



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 7.05

## MERCHANT SHIPPING ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 31 December 2017

This is a revised edition of the law, prepared by the Law Commission under the authority of the Law Commission Act, Cap. 1.03.

This edition contains a consolidation of the following laws—

### MERCHANT SHIPPING ACT

**Act 24 of 2002** ... in force 31st December 2002

Amended by: Act 20 of 1966

Act 12 of 2005

Act 15 of 2008

Act 25 of 2008

Act 32 of 2009

Act 37 of 2009

Amended by: S.R.O. 26/2004

S.R.O. 35/2007

S.R.O. 36/2007

S.R.O. 37/2007

S.R.O. 15/2008

S.R.O. 32/2008

S.R.O. 33/2008

S.R.O. 34/2008

S.R.O. 14/2012

S.R.O. 15/2012

S.R.O. 16/2012

S.R.O. 17/2012

S.R.O. 18/2012

Page

3

Amended by: S.R.O. 27/2013  
 S.R.O. 17/2014  
 S.R.O. 18/2014  
 S.R.O. 39/2014  
 S.R.O. 1/2016

<b>APPLIED REGULATIONS ETC. – Section 462</b>	252
<b>MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) REGULATIONS</b>	255
<b>MERCHANT SHIPPING (CREW AGREEMENT) REGULATIONS – Section 86 and 139</b>	275
S.R.O. 14/2012	
<b>APPLIED REGULATIONS ETC. – Section 171(5)</b>	289
<b>APPLIED REGULATIONS ETC. – Section 456</b>	304
<b>APPLIED REGULATIONS ETC. - Section 171(5)</b>	316
<b>MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS – Section 456</b>	323
S.R.O. 32/2008	
<b>MERCHANT SHIPPING (CARIBBEAN CARGO SHIP SAFETY) REGULATIONS – Section 456</b>	333
S.R.O. 33/2008	
<b>MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS – Section 456</b>	344
S.R.O. 34/2008	
<b>MERCHANT SHIPPING (ACCIDENT REPORTING AND PUBLICATION) REGULATIONS – Section 456</b>	366
S.R.O. 15/2012	
<b>MERCHANT SHIPPING (MEDICAL EXAMINATION) REGULATIONS – Section 456</b>	372
S.R.O. 16/2012	
<b>MERCHANT SHIPPING (TRAINING, CERTIFICATION, SAFE MANNING, HOURS OF WORK AND WATCHKEEPING) REGULATIONS – Section 465</b>	394
S.R.O. 17/2012	
Amended by: S.R.O. 39/2014 S.R.O. 1/2016	
<b>MERCHANT SHIPPING (FORMAL INVESTIGATION AND INQUIRY) REGULATIONS – Section 456</b>	447
S.R.O. 18/2012	
<b>MERCHANT SHIPPING (MARITIME LABOUR CONVENTION 2006) REGULATIONS – Section 456</b>	460
S.R.O. 27/2013	
Amended by: S.R.O. 17/2014	

**CHAPTER 7.05**  
**MERCHANT SHIPPING ACT**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY MATTERS

1. Short title
2. Interpretation

PART II

REGISTRATION OF SHIPS

*Registration*

3. Saint Christopher and Nevis ship
4. Qualifications for owning a Saint Christopher and Nevis ship
5. Entitlement of ship to be registered under this Act
6. Representative person
7. Refusal of registration
8. Termination of registration
9. Penal liability

*Procedure for Registration*

10. Directions to Registrar
11. Register
12. Entries in Register
13. Survey and measurement of ships
14. Marking of ship
15. Application for registration
16. Declaration of eligibility
17. Evidence of title on first registry
18. Entry of particulars in registry
19. Documents to be retained by Registrar of Shipping
20. Port of Registry

*Certificate of Registry etc.*

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

*Bareboat Charter Registration*

28. Registration of ships chartered by bareboat to a qualified person
29. Consequences of registration pursuant to section 28(1)

30. Application of this Act where a ship is registered under section 28
31. Transfer of the rights and obligations of the charterer under the bareboat charter
32. Rights and obligations relating to interests in ships registered pursuant to section 28(1)
33. Dispensations for bareboat ships chartered and registered outside of Saint Christopher and Nevis
34. Termination and revocation of dispensations granted under section 33
35. Flag to be used where a dispensation has been granted under section 33

*Interim Registration in the Course of Transfer of Ownership*

36. Registration of transfer of ownership
37. Consequences of registration pursuant to section 36
38. Provisions relating to the application of this Act where a ship is registered under section 36
39. Definition of transferee in this Part

*Name of Ship*

40. Rules as to name of ship
41. Offences

*Registration of Alterations and Registration Anew*

42. Registration of alterations
43. Offences
44. Procedure for registration of alterations
45. Registration anew on change of ownership
46. Procedure for registration anew

*Tonnage Measurement*

47. Tonnage of ships of foreign countries adopting tonnage regulations
48. Tonnage regulations

*Unregistered Ships*

49. Liabilities of unregistered ships
50. Application of this Act to unregistered ships

*Miscellaneous*

51. Termination of overseas registration
52. Requirement for insurance cover
53. Trusts, equitable interests and liabilities of beneficial interests
54. Registrar may dispense with declaration or evidence
55. Fees
56. Evidence of certificate of registry and other documents
57. Forms of documents
58. Instruction as to registration
59. Forgery of documents
60. False declaration
61. Registration regulations
62. Matters to be prescribed in registration regulations
63. Certified copy of entry in Register to be evidence

PART III

NATIONAL CHARACTER AND FLAG

64. National character of ship to be declared before clearance
65. Offences relating to Saint Christopher and Nevis character of ship
66. Penalties
67. National colours and penalty for carrying improper colours or not showing colours
68. Proceedings on forfeiture of a ship

PART IV

PROPRIETARY INTERESTS IN SHIPS

*General*

69. Right of owners and mortgagees

*Transfers and Transmissions*

70. Transfers
71. Declaration of transfer
72. Registration of transfer
73. Transmission of property in ship on death, bankruptcy, marriage, etc.
74. Order for sale on transmission to unqualified person
75. Transfer of ship or sale by order of Court
76. Power of Court

*Mortgages*

77. Mortgage of ship or share
78. Priority of mortgages
79. Entry of discharge of mortgage
80. Protection of undischarged mortgage
81. Mortgagee not owner and mortgagee's power of sale
82. Mortgage not affected by bankruptcy
83. Transfer of mortgages and transmission of mortgage interest by death, bankruptcy, etc.

