lost or abandoned, the owner or master of the vessel shall deliver to the Registrar of vessels the list of persons on board at the time of loss or abandonment.

Documents
to be
handed over

160. (1) Where during a voyage a master of a vessel is removed or suspended or for any other reason relinquishes command and is succeeded in command by another person, the master of the vessel shall deliver to the successor the certificate of registration and the other documents which relate to the navigation and to the crew of the vessel and which are in the custody of the master of the vessel.

(2) The person taking over command of a vessel in accordance with sub-section (1) shall immediately enter in the official logbook a list of the documents delivered to him or her by the master of the vessel.

Marriage,
birth and
death on
board

161. Where a marriage, birth or death takes place on board a vessel while the vessel is on the Lake, the master of the vessel shall make an entry to that effect in the official logbook and shall draw up a memorandum or declaration of the marriage, birth or death in accordance with the relevant legislation of the Partner State where the marriage, birth or death takes place.

Repatriation
of crew

162. (1) Where the agreement of a member of crew terminates at a port other than the port of engagement, the member of crew shall be returned to a proper return port at the expense of the owner or master of the vessel.

(2) The responsibility of the owner and master of the vessel under this section shall include an obligation to—

- (a) pay the cost of maintenance and any medical treatment until the member of crew arrives at his or her proper return port; and
- (b) ensure that the member of crew does not become a charge on a Government of a Partner State.

163. Where a member of crew left behind at a port other than the port of engagement of the member of crew, remains there after the end of a period of three months, the owner or master of the vessel who last employed the member of crew shall make provision for the return of the member of crew or for any matter arising after the end of that period.

Limit of liability of employer

164. A member of crew who is left behind or discharged from a vessel as a result of his or her—

Defaulting crew not entitled to be returned

- (a) desertion; or
- (b) imprisonment,

shall not be entitled to be returned under section 162 at the expense of the owner or master of the vessel.

165. Where a member of crew is to be left behind or discharged from a vessel at a port other than the port of engagement of the member of crew, an authorised officer may demand from the owner or master of the vessel adequate security or guarantee for the repatriation of the member of crew to the proper return port.

Security by owner or master

166. (1) Where a member of crew engaged on a vessel is left at a place other than a proper return port, the master of the vessel shall enter in the official logbook, a statement of the personal effects left on board by the member of crew and an account of wages due to the member of crew at the time he or she was left behind.

Statement of personal effects and wages

(2) On the termination of the voyage during which the member of crew was left behind, the master of the vessel shall furnish to an authorised officer, within forty eight hours after the arrival of the vessel at the port at which the voyage terminates, a delivery account and a retention account relating to the member of crew.

(3) The master of the vessel shall, where required by an authorised officer, furnish such vouchers as may be necessary to verify the delivery and retention accounts.

(4) The master of the vessel shall deliver to an authorised officer, the personal effects of a member of crew as shown in a delivery account, and the authorised officer shall give to the master a receipt for any personal effect or amount so delivered.

(5) The master of the vessel shall be entitled to retain out of the wages of a member of crew any sum shown in a retention account that appears to an authorised officer to be owing or payable to the master of the vessel.

Exemption
from
liability

167. A master of a vessel shall not be liable for any loss or damage to the personal effects of a member of crew left behind or discharged at a port other than the proper return port of the member of crew, where the loss or damage occurred without fault on the part of the member of crew.

Termination
of service

168. (1) Where during the currency of his or her agreement the service of a member of crew engaged on a vessel terminates otherwise than by the consent of the member of crew, the master of the vessel shall—

- (a) make an appropriate entry in the continuous discharge book of the member of crew;
- (b) pay to the member of crew the wages to which he or she is entitled; and
- (c) make adequate provision in accordance with this Act for the maintenance and return of the member of crew to a proper return port.

(2) Where the master of a vessel fails without reasonable cause to comply with sub-section (1), the expenses for the maintenance of the member of crew and for the conveyance of the member of crew to a proper return port shall—

- (a) where paid by the member of crew, be recovered as wages due to that member of crew; and
- (b) where paid by an authorised officer, be a charge on the vessel to which the member of crew belonged.

(3) A charge on a vessel under sub-section (2) (b) may be recovered—

- (a) from the owner of the vessel;
- (b) where the vessel is lost, from the person who was the owner of the vessel at the time of the loss; or
- (c) where the vessel is transferred, from either the former or the new owner of the vessel.

169. (1) Where a member of crew—

- (a) is found in any place outside the home port of that member of crew, as a result of a wreck of the vessel; or
- (b) by reason of having been discharged or left behind from a vessel in any place outside the homeport of the member of crew, is in distress in that place, the authorised officer shall provide relief to that member of crew.

Relief of
distressed
members of
crew

(2) The relief under sub-section (1) shall provide—

- (a) for the return of the member of crew at the expense of the owner of the vessel to a proper return port and for his or her necessary clothing and maintenance until his or her departure for that port;
- (b) in case of death, for burial expenses;
- (c) in the case of a wrecked member of crew, for the repayment of any expenses incurred in his or her conveyance to a proper return port and his or her maintenance while being so conveyed.

Forcing
ashore

170. A master or a member of crew of a vessel who wrongfully forces another member of crew ashore and leaves that member of crew behind, or causes the member of crew to be wrongfully left behind at any place, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Return of
crew

171. Where any question arises as to the proper return port of a member of crew, the question may be referred to the Registrar of vessels and the decision of the Registrar of vessels shall bind the master of the vessel and the member of crew.

PART X—CARRIAGE OF BULK CARGOES AND DANGEROUS GOODS

Carriage of
bulk
cargoes

172. (1) A vessel or a barge carrying cargoes specified in sub-section (2) shall comply with the requirements of this Act and, to the extent required by this Act in respect of the characteristics of the vessel and the voyage in which it is or is to be engaged, comply with the applicable requirements of the Convention for the Safety of Life at Sea (1974), (SOLAS) Annex III of the International Convention for the prevention of Marine Pollution from Vessels (MARPOL 73/78) and the International Maritime Dangerous Goods Code (IMDG) of the International Maritime Organisation.

(2) The cargoes referred to in sub-section (1) include—

- (a) grain cargo in bulk;
- (b) other cargoes in bulk;
- (c) liquid chemicals in bulk;
- (d) liquefied gases in bulk;
- (e) timber deck cargoes; and
- (f) livestock.

173. (1) Where grain is loaded on board a vessel, all necessary and reasonable precautions shall be taken to prevent the grain from shifting. Carriage of grain

(2) A surveyor may go on board any vessel in any port in a Partner State and inspect any grain loaded in the vessel and the manner in which it is stowed.