PART V

MASTER AND SEAMAN

*Interpretation and Application of Part*

84. Interpretation
85. Application of this Part

*Engagement and Discharge of Crews*

86. Crew agreements
87. Regulations relating to crew agreements
88. Regulations for discharge of seamen
89. Seaman left behind aboard otherwise than on discharge
90. Discharge of seaman when the ship ceases to be registered in Saint Christopher and Nevis

*Wages, etc.*

91. Payment of seamen's wages
92. Account of seamen's wages
93. Regulations relating to wages and accounts
94. Power of special agent to decide disputes on wages
95. Restriction on assignment of and charge upon wages
96. Power of Court to award interest on wages due
97. Allotment notes
98. Right of person named in allotment to sue in own name
99. Right, or loss of right to wages in certain circumstances
100. Protection of certain rights and remedies
101. Remedies of master for remuneration, disbursements, etc.

*Safety, Health and Welfare*

102. Obligations of shipowners as to seaworthiness
103. Shipowners' relief from liability for unseaworthiness
104. Regulations for Crew accommodation
105. Complaints about provisions or water
106. Expenses of medical and other treatment during voyage

*Manning, Qualifications, Training and Uniform*

107. Applications of sections 108 to 112
108. Manning Regulations
109. Power to exempt from manning requirements
110. Prohibition on going to sea undermanned
111. Production of certificates and other documents of qualifications
112. Crew's knowledge of English
113. Unqualified seamen going to sea as qualified persons
114. Medical treatment on board ship
115. Special certificates of competence
116. Young persons
117. Financial assistance
118. Uniform

*Offences by Seamen*

119. Conduct endangering ship, persons, etc.
120. Concreted disobedience and neglect of duty

*Disciplinary Offences*

121. Breaches by seamen of codes of conduct

*Disqualification of Seamen and Inquiries*

122. Inquiry into fitness or conduct of officer
123. Disqualification of holder of certificate other than officer
124. Inquiry into fitness of conduct of seaman
125. Rehearing and appeal from inquiry
126. Rules as to inquiries and appeals
127. Failure to deliver cancelled or suspended certificate

128. Power to restore certificate
129. Power to summon witness to inquiry
130. Refusal to give evidence to inquiry

*Civil Liability of Seamen for Offences*

131. Civil liability for absence without leave
132. Civil liability for smuggling
133. Civil liability for fines under immigration Acts

*Relief and Repatriation and Relief Costs*

134. Relief and return of seaman left behind or shipwrecked
135. Limit of employer's liability under section 134
136. Recovery of expenses from employers incurred for relief and return
137. Recovery of expenses from seaman

*Documentation*

138. Official and other log books
139. List of crew
140. Saint Christopher and Nevis seamen's cards
141. Discharge books
142. Handing over of documents by master

PART VI

PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

*Collision Regulations, Distress and Safety*

143. Collision regulations
144. Saint Christopher and Nevis ships to observe collision regulations
145. Foreign ships in Saint Christopher and Nevis waters
146. Collision liability
147. Inspection to enforce compliance with collision regulation
148. Duty to render assistance following collision
149. Offences
150. Master to notify hazards to navigation
151. Master to proceed moderately in danger area
152. Duty to assist ships in distress
153. Right to requisition ships when in distress
154. Duty to assist persons in danger at sea
155. Application of duties imposed by sections 152, 153 and 154, penalties for failure to comply and salvage rights
156. Regulations for signals of distress
157. Reports of accidents to ships
158. Apprehended loss of ship
159. Record of boat drill to be kept in official log book
160. Notices to mariners and navigational warnings

*Aids to Navigation and Charts and Publications*

161. Interpretation and application

162. Establishment and management of aids
163. Nautical publications, charts and other information
164. Prosecution of offences relating to aids
165. Detention of ships
166. Fire or lights detrimental to navigation
167. Characteristics of aids to navigation

## PART VII

### PREVENTION OF POLLUTION AND SAFETY OF LIFE AT SEA

#### *General*

168. Interpretation
169. Prevention of pollution from, ships, etc.
170. Application of Safety Convention and exceptions and exemptions thereto
171. Regulations relating to transfers between ships in territorial waters and safety at sea

#### *Surveys and Certification*

172. Regulations for cargo ship safety construction requirements and surveys
173. Surveyor's duties
174. Surveyor's power of inspection
175. Surveyor to report to Director
176. Record of inspections and certificates
177. Survey requirements for passengers ships
178. Survey requirements for the radio installations of cargo ships
179. Survey requirements for the safety equipment of cargo ships
180. Survey requirements for the structure, machinery and equipment of cargo ships
181. Responsibilities of owner and master and compliance with ISM Code
182. Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient
183. Issue of certificates to Saint Christopher and Nevis ships engaged on international or short international voyages
184. Issue of certificates to Saint Christopher and Nevis ships not engaged on international voyages
185. Form of certificate
186. Duration and validity of certificates
187. Issue and duration of exemption certificates
188. Extension and other provisions
189. Issue and endorsement of certificates by another government
190. Ships not registered in Saint Christopher and Nevis and to which the Safety Convention applies
191. Other ships which are not Saint Christopher and Nevis ships
192. Cancellation of a certificate
193. Posting up of certificates
194. Prohibition on proceeding to sea without the appropriate documentation
195. Prohibition on proceeding on a voyage or excursion without appropriate certificate
196. Limit on the number of passengers on passenger ships



- 197. Offences
- 198. Power to detain
- 199. Arbitration

*Miscellaneous*

- 200. Penalty for non-compliance with conditions of exemption certificates
- 201. Inspection of ships holding Safety Convention Certificates
- 202. Ships to carry stability information
- 203. Regulations for local safety certificates including fishing vessels

PART VIII

SAFETY OF SUBMERSIBLES

- 204. Interpretation
- 205. Application of this Part

*Restriction on Operation*

- 206. Restriction on operation of submersible craft

*Registration, etc. of Submersible Craft*

- 207. Register of submersible craft
- 208. Requirements for registration of submersible craft
- 209. Grounds for refusing registration
- 210. Notification of changes affecting submersible craft and amendment of particulars
- 211. Termination of registration
- 212. Display of registration number

*Regulations for Construction and Operation of Submersible Craft*

- 213. Regulations for construction, equipment, etc., of submersible craft
- 214. Issue, duration, extension, suspension, etc., of safety certificates

*Inquiries and Investigations, Offences and Legal Proceedings in relation to Submersible Craft*

- 215. Inquiries and investigations
- 216. Offences, general
- 217. Service of documents and notices in proceedings
- 218. Detention

PART IX

LOAD LINES

*General*

- 219. Interpretation
- 220. Ships to which Part applies
- 221. Load Line Regulations

*Saint Christopher and Nevis Ships*

- 222. Compliance with Load Line Regulations
- 223. Submersion of load lines

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

*Non-Saint Christopher and Nevis Ships*

231. Valid Convention certificates
232. Compliance with Load Line Regulations
233. Submersion of load lines
234. Saint Christopher and Nevis load line certificates
235. Production of certificate to customs officer
236. Provisions as to inspection

*Exemption*

237. Power to make exemption orders
238. Further powers to exempt ships
239. Issue of exemption certificates
240. Durations, endorsement and termination of certificates and exemptions
241. International Load Line Exemption Certificates

*Subdivision Load Lines and Deck Cargo*

242. Subdivision load lines
243. Deck cargo

*Miscellaneous*

244. Notice to consular officer of proceedings against foreign ships
245. Surrender of certificates
246. Penalty for false certificate etc.
247. Admissibility of certificates in evidence
248. Convention countries
249. Orders, rules and regulations

Part X

CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

*General*

250. Application
251. Interpretation

*Carriage of Grain and other Bulk Cargoes*

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

*Dangerous Goods*

255. Dangerous goods regulations

- 256. Carriage and marking of dangerous goods
- 257. Offences relating to dangerous goods
- 258. Rejection and disposal of dangerous goods by ship
- 259. Forfeiture of dangerous goods

## PART XI

## UNSAFE SHIPS

- 260. Power to detain unsafe ships
- 261. Power to pay compensation and require security for compensation
- 262. Owner and master liable in respect of unsafe ship
- 263. Use of unsafe lighters, etc.
- 264. Owner liable for unsafe operation of ship

## PART XII

## WRECK AND SALVAGE

- 265. Interpretation

*Wreck*

- 266. Appointment and powers of Receiver of Wreck
- 267. Fees of Receiver
- 268. Duty of Receiver where vessel is in distress
- 269. Powers of Receiver in case of vessel in distress
- 270. Power to pass over adjoining land
- 271. Duties of finder, etc. of wreck
- 272. Provisions as respects cargo, etc.
- 273. Receiver to give notice of wreck
- 274. Claims of owners of wreck
- 275. Immediate sale of wreck in certain cases
- 276. Right of Government to unclaimed wreck
- 277. Notice of unclaimed wreck to be given to persons entitled
- 278. Disposal of unclaimed wreck
- 279. Effect of delivery of wreck, etc. under this Part
- 280. Offence for taking wreck to foreign port
- 281. Offence for interfering with wrecked vessel or wreck
- 282. Powers of entry, etc.
- 283. Release of goods from customs control

*Salvage*

- 284. Powers of Ports Authority in relation to wrecks
- 285. Non-application to platforms and drilling units
- 286. Non-application to foreign state-owned vessels
- 287. Life salvage
- 288. Salvage of cargo
- 289. Services excluded from salvage remuneration
- 290. Conditions for salvage remuneration
- 291. Salvage contracts

292. Annulment or modification of contracts
293. Duties of salvor
294. Duties of owner and master
295. Powers of Director
296. Criteria for fixing salvage awards
297. Responsibility for payment of reward
298. Quantum of reward
299. Special compensation
300. Services rendered under existing contract
301. Apportionment between salvors
302. Salvor's misconduct, and offences
303. Maritime lien
304. Duty to provide security
305. Interim payment
306. State-owned cargoes
307. Humanitarian cargoes
308. Determination of salvage dispute
309. Appeal in cases of salvage dispute
310. Valuation of property salvaged
311. Detention of property liable to salvage
312. Sale of detained property
313. Apportionment of salvage by Receiver
314. Apportionment of salvage by Court
315. Salvor's right to interest
316. Application to the Government
317. Regulations
318. Time limit for salvage proceedings
319. The common understanding regarding the reward and special compensation
320. Recourse for life salvage payment

### PART XIII

#### CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS

321. Offences in connection with passenger ships
322. Power to exclude drunken passengers from passenger ships
323. Stowaways
324. Unauthorised presence on board
325. Master's power of arrest
326. Unauthorised persons: offences relating to safety
327. Passenger returns to be made by master
328. Returns of births and deaths in ship, etc.

PART XIV

LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE

CHAPTER I

LIABILITY FOR OIL POLLUTION

329. Interpretation

*Liability*

- 330. Liability for oil pollution in the case of tankers
- 331. Liability for oil pollution in case of other ships
- 332. Exceptions from liability under sections 330 and 331
- 333. Restriction of liability for oil pollution

*Limitation of Liability*

- 334. Limitation of liability under section 333
- 335. Limitation actions
- 336. Restriction on enforcement after establishment of limitation fund
- 337. Concurrent liabilities of owners and others
- 338. Establishment of limitation fund outside Saint Christopher and Nevis
- 339. Extinguishment of claims

*Compulsory Insurance*

- 340. Compulsory insurance against liability for pollution
- 341. Issue of certificate by Director
- 342. Rights of third parties against insurers

*Supplemental*

- 343. Jurisdiction of Saint Christopher and Nevis Court and registration of foreign judgements
- 344. Government ships
- 345. Limitation of liability under section 334
- 346. Saving for recourse actions
- 347. Meaning of “the Liability Convention” and related expressions

CHAPTER II

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

348. Interpretation

*Contributions to Fund*

- 349. Contributions by importers of oil and others
- 350. Power to obtain information

*Compensation for Persons Suffering Pollution Damage*

- 351. Liability of the Fund
- 352. Limitation of Fund’s liability under section 351

*Supplemental*

- 353. Jurisdiction and effect of judgments

- 354. Extinguishment of claims
- 355. Subrogation
- 356. Supplementary provisions as to proceedings involving the Fund
- 357. Meaning of “the Liability Convention”, “the Fund Convention” and related expressions

### CHAPTER III

#### TRANSITIONAL PROVISIONS

- 358. Interpretation
- 359. Re Art XII bis of 1992 Liability Convention
- 360. Re Article 36 bis of the 1992 Fund Convention
- 361. Application of provisions of the Second Schedule and Part II of the Third Schedule