(3) An owner or master of a vessel or a person who is responsible for the loading of the vessel or who lets the vessel sail laden with the grain, without taking the precautions required under sub-section (1), commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or both such fine and imprisonment.

(4) A vessel which is not loaded as specified in sub-section (1) shall be presumed to be unsafe by reason of improper loading.

174. The Council may make regulations prescribing the requirements to be complied with when cargo is carried in any uncovered space on the deck of a vessel issued with a load line certificate. Deck cargo regulations

Bulk cargo
regulations

175. The Council may make regulations relating to—

- (a) the safe carriage and stowage of bulk cargoes having due regard to the Code of Safe Practice for Bulk Cargoes issued by the International Maritime Organization;
- (b) the safe carriage and stowage of grain in accordance with the safety convention issued by the International Maritime Organization.

Carriage
and marking
of
dangerous
goods

176. (1) A person shall not send by or carry on a vessel registered or licensed under this Act any dangerous goods, except in accordance with this Part and regulations made pursuant to section 181.

(2) A person shall not send by or carry on a vessel any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the goods, in accordance with regulations made by the Council and without first giving written notice of the nature of the goods and of the name and address of the sender to the owner or master of the vessel.

(3) An owner or master of a vessel shall not carry on the vessel, dangerous goods unless the owner or master obtains a dangerous goods certificate, governing the conditions for the transport of dangerous goods.

(4) An owner or master of a vessel shall not take inflammable liquids that are dangerous goods, on board the vessel, unless adequate ventilation is available in the spaces in which the liquids are to be carried and shall take all reasonable precautions to ensure that all dangerous goods that are taken on board the vessel for carriage, are stowed in a safe and proper manner.

(5) An owner or master of a vessel in which dangerous goods are carried shall take such precautions as are necessary to prevent unauthorised access to the goods and the precautions shall include ensuring that no person smokes near or inside a compartment containing the dangerous goods.

(6) An owner or master of a vessel shall cause to be exhibited appropriate signs inside and, where necessary, outside any compartment being used to carry dangerous goods.

(7) An owner or master of a vessel shall not take dangerous goods liable to spontaneous combustion on board the vessel unless proper precautions are taken for the prevention of spontaneous combustion of the goods.

(8) The precautions required in sub-section (7) shall be stated to the Registrar of vessels upon demand.

(9) An owner or master of a vessel shall not take dangerous goods in the form of solids that take up water with the production of heat on board the vessel unless the goods are—

- (a) carried in metal drums; or
- (b) protected from water.

177. An owner or master of a vessel loading, discharging or transferring explosives shall hoist, where it can best be seen, the International Code flag “B” and shall display an all round red light during the hours of darkness.

Signals to be displayed when handling explosives

178. (1) An owner or master of a vessel may require any package or parcel intended to be shipped to be opened to ascertain its nature.

Inspection or refusal to take dangerous goods

(2) An owner or master of a vessel may refuse to take on board any package or parcel which the owner or master suspects might contain any dangerous goods.

Disposal of
dangerous
goods

179. (1) Where any dangerous goods, or any goods which in the opinion of the owner or master of the vessel, are dangerous goods, are sent on board any vessel without the marking or the notice required under section 176 the owner or master of the vessel may cause the goods, together with the packaging or container of the goods, to be thrown overboard.

(2) Where goods are thrown overboard under subsection (1), the master of the vessel shall make an entry in the official logbook stating the reasons for this action.

Forfeiture
of
dangerous
goods

180. (1) Where any dangerous goods have been sent by or carried in any vessel in a manner that would constitute an offence under this Part, court may order the goods, and any packaging or container of the goods, to be forfeited.

(2) 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;
- (b) the owner of the goods concerned is not before the court, or has had no notice of the proceedings; and
- (c) there is no evidence to show to whom the goods belong,

and 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.

Regulations
on
dangerous
goods

181. The Council may, by notice published in the *Gazette*, make regulations regarding the carriage of dangerous goods on a vessel.

Offences
relating to
the carriage
of
dangerous
goods

182. (1) A person who sends by any vessel, or who not being the owner or master of the vessel, carries any dangerous goods—

- (a) without distinctly marking the nature of the goods on the outside of the package containing the goods;
- (b) without, at or before the time of sending the goods to be shipped or taking them on board the vessel giving written notice to the owner or master of the vessel of the nature of the goods and the name and address of the sender or carrier of the goods, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two year months or to both such fine and imprisonment.

(2) A person who knowingly sends or carries on any vessel any dangerous goods under a false description, or who falsely describes the sender or carrier of any the goods, commits an offence shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) A person who contravenes any provisions of this Part where a penalty has not been provided, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term of not exceeding two years or to both such fine and imprisonment.

(4) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods on a vessel, that vessel shall be deemed, for the purposes of Part XI, to be unsafe by reason of improper loading and shall be detained.

183. (1) The Council may by regulations prescribe the goods, articles or materials to be carried in a vessel as dangerous goods in accordance with the safety convention relating to the carriage of dangerous goods, and the regulations shall incorporate the International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organization.

Dangerous
goods
regulations

- (2) Without restricting the generality of sub-section (1), the Council may by regulations prescribe—
- (a) the method of packing and stowing dangerous goods;
 - (b) the quantity of dangerous goods which may be carried in any vessel;
 - (c) the place or places within a vessel in which dangerous goods may be carried;
 - (d) the marking that is to be placed on any package or container in which dangerous goods may be placed for shipment;
 - (e) the precautions to be taken with respect to the carriage of dangerous goods; and
 - (f) the powers of inspection to determine compliance with the provisions of the regulations.

PART XI—SEAWORTHINESS

Sending
unseaworthy
vessel on
the Lake

184. (1) An owner or master of a vessel shall not send a vessel onto the Lake in an unseaworthy condition that endangers the life of any person, property and the environment.

(2) An owner or master of a vessel who sends a vessel onto the Lake in an unseaworthy condition that endangers the life of any person or property, commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) For the purposes of this Act, a vessel shall be deemed to be unseaworthy where a surveyor is satisfied that the vessel is unfit to navigate upon the Lake, by reason of—

- (a) the defective condition of the vessel;
- (b) the defective condition of the equipment of the vessel;
- (c) the lack of equipment of the vessel;
- (d) under manning or incompetence of the master or crew of the vessel; and
- (e) overloading or improper loading of the vessel.