### PART XV

#### LIABILITY OF SHIP OWNERS AND OTHERS

### CHAPTER I

#### CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

- 362. Interpretation
- 363. Application
- 364. Liability of the carrier
- 365. Performing carrier
- 366. Valuables
- 367. Contributory fault
- 368. Limits of liability for death or personal injury
- 369. Limits of liability for loss of or damage to luggage
- 370. Special drawing right and conversion
- 371. Defences and limits for carriers, servant
- 372. Aggregation of claims
- 373. Loss of right to limit liability
- 374. Basis for claim
- 375. Notice of loss of or damage to luggage
- 376. Time-bar for actions
- 377. Competent jurisdiction
- 378. Invalidity of contractual provisions
- 379. Application of other limitation regimes
- 380. Nuclear damage
- 381. Commercial carriage by State-owned ships
- 382. States party to Convention
- 383. Carrier’s obligation to give notice to passengers
- 384. Application of section 412(4)
- 385. Limitation of section 410

## CHAPTER II

## LIMITATION AND DIVISION OF LIABILITY FOR MARITIME CLAIMS

386. Interpretation
387. Persons entitled to limit liability
388. Claims subject to limitation
389. Invoking limitation not an admission of liability
390. Claims excepted from limitation
391. Conduct barring limitation
392. Counterclaims
393. Limitation calculations
394. Limits of liability for salvors
395. Limitation calculations for fixed claims
396. Measurement of ship's tonnage
397. Limitation of liability of dock owners and the Ports Authority
398. Limits for passenger claims
399. Conversion of special drawing rights
400. Aggregation of claims
401. Constitution of limitation fund
402. Distribution of fund
403. Bar to other actions
404. Governing law
405. Apportionment of liability for damage or loss
406. Loss of life or personal injuries joint and several liability
407. Right of contribution for loss of life or personal injuries
408. Time limit for proceedings against owners or ship
409. Scope of application of Chapter
410. Exclusion of liability

## PART XVI

## ENFORCEMENT OFFICERS AND POWERS

*Enforcement Officers*

411. Appointment of Director, surveyors and inspectors

*Inspection, etc. Powers*

412. Powers to require production of ship's documents
413. Power to inspect ships and their equipment
414. Powers of inspectors in relation to premises and ships
415. Provisions supplementary to section 414

*Improvement Notices and Prohibition Notices*

416. Improvement notices
417. Prohibition notices
418. Provisions supplementary to sections 416 and 417
419. References of notices to arbitration
420. Compensation in connection with invalid prohibition notices
421. Offences

## PART XVII

## INQUIRIES AND INVESTIGATIONS INTO MARINE CASUALTIES

- 422. Investigation of shipping casualties
- 423. Formal investigation
- 424. Rehearings and appeals
- 425. Rules relating to inquiries and investigations
- 426. Inquiries into and reports on deaths and injuries
- 427. Transmission of particulars of certain deaths on ships

## PART XVIII

## LEGAL PROCEEDINGS

*Prosecution of Offences*

- 428. Time limit for summary offences
- 429. Time limit for summary orders
- 430. Offences by officers of bodies corporate

*Jurisdiction*

- 431. Jurisdiction in relation to offences
- 432. Jurisdiction over ships lying off coasts
- 433. Jurisdiction in case of offences on board ship
- 434. Offences committed by Saint Christopher and Nevis seamen
- 435. Return of offenders

*Detention of Ship and Distress on Ship*

- 436. Enforcing detention of ship
- 437. Sums ordered to be leviable by distress on the ship

*Special Evidentiary Provisions*

- 438. Depositions of persons abroad admissible
- 439. Admissibility in evidence and inspection of certain documents
- 440. Admissibility of documents in evidence
- 441. Inspection and admissibility in evidence of copies of certain documents
- 442. Proof, etc. of exemptions
- 443. Service of documents

## PART XIX

## SUPPLEMENTAL

*Administration*

- 444. General functions of Minister and Director
- 445. General power to dispense
- 446. Registrar of Shipping and Seamen and Special Agents
- 447. Nautical assessors
- 448. Transmission of documents to Director
- 449. Returns, etc., to Director
- 450. Forms



## 451. Establishment of a Maritime Advisory Board

*Financial Provisions*

- 452. Fees and Fines
- 453. Expenses of Customs
- 454. Expenses charged on monies provided by Parliament
- 455. Payments to be made into Consolidated Fund

*Subordinate Legislation*

- 456. Regulations, etc.

*Application of Act to Certain Description of Ships, etc.*

- 457. Application of Act to non-Saint Christopher and Nevis ship
- 458. Application of Act to Government ships
- 459. Application of Act to ships bareboat chartered to the Government
- 460. Application of Act to certain structures, etc.

*Final Provisions*

- 461. Monitoring of small vessels
- 462. Applied Regulations
- 463. Contravention of International Conventions
  - FIRST SCHEDULE: Instruments and Documents for which Forms are to be Prescribed
  - SECOND SCHEDULE: Prevention of Oil Pollution: Transitory Provisions
  - THIRD SCHEDULE: Overall Limit on Liability of Fund
  - FOURTH SCHEDULE: Provisions Having Effect as to the Constitution, Functions and Procedure of the Maritime Advisory Board
  - FIFTH SCHEDULE: Standard Scale of Fines
  - SIXTH SCHEDULE: International Conventions
  - SEVENTH SCHEDULE: Applied Regulations Etc.
  - EIGHTH SCHEDULE: Merchant Shipping (Ship and Port Facility Security) Regulations
  - NINTH SCHEDULE: Merchant Shipping (Crew Agreement) Regulations
  - TENTH SCHEDULE: Applied Regulations Etc.
  - ELEVENTH SCHEDULE: Applied Regulations Etc.
  - TWELFTH SCHEDULE: Applied Regulations Etc.
  - THIRTEENTH SCHEDULE: Merchant Shipping (Small Commercial Vessels) Regulations
  - FOURTEENTH SCHEDULE: Merchant Shipping (Caribbean Cargo Ship Safety) Regulations
  - FIFTEENTH SCHEDULE: Merchant Shipping (Port State Control) Regulations
  - SIXTEENTH SCHEDULE: Merchant Shipping (Accident Reporting and Publication) Regulations
  - SEVENTEENTH SCHEDULE: Merchant Shipping (Medical Examination) Regulations

- EIGHTEENTH SCHEDULE: Merchant Shipping (Training, Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations
- NINETEENTH SCHEDULE: Merchant Shipping (Formal Investigation and Inquiry) Regulations
- TWENTIETH SCHEDULE: Merchant Shipping (Maritime Labour Convention 2006) Regulations

**CHAPTER 7.05**  
**MERCHANT SHIPPING ACT**

AN ACT TO STREAMLINE AND UPDATE THE LAW RELATING TO MERCHANT SHIPPING; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

**PART I**  
**PRELIMINARY MATTERS**

**Short title.**

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

**Interpretation.**

2. In this Act, unless the context otherwise requires—
  - “British ship” has the meaning given in section 1(1) of the Merchant Shipping Act, 1995 of the United Kingdom;
  - “Collision Convention” means the International Convention on Regulations for the Prevention of Collisions at Sea, 1972 as amended;
  - “commissioned military officer” means a commissioned officer in Her Majesty’s land forces on full pay;
  - “commissioned naval officer” means a commissioned officer in Her Majesty’s Navy on full pay;
  - “Consular officer” means a person in a foreign country appointed to be or to perform the functions of Saint Christopher and Nevis consular officer, and in any place where no such person has been appointed, means a British consul-general, consul or vice-consul;
  - “contravention” includes failure to comply (and “failure” includes refusal);
  - “Court” means the High Court;
  - “Director” means the Director of Maritime Affairs appointed pursuant to section 411;
  - “fishing vessel” means a vessel for the time being used, or intended to be used, for or in connection with fishing for sea fish other than a vessel used or intended to be used for fishing otherwise than for profit or a vessel for the time being used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;
  - “foreign”, in relation to a ship, means a ship which is not a Saint Christopher and Nevis ship;
  - “Government ship” means any ship owned by the Government or held by any person on behalf of or for the benefit of the Government;
  - “harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;
  - “length” has the same meaning as may be prescribed in the tonnage regulations;
  - “Load Line Convention” means the “1966 Convention” as defined in section 222(1);

“Marine Pollution Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 as amended;

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

“mile” means an international nautical mile of 1,852 metres;

“Minister” means the Minister responsible for maritime affairs;

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

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

“passenger” means any person carried on a ship, except—

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

“passenger ship” means a ship carrying more than twelve passengers;

“pleasure vessel” means—

- (a) a vessel including a dive boat which at the time it is being used is—
  - (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
  - (ii) in the case of a vessel owned by a body corporate, one on which the persons are employees, officers or shareholders of the body corporate, or their immediate family or friends; and
  - (iii) on a voyage or excursion 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 direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club, and

in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of the users of the vessel, other than by the owner; and in this definition, “immediate family” means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the relative’s husband or wife, and “relative” means brother, sister, ancestor or lineal descendant, and “owner” includes charterer;

“port” includes place;

- “Ports Authority” includes all persons entrusted with the function of constructing, improving, managing, regulating, maintaining or lighting a harbour;
- “Registrar” means the Registrar of Shipping and Seamen appointed under section 446(1);
- “registration regulations” means regulations made pursuant to sections 61 and 62;
- “ro-ro passenger ship” means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;
- “STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping, 1978 as amended in 1995;
- “Safety Convention” has the same meaning as in section 170;
- “safety regulations” means regulations made pursuant to sections 174, 175 or 206 as appropriate;
- “Saint Christopher and Nevis citizen” means a person who is a citizen of Saint Christopher and Nevis by virtue of the Constitution or the Saint Christopher and Nevis Citizenship Act, Cap. 1.05;
- “Saint Christopher and Nevis ship” means a ship registered in the Federation under this Act, and “Saint Christopher and Nevis vessel” and “Saint Christopher and Nevis fishing vessel” shall be construed accordingly;
- “Saint Christopher and Nevis waters” means all areas of water subject to the jurisdiction of Saint Christopher and Nevis, and includes territorial waters, international waters and archipelagic waters;
- “seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;
- “ship” includes every description of vessel used in navigation;
- “small ship” means a ship less than twenty-four metres in length;
- “Superintendent” means an official exercising functions similar to those of a Superintendent in the United Kingdom;
- “surveyor of ships” has the meaning given in section 414;
- “Tonnage Convention” means the International Convention on Tonnage Measurement of Ships 1969 as amended;
- “tonnage regulations” means regulations made under section 48;
- “wages” includes emoluments.

## PART II

### REGISTRATION OF SHIPS

#### *Registration*

#### **Saint Christopher and Nevis ship.**

- 3.** (1) A ship shall be a Saint Christopher and Nevis ship for the purposes of this Part if the ship is registered in Saint Christopher and Nevis under this Part.

(2) A ship registered in Saint Christopher and Nevis under Part II of the Merchant Shipping Act No 15 of 1985 shall be deemed to be a ship registered in Saint Christopher and Nevis under this Act.

**Qualifications for owning a Saint Christopher and Nevis ship.**

4. (1) For the purposes of this Act, the following are persons qualified to be owners of Saint Christopher and Nevis ships, namely—

- (a) Saint Christopher and Nevis nationals or citizens;
- (b) Citizens of CARICOM States residing in a member state of the Caribbean Community, where the ship is customarily engaged in international voyages;
- (c) individuals or corporations owning ships hired out on bareboat charters to nationals or citizens of Saint Christopher and Nevis;
- (d) individuals or corporations in *bona fide* joint venture shipping enterprise relations with nationals or citizens of Saint Christopher and Nevis as may be prescribed;
- (e) a corporation established and operating under and in accordance with the laws of Saint Christopher and Nevis and having its registered office in Saint Christopher and Nevis;
- (f) such other persons as the Minister may, by Order, determine.

(2) A person who is not qualified under subsection (1) to own a Saint Christopher and Nevis ship may nevertheless own such a ship if—

- (a) a majority interest in the ship, within the meaning of section 5, is owned by persons who are qualified to be owners of Saint Christopher and Nevis ships; and
- (b) the ship is registered in accordance with section 5.

**Entitlement of ship to be registered under this Act.**

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

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

(3) Where—

- (a) a ship falling within subsection (2) is twenty-four metres or more in length; and
- (b) the person, or (as the case may be) each of the persons, by whom the majority interest is owned is not resident in Saint Christopher and Nevis,

the ship shall only be entitled to be registered if a representative person resident in Saint Christopher and Nevis is appointed in relation to the ship.