185. (1) The owner or master of a vessel registered or licensed under this Act shall take all reasonable precautions to ensure that the vessel is seaworthy and is operated in a safe manner.

Owner liable for unseaworthy operation of vessel

(2) An owner or master of a vessel who fails to comply with the provisions of sub-section (1), commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

186. (1) Where the Registrar of vessels believes that a vessel is unfit to sail, the Registrar of vessels may detain the vessel until he or she is satisfied that the vessel is fit to sail.

Detention of unseaworthy vessel

(2) The Registrar of vessels shall cause a vessel detained under this section to be inspected or surveyed to investigate any defects believed to exist and the surveyor or authorised person who inspects the vessel shall submit a full written report on the findings of the inspection to the Registrar of vessels.

(3) Where a vessel is detained under this section, the owner of the vessel shall be liable to pay to the Government of the Partner State where the vessel is detained, the cost of detention and survey of the vessel and any other incidental expenses.

Power to pay compensation and security required for compensation

187. (1) Subject to the provisions of sub-section (2), where a vessel is detained under the provisions of this Act or any regulations made under this Act, and the owner of the vessel proves to the satisfaction of the Registrar of vessels that there was no reasonable cause for the detention of the vessel, the Registrar of vessels shall pay compensation to the owner of the vessel for any loss or damage sustained by the owner by reason of such detention.

(2) Subject to the provisions of sub-section (3), where a complaint is made to the Registrar of vessels that a vessel is unsafe, or otherwise does not comply with the provisions of this Act or any regulations made under this Act, the Registrar of vessels may, if he or she thinks fit, require the complainant to give security to the satisfaction of the Registrar of vessels for any compensation which may become payable by the Commission pursuant to sub-section (1).

(3) The security referred to in sub-section (2) shall not be required where the complaint is made by one fourth, being not less than three, of the members of crew belonging to the vessel and is not in the opinion of the Registrar of vessels frivolous or vexatious.

PART XII—WRECK AND SALVAGE

Appointment of Receiver

188. (1) There shall be appointed a receiver of wrecks, in accordance with the legislation of a Partner State.

(2) For purposes of this Act, the Council shall by notice published in the *Gazette*, designate an officer appointed under sub-section (1) as a receiver of wrecks.

Duty to attend vessel in distress

189. (1) Where any vessel is wrecked, stranded or in distress at any place on or near the shores of the Lake, the Receiver shall immediately proceed to that place and shall on arrival—

(a) take command of all persons present; and

- (b) 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 persons belonging to the vessel and of the cargo and equipment of the vessel.

(2) A person who fails to comply with any directions of the Receiver under sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment

190. (1) The Receiver may, with a view to protecting wrecked persons or any vessel, which is wrecked, stranded, abandoned or in distress, or the cargo of the vessel or any wreck, require— Power to require assistance

- (a) any person the Receiver thinks fit to assist the Receiver;
- (b) the master or members of crew of any vessel at hand to render any required assistance; and
- (c) the use of any machinery, vehicle or equipment that is obtainable.

(2) The Receiver may, without warrant, arrest any person who plunders or does any damage to any vessel which is wrecked, stranded, abandoned or is in distress and may require any person to assist with the arrest.

(3) A person who is required to give any assistance under sub-section (1) or (2) and who without reasonable cause fails to do so commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(4) Where a person who rejects assistance offered by the Receiver or any person giving the Receiver assistance under this section suffers an injury, the Receiver or the person

assisting the Receiver shall not be liable to any criminal offence or to damages unless the force used to deal with the resistance shown by the injured person was manifestly unreasonable having regard to the circumstances prevailing at the time.

Right to
pass over
adjoining
lands

191. (1) Where any vessel is wrecked, stranded or in distress at any place on the Lake, any person may, for the purpose of rendering assistance to the vessel, saving the lives of the shipwrecked persons or saving the cargo or equipment of the vessel—

- (a) pass, with or without a vehicle or an animal over any adjoining lands, without being subject to interruption by the owner or occupier; and
- (b) deposit on any adjoining lands any cargo or other articles recovered from the vessel, without doing more damage to the land, than is unavoidable.

(2) Any damage sustained by an owner or occupier of the adjoining land in consequence of the exercise of the rights given by sub-section (1) shall be a charge on the vessel, cargo or article in respect of or by which the damage is occasioned.

(3) The amount payable in respect of the damage shall, in case of dispute be determined and shall, in default of payment, be recoverable in the same manner as salvage.

- (4) An owner or occupier of any land who—
 - (a) impedes any person in the exercise of the rights given by this section; or
 - (b) prevents any cargo or other article deposited on the land in exercise of rights under sub-section (1), from remaining deposited on the land for a reasonable time until it can be removed and taken to a safe place,

commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

192. (1) Where any vessel is or has been in distress on the Lake, the Receiver shall examine on oath any person who was on the vessel at the time of the distress of the vessel or any person able to provide the following information—

Power to
examine
persons

- (a) the name and description of the vessel;
 - (b) the names of the owner and master of the vessel;
 - (c) the names of the owners of the cargo;
 - (d) the ports from which the vessel sailed and to which the vessel was bound;
 - (e) the occasion of the distress of the vessel;
 - (f) the services rendered; and
 - (g) any other matters relating to the vessel or to the cargo of the vessel, as the Receiver may deem fit.
- (2) The Receiver shall—
- (a) record the results of the examination under subsection (1); and
 - (b) post a copy of the results of the examination in the office of the Receiver for the inspection of interested persons.

(3) The Receiver shall for the purpose of this section have the power to administer oaths.

Duty to
deliver
wreck to
receiver

193. (1) Where a person takes possession of a wreck on the Lake, that person shall as soon as possible deliver the wreck to the Receiver, but the Receiver may dispense with the delivery of the wreck upon such condition as the Receiver may deem fit.

(2) A person who takes possession of a wreck and fails without reasonable cause to comply with this section, commits an offence and shall on conviction be liable to a fine not exceeding double the value of the wreck and to forfeit any claim or right to salvage in relation to the wreck.

(3) This section shall apply to a wreck found derelict on the Lake.

Concealing
of wreck

194. (1) Where the Receiver reasonably believes that a wreck—

(a) is in the possession of a person who is not its owner; or

(b) is being improperly dealt with,

the receiver may apply to a magistrate for a search warrant.

(2) The Receiver may by virtue of the search warrant enter any premises or other place wherever situated, including any vessel and search for, seize and detain any wreck found.