(4) For the purposes of this section—

- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together,

the legal title to thirty-three or more, or all of the sixty-four shares into which the property in the ship is divided, for the purpose of registration in accordance with section 12 (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a Saint Christopher and Nevis ship); and

- (b) a body corporate shall be treated as resident in Saint Christopher and Nevis if it is incorporated in Saint Christopher and Nevis and has a place of business there.

**Representative person.**

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

- (a) before applying to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship; and
- (b) ensure that so long as the ship remains registered, the individual or body corporate satisfying those requirements is so appointed.

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

- (a) that the representative person is either—
  - (i) an individual resident in Saint Christopher and Nevis; or
  - (ii) a body corporate incorporated in Saint Christopher and Nevis and having a place of business there; and
- (b) such other requirements as the Minister may, by regulations, prescribe.

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

- (a) on applying for the ship to be registered, notify the Registrar of the name and address of the representative person; and
- (b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the Registrar of the name and address of the new representative person, or, as the case may be, of the new address, as soon as practicable after the change occurs,

and the Registrar shall record any particulars notified to him or her in pursuance of this section in the Register kept by him or her under this Act.

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

- (a) delivered to any representative person for the time being appointed in relation to the ship;
- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the Registrar under subsection (3) in relation to that person; or
- (c) left for any such person at that address.

(5) Any person who contravenes subsection (1)(b) or (3)(b) commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Refusal of registration.**

7. (1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Director may direct the Registrar not to Register a ship if he or she is satisfied that having regard to—

- (a) the condition of the ship 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 ship; or
- (c) the possibility that the ship may be used for criminal purposes,

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

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

#### **Termination of registration.**

8. (1) The Registrar may, subject to subsection (5), terminate a ship's registration in the following circumstances—

- (a) where the Director is satisfied that—
  - (i) having regard to the matters mentioned in paragraph (a), (b) or (c) of section 7(1), it would be detrimental to the interests of Saint Christopher and Nevis or of international shipping for a registered ship to continue to be registered;
  - (ii) any penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than three months and no appeal against the penalty is pending; or
  - (iii) any summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

and the Director so informs the Registrar;

- (b) if the annual tonnage fees of a registered ship has remained unpaid for a period of more than two years;
- (c) if a registered ship is no longer entitled to remain registered;
- (d) on application by the registered owner stating that he or she wishes to terminate the registration of the ship;
- (e) upon a registered ship becoming a total loss or being otherwise destroyed by, *inter alia*, shipwreck, demolition, fire or sinking; or



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

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

(3) Where the registration of a ship is terminated—

(a) under subsection (1), the Registrar shall notify all registered mortgagees of the closure of the ship's registration; and

(b) under paragraph (d) or (e) of subsection (1), the Registrar shall forthwith issue a closure transcript to the owner of the ship.

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

(5) Where—

(a) the circumstances referred to in subsection (1)(a) applies, and it appears to the Registrar that subsection (1)(b), (c) or (f) apply, he or she may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, within twenty-one days, evidence sufficient to satisfy the Director or the Registrar, as the case may be, that the ship is eligible to remain on the Register, and if at the expiry of that period the Director or the Registrar, as the case may be, is not so satisfied, the Registrar may—

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

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

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

(c) a ship's registration is terminated under this subsection, the Registrar shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registration.

(6) Any person who—

(a) in connection with the making of any representations in pursuance of subsection (5)(a), knowingly or recklessly furnishes information which is false in a material particular commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale; or on conviction on indictment to a fine not exceeding ten thousand dollars; or

(b) fails, without reasonable cause, to surrender a certificate of registration when required to do so under subsection (4) or (5), commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Penal liability.**

9. (1) Where a body corporate commits an offence under this Act or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she as well as the body corporate commit that offence and are liable to be proceeded against and punished accordingly.

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

*Procedure for Registration***Directions to Registrar.**

10. The Director may give directions of a general nature with regard to the discharge of any of the functions of the Registrar.

**Register.**

11. (1) There shall continue to be a Register of Saint Christopher and Nevis ships for all registration of ships in Saint Christopher and Nevis.

(2) The Register shall be maintained by the Registrar.

(3) The Register shall be so constituted as to distinguish registrations of small ships, pleasure vessels and submersible craft and may otherwise distinguish between classes or descriptions of ships.

(4) The Register shall be maintained in accordance with the registration regulations and the private law provisions for registered ships and any directions given by the Director under section 10.

(5) The Register shall be available for public inspection during official working hours.

**Entries in Register.**

12. Entries in the Register in relation to property in a ship shall be made in accordance with the following provisions—

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship, but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons, not exceeding five, may be registered as joint owners of a ship or of any share or shares therein;

- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;
- (e) a body corporate shall be registered as owner by its corporate name.

#### **Survey and measurement of ships.**

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

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

#### **Marking of ship.**

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

- (a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, in letters of a contrasting colour so as to be clearly visible, such letters to be of a length not less than one decimetre, and of proportionate breadth;
- (b) her official number and net tonnage shall be permanently marked on a main part of the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;
- (c) subject to paragraph (e), in the case of every such ship built before the 1st day of May 1988, a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital numerals or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters and figures shall be marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Director may approve;
- (d) in the case of every such ship built after the 1st day of May 1988, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on each side of her stem and her stern post in figures at two-decimetre intervals and at intervening two-decimetre intervals, if the scale is in meters and decimetres, the capital letter "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Director may approve;

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

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

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

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

(5) If an owner or master of a registered ship neglects to keep his or her ship marked as required by this section, or if any person conceals, removes, alters, defaces, or obliterates or suffers any person under his or her control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event referred to in subsection (4), that owner, master, or person commits an offence, and for each such offence is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale, and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

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

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

(7) Where a ship proceeds to sea without being marked in accordance with this section, the owner commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

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

#### **Application for registration.**

**15.** An application for registration of a ship shall be made, in the case of individuals, by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or her or their agent, and in the case of bodies corporate, by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal.

#### **Declaration of eligibility.**

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

- (a) a statement of his or her qualifications to own a Saint Christopher and Nevis ship, or in the case of a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Saint Christopher and Nevis ship;
- (b) in the case of a foreign ship, a statement of her foreign name;
- (c) a statement of the number of shares in the ship the legal title to which is vested in him or her or, as the case may be, the body corporate, whether alone or jointly with any other person or persons; and
- (d) a declaration that, to the best of his or her knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Saint Christopher and Nevis ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Saint Christopher and Nevis ships, paragraph (a) of subsection (1) shall have effect only in relation to persons who are so qualified.