(3) Where any seizure of wreck is made in consequence of information given by any person to the Receiver, the informer shall be entitled by way of salvage to such sum as the Receiver may deem fit.

Notice of
wreck

195. (1) Where the Receiver takes possession of any wreck, the Receiver shall within forty-eight hours of taking of possession cause to be posted in a conspicuous place in the office of the Receiver or in a conspicuous place where the wreck was found or seized by and delivered to the Receiver, a description of the wreck and of any mark by which it is distinguished.

(2) The Receiver shall transmit a description of the wreck and of any mark by which it is distinguished to the Registrar of vessels who shall cause the description of the wreck to be immediately published in daily newspapers of national circulation in the Partner States.

(3) The Receiver may give such other publicity of the description of the wreck as the Receiver may deem fit.

196. An owner of a wreck in the possession of the Receiver shall be entitled to have the wreck or the proceeds of sale of the wreck delivered to him or her, on— Owner's right to wreck

- (a) establishing a claim to the wreck to the satisfaction of the receiver within six months from the time at which the wreck came into the possession of the Receiver; and
- (b) paying the salvage fees and expenses due, and any customs duty.

197. (1) The Receiver may at any time sell or cause to be sold any wreck in the custody of the Receiver, where in the opinion of the Receiver— Sale of wreck

- (a) its value is as provided in the regulations made under this Act;
- (b) it is for the advantage of all parties to sell the wreck;
- (c) the wreck consists of goods of a dangerous or perishable nature;
- (d) the wreck is so damaged that it cannot with advantage be kept; or
- (e) it is not of sufficient value to pay for warehousing.

(2) Where the Receiver sells a wreck under sub-section (1), the Receiver shall after payment of all expenses of the sale of the wreck, hold for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Un-
authorised
sale of
wreck

198. (1) A person shall not, without authority from the Receiver sell any wreck, cargo or equipment of any vessel, which is stranded or is in distress.

(2) A person who contravenes sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Boarding
wrecked
vessel

199. (1) A person shall not, without the leave of the master of the vessel and without the authority of the Receiver, board or endeavour to board any vessel which is wrecked, stranded or in distress.

(2) A person who contravenes sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Interference
with wreck

200. (1) A person shall not—

(a) impede or hinder the saving of any vessel stranded or in danger of being stranded or in distress on the Lake ;

(b) impede or hinder the saving of any part of the equipment or cargo of the vessel or of the wreck;

(c) conceal any wreck, or deface or obliterate any mark on it;

- (d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or in distress; or
- (e) carry away or remove any part of the cargo or equipment of the vessel or any wreck.

(2) A person who contravenes sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

201. Where nobody establishes a claim as owner of any wreck in the possession of the Receiver within six months after it comes into the possession of the Receiver, the Receiver shall sell or cause to be sold the wreck and pay the proceeds of the sale into the funds of the Partner States, after deducting—

Unclaimed
wreck

- (a) the expenses of the sale;
- (b) the fees of the receiver;
- (c) payment to the salvors of such amount of salvage as the receiver shall determine; and
- (d) any other reasonable expenses incurred in respect of the wreck.

202. Upon delivery of a wreck or payment of the sale of the wreck by the Receiver in pursuance of this Part, the Receiver shall be discharged from all liability in respect of the wreck.

Discharge
of Receiver

203. (1) Where a vessel is sunk, stranded or abandoned in any port under the control of a port authority or, in such manner as in the opinion of the port authority to be, an obstruction or danger to navigation, the port authority may—

Removal of
wreck in
port

- (a) take possession of the vessel or part of the vessel until it is raised, removed or destroyed;

- (b) light or buoy the vessel or part of the vessel until it is raised, removed or destroyed; and
 - (c) subject to sub-section (3), sell or cause to be sold the vessel or part of the vessel when so raised or removed together with any other property recovered in the exercise of the powers of the port authority under this section.
- (2) Where the port authority exercises the powers conferred under sub-section (1) (c) the port authority shall—
- (a) reimburse the expenses incurred in relation to the vessel and any property recovered from the vessel; and
 - (b) hold any surplus of the proceeds from the sale on deposit to pay to any person who establishes a right to the proceeds or any part of the proceeds.
- (3) Except in the case of property which is of a perishable nature or which would deteriorate in value, the port authority shall give seven days notice in the *Gazette* before exercising the powers of sale under sub-section (1) (c).
- (4) At any time before any property is sold under this section the owner of the property shall be entitled to take delivery of that property on payment to the port authority of the fair market value of the property.
- (5) For the purposes of sub-section (4), the fair market value of any property shall be such amount as may be agreed upon in writing by the owner and the Receiver or where agreement is not reached, such amount as may be determined by a valuer appointed for the purpose by the port authority.

204. (1) The Receiver shall be reimbursed the expenses incurred in the performance of the duties of the Receiver under this Act, at such fees as the Council may, by regulations, establish.

Fees and expenses of Receiver

(2) The Receiver shall, in addition to all other rights and remedies for the recovery of expenses and fees, have the same rights and remedies that a salvor has in respect of salvage, and may, where 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 expenses and fees are paid, or security is given for them to the satisfaction of the Receiver.

205. (1) Where services are rendered wholly or in part, on the Lake, in saving life from an aircraft or a vessel registered or licensed under this Act, the owner of the aircraft or vessel shall pay to the salvor a reasonable amount of salvage, including expenses properly incurred, to be determined in case of dispute, in the manner provided under this Part.

Saving of life

(2) Where the aircraft or vessel is destroyed or where the value of the aircraft or vessel is insufficient to pay the amount to which the salvor is entitled under sub-section (1) in respect of preservation of life, the Registrar of vessels may approve payment to the salvor of such sum as the Registrar of vessels may deem fit to meet the expenditure properly incurred by the salvor

206. Where a vessel is wrecked, stranded, run aground or is in distress at any place in, or near the Lake and a salvor assists the vessel or saves any cargo or equipment of the vessel or the wreck, the owner of the vessel or the wreck shall pay the salvor a reasonable amount for the salvage and a refund of all expenses incurred.

Salvage of cargo

207. Notwithstanding section 206, a salvor shall not be entitled to salvage or to a refund of expenses—

Non-entitlement to salvage

- (a) in respect of services rendered contrary to an express and reasonable prohibition of the services on a specific part of the vessel to which the services are rendered;
- (b) in respect of the services rendered by a vessel which is towing the wrecked vessel or the cargo of that wrecked vessel, except where the services are of an exceptional character which is outside the scope of towage;
- (c) where the salvor causes the distress which gives rise to the salvage or refund of expenses, intentionally or through negligence; or
- (d) where the salvor conceals or unlawfully disposes of any property that is salvaged.