**Evidence of title on first registry.**

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

**Entry of particulars in registry.**

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

**Documents to be retained by Registrar of Shipping.**

19. On the registration of a ship the Registrar shall retain in his or her possession such documents as are specified in the registration regulations.

**Port of Registry.**

20. (1) The port of Basseterre on the Island of Saint Christopher or Charlestown on the Island of Nevis, shall be the port of registry of a ship registered under this Act and the port to which that ship belongs.

*(Amended by Act 12 of 2005)*

(2) The Minister may, by notification published in the *Gazette*, appoint any other port in Saint Christopher and Nevis as a port of registry for the purposes of subsection (1).

*Certificate of Registry etc.*

**Certificate of Registry.**

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

**Custody of certificate.**

**22.** (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to 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 ship.

(2) If any person, whether interested in the ship or not, refuses on request to surrender the certificate of registry when in his or her possession or under his or her control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to the Registrar, any customs officer or other person entitled by law to require such surrender, any court capable of taking cognisance of the matter, may summon the person so refusing to appear before such court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such court that there was reasonable cause for such refusal, that person commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale, but if it is shown to the court that the certificate is lost, the person summoned shall be discharged, and the court shall certify that the certificate of registry is lost.

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

**Penalty for use of improper certificate.**

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

**Power to grant new certificate.**

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

**Duplicate certificates.**

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

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

(3) If—

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

the agent shall notify the **Registrar**.

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

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

(5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Registrar, as soon as an original duplicate certificate referred to in subsection (1) is received by the owner.

(6) Any person who fails, without reasonable cause, to surrender a certificate of registry when required to do so under subsection (2), commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Endorsement of change of ownership.**

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

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

(3) If the master fails to deliver to the Registrar the certificate of registry as required by this section he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Provisional certificate for ship becoming entitled to be registered while abroad.**

**27.** (1) If a ship becomes entitled to be registered while at port in a country outside Saint Christopher and Nevis, then, subject to this section, the Registrar may, on the application of the master of the ship, grant to him or her a provisional certificate stating—

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

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

(3) Unless sooner revoked or suspended, a provisional certificate shall entitle the ship to the privileges of a ship of the Federation in the foreign trade for a period not exceeding two years, as may be endorsed on the certificate.

*Bareboat Charter Registration***Registration of ships chartered by bareboat to a qualified person.**

**28.** (1) Subject to subsection (3), a ship of 1,500 gross tonnage or above shall be entitled to be registered under this Act in Saint Christopher and Nevis if—

- (a) the ship is operated under a bareboat charter which complies with the requirements set out in subsection (2);
- (b) the charterer is a person qualified to be an owner of a Saint Christopher and Nevis ship by virtue of section 4; and
- (c) the requirements corresponding to those imposed on the owner of a majority interest in the ship by sections 5(3) and (4)(b) with respect to entitlement to registration, are satisfied by the charterer.

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

- (a) that the charter is in writing;
- (b) that the demise effected by the charter is—
  - (i) made by the owner of the ship;
  - (ii) made to a charterer who has a single legal personality; and
  - (iii) for a fixed period of two years or more or such lesser period as may be allowed by the Director; and
- (c) that under the terms of the charter the operation, management and control of the ship (including responsibility for the engagement or employment of the master and crew of the ship) is vested in the charterer.

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

- (a) he or she is not satisfied that—
  - (i) the owner of the ship has consented to the registration of the ship in Saint Christopher and Nevis; or
  - (ii) any mortgagee of the ship has consented to the registration of the ship in Saint Christopher and Nevis;
- (b) the tonnage of the ship cannot be ascertained in accordance with the tonnage regulations;
- (c) the ship cannot be marked in accordance with section 14;
- (d) he or she reasonably believes that the ship would be precluded by some other Act to which it is subject from flying the Saint Christopher and Nevis' national colours in accordance with section 67;
- (e) the charter by demise has an unexpired period of less than two years at the date when the application to Register the ship is made; or
- (f) it is not in the interests of Saint Christopher and Nevis that the ship should be registered in Saint Christopher and Nevis.

(4) Sections 6, 7 and 8 shall apply in respect of any ship entitled to be registered in Saint Christopher and Nevis pursuant to subsection (1) as if the ship was entitled to be registered pursuant to section 5.



**Consequences of registration pursuant to section 28(1).**

**29.** Where a ship is registered pursuant to section 28(1), it shall—

- (a) be a Saint Christopher and Nevis ship for the purposes of this Act; and
- (b) not fly colours other than Saint Christopher and Nevis' national colours specified in section 67.

**Application of this Act where a ship is registered under section 28.**

**30.** (1) Where application is made to Register a ship which is entitled to be registered pursuant to section 28(1) or, application having been made to Register a ship which is entitled to be registered pursuant to section 28(1), the ship has been registered—

- (a) the provisions of this Part shall apply to the ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2); and
- (b) any act or thing as is mentioned in this subsection, required to be done or not done under this Act by an owner of such a ship, shall be required to be done or not done by the charterer, and—
  - (i) the charterer shall be liable for doing or omitting to do such act or thing as if he or she were the owner of the ship; and
  - (ii) a reference to “owner” in this Act shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to “charterer” and the words “registered owner” and “registered ownership” shall be construed accordingly.

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

- (a) paragraphs (a) to (e) of section 12 shall not apply;
- (b) the ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of the ship pursuant to section 13 if there is in force in respect of the ship an International Tonnage Certificate (1969) and in such case the tonnage of such ship shall be deemed to have been ascertained and, upon registration, registered in accordance with the tonnage regulations;
- (c) the declaration required by section 16 shall include in place of the statements referred to in paragraphs (c) and (d) of that section, a statement that the ship is subject to a bareboat charter and that the person on whose behalf the declaration is made is the charterer of the ship pursuant to that charter and there shall be attached to such declaration and produced to the Registrar of Shipping a certified copy of that bareboat charter;
- (d) section 17 shall not apply;
- (e) in place of the particulars required to be entered in the Register under section 18 the following particulars shall be entered—
  - (i) the name of the charterer as if he or she were the owner of the ship with such annotation as may be necessary to show that the ship is entitled to be registered under section 28(1);