Salvage where vessels belong to same owner

208. A salvor shall be paid salvage as if the vessels belong to different owners, where services are rendered by a salvor—

- (a) to two or more vessels belonging to the same owner or
- (b) from one vessel to another, both belonging to the same owner.

Determination of disputes and valuation

209. (1) Where a dispute arises in respect of the following matters, the dispute shall be determined by a competent court unless the parties agree that the dispute be determined by the Receiver or by arbitration—

- (i) value of property salvaged;
- (ii) amount of salvage payable; or
- (iii) expenses properly incurred by a salvor.

(2) For the purpose of determining the value of property salvaged, the Receiver may, at the request of any party to a dispute, appoint a valuer to value the property.

210. (1) Where a salvor is entitled to salvage or to a refund of expenses properly incurred by the salvor, the Receiver may—

Detention of salvaged property

- (a) where the entitlement is due in respect of services rendered in assisting any vessel, or saving life, cargo or equipment, detain the vessel, cargo or equipment; or
- (b) where the entitlement is due in respect of saving any wreck and the wreck is not sold or is unclaimed, detain the wreck, until the claim of the salvor is met.

(2) The Receiver may release any detained vessel, cargo or equipment where security is given to the satisfaction of the Receiver or of the court.

211. (1) The Receiver may sell any detained property, where a person who is liable to pay the salvage in respect of which the property is detained is aware of the detention and—

Receiver may sell detained property

- (a) the amount is not disputed but payment of the amount due is not made within twenty days after the amount is due;
- (b) the amount is disputed but no appeal lies from a court and payment is not made within twenty days after the decision of the court; or

(c) on appeal, the amount disputed is not paid.

(2) The proceeds of a sale under sub-section (1) shall, after payment of the expenses of the sale, be applied by the Receiver in the payment of any amount due to the salvor and all fees payable under this Act, and any balance shall be paid to the owner of the property.

PART XIII—PREVENTION OF POLLUTION FROM VESSELS

Prohibition

212. (1) Subject to section 214, a person shall not discharge any oil mixture, vessel waste, plastic or sewage into any part of the Lake or introduce any species of flora or fauna into the Lake.

(2) A person who contravenes sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment and in addition shall cover the costs of clean up.

Exemptions

213. (1) The provisions of section 212 shall not apply to—

(a) the discharge of oil or oil mixture from a vessel for the purposes of securing the safety of a vessel, preventing damage to a vessel or cargo or saving life on the Lake;

(b) the escape of oil or oil mixture resulting from an accident in which a vessel is damaged leading to unavoidable leakage, provided that all reasonable precautions are taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

(c) the discharge of waste occurring as a result of damage to a vessel, where all reasonable measures are taken to prevent or minimize the discharge where this is necessary to secure the safety of the vessel or the health of persons on board the vessel or to save their lives; or

(d) the dumping of wastes or the discharge of sewage where this is necessary to secure the safety of the vessel or the health of persons on board the vessel or to save their lives.

214. (1) A Partner State shall provide adequate reception facilities at the ports and terminals on the Lake for the reception from vessels of oily waste, sewage and garbage and ensure that the discharge of the oily waste, sewage and garbage are made without causing undue delay.

Reception facilities and discharge of waste

(2) An owner or master of a vessel having on board oily wastes or other wastes, sewage or garbage for discharge shall give advance notice to the port authority of the port where the discharge is to be made, of the requirements for reception facilities.

(3) Oily wastes, other wastes, sewage and garbage shall only be discharged from a vessel into appropriate facilities.

215. (1) A person shall not load or transfer oil, bunker or discharge oil mixtures unless—

Precautions relating to the load or discharge of oil or oil mixtures

- (a) the vessel is securely moored at a berth or jetty by means of ropes or wires that are in good condition and of a size appropriate for the loads to which they are likely to be subjected;
- (b) prior to commencement of any operation involving oil or oil mixture, all valves through which oil may be discharged into a waterway, are inspected to ensure that they are closed and, where they are not in operation, are secured to ensure that they cannot be opened;
- (c) all scupper holes to which oil or oil mixture may have access in the event of a spillage are plugged tightly for the duration of any operation involving oil or oil mixture;
- (d) dry material, such as sand or an oil absorbent, are available at all times during any operation involving oil or oil mixture to deal with any small spill that may occur and where any oil is spilled, it is immediately cleaned up and

contained for subsequent disposal and spilled oil or oil mixture are not washed, or otherwise discharged overboard;

- (e) hoses and other equipment used in any operation involving oil or oil mixture are inspected before the commencement of the operation and at regular intervals during the operation to ensure the early detection of leakage from or damage to the hose or equipment;
- (f) when transferring fuel oil within a vessel any overboard discharge valve from the oil transfer pump is properly closed and secured against accidental opening; and
- (g) a properly qualified person, specifically appointed for the purpose, supervises all bunkering operations on the vessel and close co-operation and continuous communication is maintained with the port authority throughout all bunkering operations.

(2) A vessel shall be fitted with means of preventing fuel oil from escaping into the machinery space bilges, which may be affected by means of special oil bilges, gutterways and trays beneath oil pumps, heaters and similar equipment.

(3) The means for preventing fuel oil from escaping into the machinery space bilges required under sub-section (2) shall be inspected regularly and any oil accumulated, shall be transferred to a storage tank before the risk of overflow into machinery space bilges arises.

Oily water
separating
equipment

216. A vessel of thirty five metres or more in length, shall be fitted with oily water separating equipment or a filtering system that complies with the applicable international standards for the equipment, and which is capable of producing an effluent with an oil content of less than one hundred parts per million by volume or such lesser oil content as may be required by the Registrar of vessels.

217. (1) A tanker or a vessel which uses oil as fuel shall maintain on board the tanker or vessel an oil record book. Oil record book

(2) The Council may by regulations to prescribe for the form and manner in which the oil record book is to be maintained, the nature of the entries to be made in the oil record book, the time and circumstances in which the entries are to be made, the custody and disposal of the oil record book and any other matter relating to the oil record book.

218. (1) A vessel of a gross registered tonnage of fifty tons or more and an owner or operator of a loading or unloading facility within the Lake, shall have in place an oil pollution emergency plan with appropriately trained shore and vessel personnel capable of responding to and cleaning up oil spillages. Oil pollution emergency plan

(2) Appropriate equipment to deal with and clean up oil spills shall be made available in locations designated by the Registrar of vessels.

219. The Council shall cause to be made a contingency plan for prevention of pollution and spillage on the Lake, which shall— Oil pollution contingency plan

- (a) identify the authority designated to command and coordinate response to an oil spillage;
- (b) be integrated, as appropriate, with any contingency plans in place in relation to pollution response on other waters;
- (c) be approved by the appropriate authorities of the Partner States;
- (d) contain a list of key response personnel and their contact addresses; and

- (f) establish the procedures where, through the designated authority, all relevant government and industry agencies may contribute to an effective response to a spillage.

Information regarding marine pollution incidents

220. (1) An owner or master of a vessel shall immediately report to a Registrar of vessels any marine pollution incident involving the vessel, or which the owner or master of a vessel witnesses or observes, on the Lake.

(2) Any person responsible for causing a marine pollution incident, or who witnesses or observes such an incident, shall immediately report the incident to the Registrar of vessels.

Equipment to be fitted

221. The Council may for the purposes of preventing or reducing discharges of oil and oil mixtures into the Lake, make regulations to provide for equipment to be fitted on a vessel to prevent or reduce discharges of oil and oil mixtures into the Lake, and provide for other requirements including the requirement for preventing the escape of fuel, oil or oil mixture into bilges.

PART XIV—COMPULSORY INSURANCE OR SECURITY

Regulations for compulsory insurance or security

222. (1) The Council may make regulations in respect of a vessel while on the Lake to ensure that there is in place a contract of insurance or security to insure the persons on the vessel.

(2) Regulations under this section shall not apply in relation to any vessel used by a government of any Partner State, except for commercial purposes.

(3) Where the regulations made under this section require the person obliged to have in respect of a vessel, a contract of insurance or other security, the documentary evidence that may be specified by the regulations of the existence of the contract of insurance or other security shall be carried on the vessel and produced on demand where required.

(4) Regulations under this section may—

- (a) make different provisions for different cases of insurance;
- (b) make provision for the content of the documents of the insurance as the Registrar or vessels may consider relevant;
- (c) make provision for the detention of vessels that contravene the terms of the contract of insurance or security; or
- (d) include incidental supplemental and transitional provisions as may appear to the Council to be expedient for purposes of the regulations.

PART XV—INQUIRIES AND LEGAL PROCESS.

223. (1) For purposes of an inquiry or investigation under this Part, a casualty shall be deemed to occur where—

Investigations of vessel casualties

- (a) there is a loss or presumed loss, stranding, grounding, abandonment of, or damage to a vessel;
- (b) there is a loss of life or serious injury to any person, caused by fire on board, or by any accident to a vessel or a boat of a vessel, or by any accident occurring on board a vessel or a boat of a vessel; or
- (c) there is any damage caused by a vessel, and at the time it occurs, the vessel was registered or licensed under this Act, or the vessel or a boat of the vessel was on the Lake.

(2) A Registrar of vessels shall, where a casualty occurs, cause a preliminary inquiry into the casualty to be held.

(3) The Registrar of vessels shall, where a preliminary inquiry into a casualty is held under sub-section (1), submit to the Executive Secretary a report of the inquiry within seven days of the inquiry.

Formal
investig-
ations

224. (1) The Executive Secretary shall on receiving a report under section 223 (3), forward the report to the Council which may cause formal investigations into the casualty to be held by a Board of Investigations appointed by the Council.

(2) A Board of Investigations shall comprise of a Judge of a High Court of a Partner State or a Principal Resident Magistrate of a Partner State or an equivalent or an advocate of at least ten years experience in a Partner State, who shall be assisted by one or more assessors with requisite skills and knowledge in maritime matters.

(3) Where in any investigation, any question as to the suspension or cancellation of a certificate of competency issued to an officer under any regulations made under section 87 is likely to arise, there shall be more than two assessors on the Board of Investigations.

(4) Where as a result of the investigation the Board of Investigations is satisfied, with respect to any officer, or any of the matters mentioned in section 147 (1) and, where in a matter mentioned in paragraph (a) or (b) of that section, the Board of Investigations is further satisfied that it caused or contributed to the accident, the Board of Investigations may suspend or cancel a certificate of competency issued to the officer under regulations made under section 87 or censure the officer.

(5) Where the Board of Investigations cancels or suspends the certificate competency under sub-section (4), the officer shall surrender the certificate of competency to the Board of Investigations or to the Registrar of vessels.

(6) An officer who fails to surrender a certificate of competency as required under sub-section (5) commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year months or to both such fine and imprisonment.

(7) The Board of Investigations may make an award with regard to costs or, as the case may be, expenses of the investigation, and any award of the Board of Investigations may, on the application of any party to the investigation, be enforced by an order of a court.

(8) The Board of Investigations shall make a report of the investigations to the Council.

225. (1) The Council may order the whole or part of an investigation to be reheard, where a formal investigation is held under section 224, where— Rehearing
and appeals

(a) new evidence which could be produced at the inquiry or investigation is discovered; or

(b) it appears to the Council that there are substantial grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under sub-section (1) shall provide for the rehearing to be made by the Board of Investigations which held the investigation or by a High Court of a Partner State.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 226.

(4) Where a Board of Investigations suspends or cancels a certificate of competency issued pursuant to regulations made under section 87(c), or finds any person at fault, then where no application for an order under sub-section (1) is made, or where the Council rejects an application for rehearing the investigation, a person affected by the decisions of the Board and the Council, may appeal to court.

Rules
relating to
inquiries
and
investig-
ations

226. (1) The Council may, make rules for the conduct of inquiries under section 223, for formal investigations under section 224, and for the conduct of any rehearing under section 225 which is not held by a High Court of a Partner State.

(2) Without prejudice to the generality of sub-section (1), rules made under this section may provide for the appointment of assessors.

Inquiry into
deaths of
members of
crew

227. (1) Where a death occurs on board a vessel whose crew is discharged in any port in a Partner State, the Registrar of members of crew shall, on the arrival of the vessel at that port—

(a) inquire into the cause of the death; and

(b) make a report of the findings of the inquiry, in the official logbook of the vessel.

(2) Where in the course of an inquiry under sub-section (1) it appears to the Registrar of members of crew that the death was caused by violence or by suspicious circumstances, the Registrar of members of crew shall report the matter to the Police of the relevant Partner State.

Sailing
away with
officers

228. (1) Where a vessel sets sail when a Registrar of vessels, surveyor, authorised officer or police officer is on board the vessel in the execution of his or her duties, the owner and the master of the vessel each commit an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) In addition to the penalty provided under sub-section (1), the owner and the master of the vessel shall be liable to a fine equivalent to the aggregate of the expenses required to return to the home port, the Registrar of vessels, surveyor, authorised officer or police officer taken aboard the vessel.

229. A person who throws or causes to be thrown overboard another person or assaults or harms another person or puts the life of another person in danger commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Throwing of
person
overboard

230. (1) A person shall not send by or carry on a vessel or an owner or master of a vessel shall not consign to be loaded on any vessel any package or object whose weight exceeds three thousand kilogrammes without causing its approximate weight to be clearly and durably marked on the outside of the package or object.

Marking of
heavy
package

(2) A person, owner or master of a vessel who contravenes sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months or to both such fine and imprisonment.

231. A person other than a person authorised under this Act or any other law who, without reasonable cause—

Un-
authorized
presence on
board

(a) goes on board a vessel in a port in a Partner State without the consent of the owner or master of the vessel or of any other person empowered to give the consent; or

(b) remains on board the vessel after being requested to leave by the owner, master, a police officer, a customs officer or any person empowered to do so,

commits an offence and shall on conviction be liable to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding one month or to both such fine and imprisonment

232. (1) A person who—

Offences

- (a) makes a declaration or statement which he or she knows to be false in any material particular or which he or she does not believe to be true, or who knowingly makes use of a declaration, statement or document containing a false statement or declaration;
- (b) fraudulently imitates, destroys, uses, sells, supplies, lends or allows to be used by another person, any document issued under this Act;
- (c) willfully obstructs, hinders or resists an authorised officer in the exercise of his or her duties under this Act;
- (d) on being required to do so, fails or refuses to produce to a surveyor, Registrar of vessels, police officer or an authorised officer, who demands for a document issued under this Act;
- (e) sends or, while in charge or command, takes, upon the Lake a vessel registered or licensed under this Act without a competent crew, as prescribed under this Act;
- (f) sends or takes or is a party to sending or taking a vessel registered or licensed under this Act, upon the Lake in an unseaworthy condition that may endanger the life of any person on board the vessel;
- (g) contravenes or fails to comply with any provision of this Act or any direction or instruction given under this Act,

commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Where an owner, master or member of crew of a vessel, registered or licensed under this Act or which ought to be registered or licensed under this Act, by willful breach of duty or by neglect of duty or by reason of drunkenness—

- (a) does any act which tends to cause the immediate loss, destruction or serious damage of the vessel or tends to immediately endanger the life or limb of a person belonging to or on board the vessel; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by that person, for preserving the vessel from immediate loss, destruction or serious damage or for preserving the life of any person belonging to or on board the vessel, from immediate danger to life or limb,

commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

233. (1) A person who commits an offence under this Act, for which no specific penalty is provided, shall on conviction be liable to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment. General
penalty

(2) Where an offence under this Act is a continuing one, and no penalty is provided in respect of the continuance of the offence elsewhere than in this section, a person who commits that offence, shall in addition to the penalty provided, on conviction be liable to a fine not exceeding one hundred dollars for every day or part of a day during which the offence continues after conviction.

Jurisdiction

234. (1) A person charged with an offence under this Act, may be proceeded against, tried and punished in the place in which that person may be in custody for that offence, as if the offence had been committed in that place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment of the offence be deemed to have been committed in that place.

(2) Nothing in sub-section (1) shall preclude the prosecution, trial and punishment of the person in any place which, but for the provision of that sub-section, that person may have been prosecuted, tried and punished.

(3) Notwithstanding sub-section (1), a person charged with an offence under this Act may apply to be tried in another place other than the place in which the offence was committed.

Admissibility of evidence

235. In any proceedings under this Act, the disposition of persons required in the course of proceedings, the admissibility in evidence and inspection of documents and their copies in proceedings, and the admissibility of documents in proceedings, shall be governed by the relevant laws on evidence of the Partner States.

Service of documents

236. (1) A notice or a document authorised or required to be served on any person may be served on that person—

(a) by delivering it to that person;

(b) by leaving it at the proper address of that person;
or

(c) by sending it by post to the proper address of that person.

(2) A notice or a document required to be served on an owner or master of a vessel may be served—

(a) where there is no master, on—

- (i) the owner of the vessel;
 - (ii) where there is no owner, on an agent of the owner; or
 - (iii) where the agent is not known or cannot be found, by leaving a copy of the notice or document fixed to the mast of the vessel; and
- (b) where there is a master, by leaving the notice or document for the master on board the vessel with the person appearing to be in command or charge of the vessel.

(3) A notice or a document authorised under this Act to be given to the Executive Secretary, a Registrar of vessels, a surveyor or an authorised person may be given by delivering the notice or document to that person or by leaving it at the office of that person or sending it by post to the office of that person.

(4) For the purposes of this section, the proper address of any person on whom any document is to be served shall be the last known address of that person.

(5) Where the person to be served with any notice specified an address other than the proper address within the meaning of sub-section (4), as the one at which that person or any other person is to accept notices on behalf of that person, that address shall be treated for the purposes of this section, as the proper address of that person.

237. (1) Where under this Act a vessel is to be detained, a Registrar of vessels may issue an order for detention and detain the vessel.

Enforcing
detention of
vessel

(2) Where a vessel which is detained, or in respect of which notice of detention or an order for detention is served on an owner or master of the vessel, proceeds to the Lake before it is released by the Registrar of vessels, the owner or master

of the vessel commits an offence and shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Where a vessel proceeding to the Lake in contravention of sub-section (2), takes on board, the Registrar of vessels, surveyor, authorised officer or police officer, in the execution of his or her duty, the owner and master of the vessel shall each commit an offence and shall be liable to pay all expenses of, and incidental to, the Registrar of vessels, surveyor, authorised officer or police officer taken on board the vessel.

(4) An owner or master who commits an offence under sub-section (3) shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(5) Where a vessel is to be detained under this Act, an officer of customs shall refuse to clear the vessel outwards or grant a transire to the vessel.

(6) When any provision of this Act provides that a vessel may be detained until a document required is produced to an officer of customs, the person with the power to grant a clearance or transire of the vessel is, unless the context otherwise requires, an officer of customs.

(7) A person exercising the power of detention in respect of an alleged contravention of this Act shall immediately release the vessel where—

- (a) proceedings for the offence in question are not instituted within seven days from the day the vessel is detained;

- (b) proceedings are instituted but the owner or master of a vessel are not convicted;
- (c) an owner or master who is convicted of the offence, pays any costs or expenses ordered to be paid, and any fine imposed; or
- (d) the release is ordered by court.

238. (1) An owner or master of a vessel which is sailing, may cause a member of crew or any other person aboard the vessel to be put under restraint—

Power of owner or master to restraint

- (a) where that member of crew or other person commits an offence on board the vessel; or
- (b) where and for as long as it appears to the owner or master necessary or expedient in the interests of safety or for the preservation of good order or discipline on board the vessel.

(2) Where a member of crew is put under restraint under sub-section (1), the owner or master shall make an entry to that effect in the official logbook as soon as possible after the restraint.

PART XVI—MISCELLANEOUS

239. Where a member of crew while on board a vessel informs the owner or master of the vessel, that he or she wishes to make a complaint to an authorised person against the owner or master of the vessel or against another member of crew, the owner or master of the vessel shall, as soon as the service of the vessel permits, allow the complainant to go ashore to make the complaint.

Facilitation for complaints

240. (1) A vessel shall not leave a port in the Lake unless the owner or master of the vessel obtains within one hour of the expected time of departure, a port clearance from the port authority, issued on behalf of the Registrar of vessels.

Port clearance

(2) The port authority shall not issue a port clearance for a vessel—

- (a) until the owner or master of the vessel, where required, produces the certificate of registration or the licence of the vessel;
- (b) until the owner or master of the vessel declares to the port authority the name of the Partner State, where applicable, to which the vessel belongs;
- (c) unless the owner or master submits a declaration of the crew on board the vessel; and
- (d) where the vessel is to be detained or where an order for the detention of the vessel is in force.

(3) An owner or master of a vessel which sets sail without a port clearance commits an offence and shall on conviction be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Publication
of notices

241. The Council may, in consultation with the Partner States, publish in the *Gazette* any notice required under this Act.

Duty to give
information

242. (1) Where a Registrar of vessels, surveyor, police officer or an authorised officer has reason to suspect that an offence has been committed under this Act, by any person on board a vessel, it shall be lawful for the Registrar of vessels, surveyor, police officer or authorised officer to require the owner or master of the vessel or any other person to furnish information concerning the alleged offence.

(2) An owner or master of a vessel or other person who fails to furnish the information required under sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) An owner or master of a vessel or other person shall not be liable under this section where the owner or master or other person shows to the satisfaction of the court that he or she did not have the information and could not with reasonable diligence have obtained it.

243. (1) A person commits an offence, who—

Damage to
navigation
aids

- (a) wilfully or negligently damages, destroys or allows a vessel to foul a navigation aid;
- (b) wilfully or negligently does anything which causes the view of a navigation aid to be obstructed in a manner that lessens its efficiency;
- (c) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the navigation aid;
- (d) trespasses on or without lawful excuse, is found in or on a navigation aid or on any land upon which the navigation aid is situated; or
- (e) fails to notify the Registrar of vessels as soon as practicable after the navigation aid is damaged, destroyed or fouled.

(2) A person who commits an offence under subsection (1) shall on conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) In addition to the penalty provided under subsection (2), a person convicted shall be required to pay for the expenses of making good any damage occasioned by the commission of the offence.

(4) The provisions of sub-section (1) shall not apply to a person authorised by the Registrar of vessels to maintain, repair or remove a navigation aid.

(5) The expenses incurred in repairing or replacing a navigation aid which is damaged, removed, altered or destroyed in contravention of sub-section (1), shall be a debt due to a Partner State's maritime administration unit and may be sued for and recovered by civil action in a competent court.

Certain provisions as to legal proceedings

244. (1) In all proceedings for an offence under the provisions of this Act or for the recovery of damages for injury done by a vessel registered or licensed under this Act, an entry in a register of vessels relating to the vessel in question shall be conclusive evidence that the person registered at the specified date as the owner of the vessel, was at that date the owner.

(2) Notwithstanding sub-section (1)—

(a) action may be taken or instituted against any person who is not registered as the owner of the vessel where that person is beneficially interested in the vessel; and

(b) the registration of a vessel shall not confer further interest in a vessel, or take away or affect any title in that vessel.

(3) For the purposes of proceedings in any court or in any investigation conducted under this Act, a copy or extract from a register or other record of which a Registrar of vessels is in charge which is duly certified as true by that Registrar of vessels, shall be admissible in evidence on its production in court or in any investigation, by any person and shall be of like value and effect as the original in the register.

(4) A certificate of registration or a licence purported to have been signed by a person describing himself or herself as a Registrar of vessels or a certificate of competency or a licence purported to have been issued by an assessment and verification panel shall, on its production by any person in any court or in the course of investigations conducted under this Act, be received as *prima facie* evidence of the facts stated in that certificate.

(5) In any proceedings against any person for any contravention of any provision of this Act relating to the use of any vessel for hire or reward, or to the use of any vessel for carriage of goods or persons for hire or reward, the onus of proving that the use of that vessel was not for hire or reward, or was otherwise lawful, shall be upon the party charged.

245. (1) A person to whom a service is rendered under this Act shall pay fees or charges for the service, as may be prescribed by the Council by regulations. Fees and charges

246. (1) The Council may make regulations generally for giving effect to the provisions of this Act, and without prejudice to the generality of this power, the regulations may provide for— Regulations

- (a) the construction of vessels;
- (b) the registration and licensing of vessels under this Act;
- (c) the forms prescribed under this Act;
- (d) the fees and other charges prescribed under this Act;
- (e) the prevention and control of pollution on the Lake;
- (f) the appointment of surveyors;
- (g) the designation of places or areas on the Lake as ports;

- (h) the distress signal and equipment to be carried on board vessels;
- (i) the prevention of collisions on the Lake;
- (j) the lights to be carried and exhibited on board vessels;
- (k) the signals and navigation aids to be used on vessels;
- (l) the steering and sailing rules to be observed by the vessels on the Lake;
- (m) the classification of vessels to be registered under this Act;
- (n) the registration of foreign registered vessels before plying the Lake;
- (o) the training and qualifications of crew members;
- (p) the management, control and safety of persons, ports, vessels and cargo and the powers of persons to effect the control;
- (q) the implementation of relevant international conventions, treaties and agreements to which the Partner States are parties which have a bearing on the implementation of this Act; and
- (r) exemptions from the application of any provision of this Act.

Act to take
precedence

247. This Act shall take precedence over the relevant laws of the Partner States related to any matter to which the provisions of this Act relate.