- (ii) the name and address of the owner or owners determined in accordance with the provisions of paragraphs (a) to (e) of section 12; and
- (iii) the name and address of any person who has been granted a mortgage of the ship or any share in the ship by any owner whose name is or is to be noted on the Register pursuant to subparagraph (ii);
- (iv) such details of the terms of any mortgage referred to in subparagraph (iii) as the Registrar shall require to be noted; and
- (v) the previous name, if any, of the ship;
- (f) the Registrar shall retain in his or her possession, in addition to the surveyor's certificate issued pursuant to section 13, the certified copy of the charter by demise and any certified copy of a transfer in section 31(1)(c) produced to him or her;
- (g) a certificate of registry granted by the Registrar pursuant to section 21 shall be granted for a fixed period of time expiring on the date upon which the bareboat charter shall come to an end by effluxion of time;
- (h) a ship shall cease to be entitled to be registered within the meaning of section 8(1)(c) upon the expiry of the fixed period specified in the certificate of registry or, if sooner, upon either—
  - (i) the termination of the bareboat charter; or
  - (ii) the transfer by the charterer of his or her rights and obligations under the charter in circumstances which cause the registration to cease pursuant to section 31; and
- (i) sections 52, 53 and 69 to 83 shall not apply.

**Transfer of the rights and obligations of the charterer under the bareboat charter.**

**31.** (1) Where a ship is registered pursuant to section 28(1) and the charterer transfers his or her rights and obligations under obligations of the bareboat charter to another person so that the charterer is no longer under any contractual obligation to the owner of the ship in respect of the operation, management and control of the ship, the registration shall cease upon such transfer unless—

- (a) the transferee is qualified to own a Saint Christopher and Nevis ship;
- (b) prior to the execution of the transfer, the transferee, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, makes and signs a declaration referring to the ship and containing a statement of the qualification of the transferee to own a Saint Christopher and Nevis ship, or if the transferee is a body corporate such circumstances of the constitution and business thereof as prove it to be qualified to own a Saint Christopher and Nevis ship; and
- (c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar.

(2) In subsection (1), “transferee” means the person to whom the charterer has transferred his or her rights and obligations under the bareboat charter.

**Rights and obligations relating to interests in ships registered pursuant to section 28(1).**

**32.** Where a ship is registered pursuant to section 28(1), the rights and obligations of the parties to any contract, bill of sale, mortgage, charge or other instrument creating or disposing of any legal or equitable interest in the ship, whether existing at the date of registration of the ship pursuant to section 28(1) or created thereafter, shall not be affected by such registration.

**Dispensations for bareboat ships chartered and registered outside of Saint Christopher and Nevis.**

**33.** (1) Where he or she is satisfied that it is proper for him or her to do so, the Director may grant to the owner of a ship of 1,500 gross tonnage or above registered in Saint Christopher and Nevis under this Act a dispensation under this section.

(2) The Director shall not grant a dispensation under this section unless he or she is satisfied—

- (a) that the ship is subject to a charter pursuant to which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;
- (b) that any registered mortgagee of the ship has consented to the dispensation being granted;
- (c) that in addition to the registration of the ship in Saint Christopher and Nevis, the ship is intended to be registered under the law of a country outside Saint Christopher and Nevis; and
- (d) that upon registration under the law of a country outside Saint Christopher and Nevis, the ship will become subject to laws which implement and apply to the ship such provisions of the Collision Convention, the relevant International Labour Conventions, the Load Line Convention, the Marine Pollution Convention, the Safety Convention and the STCW Convention to the same extent as they apply in respect of the ship by virtue of her registration in Saint Christopher and Nevis.

(3) Where the Director has granted to the owner of a ship a dispensation under this section, with effect from the date upon which the conditions set out in subsection (4) have been complied with, sections 65(4) and 67 shall not apply to the ship and section 65(1) shall apply to the ship as though the ship was not a Saint Christopher and Nevis ship.

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

- (a) that the owner has delivered to the Registrar the following documents—
  - (i) a certified copy of the bareboat charter referred to in subsection (2)(a);
  - (ii) in exchange for a receipt, the certificate of registry granted under section 21; and
  - (iii) any certificate issued in respect of the ship under this Act;
- (b) that the owner, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has delivered to the Registrar a declaration referring to the

ship and containing a statement that the ship is lawfully registered in a named country outside Saint Christopher and Nevis and is subject to the jurisdiction of that country in respect of the enforcement of such provisions of the conventions referred to in paragraph (d) of subsection (2) as apply in respect of the ship by virtue of her registration in Saint Christopher and Nevis; and

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

#### **Termination and revocation of dispensations granted under section 33.**

**34.** (1) Any dispensation granted by the Director under section 33 shall terminate automatically if—

- (a) the ship ceases to be registered in the country named in the declaration made pursuant to section 33(4)(b); or
- (b) the bareboat charter terminates, whether upon expiry or otherwise.

(2) The Director may revoke any dispensation granted by him or her under section 33—

- (a) upon the application of any registered owner or registered mortgagee of the ship;
- (b) if he or she is satisfied that any declaration made for the purpose of section 33(4)(b) is false or misleading;
- (c) at the request of the country named in the declaration made pursuant to section 33(4)(b); or
- (d) if it is not in the interests of Saint Christopher and Nevis that the dispensation should continue.

#### **Flag to be used where a dispensation has been granted under section 33.**

**35.** (1) Where a dispensation granted under section 33 has taken effect, the ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made pursuant to section 33(4)(b).

(2) Without prejudice to section 33(3), where a ship flies colours in contravention of subsection (1), the registered owner commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

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

#### **Registration of transfer of ownership.**

**36.** (1) This section applies in the following circumstances, namely, that—

- (a) there is in existence a written contract for the transfer of a ship or a share in a ship;
- (b) pursuant to the terms of that contract the owner has agreed—

- (i) to transfer the ship or any share in the ship to a person qualified to own Saint Christopher and Nevis ships and who intends to Register the ship in Saint Christopher and Nevis; and
    - (ii) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and
  - (c) upon the execution of the bill of sale the ship will be entitled to be registered in Saint Christopher and Nevis provided the requirements of section 5 are satisfied.
- (2) Where this section applies the Registrar may, if satisfied that it is proper for him or her to do so—
- (a) enter in the Register the particulars referred to in section 18, subject to the modifications referred to in subsection (3); and
  - (b) grant to the transferee a certificate of registry which is valid for a period of twenty-one days from its date of issue.
- (3) The modifications referred to in subsection (2)(a) are that—
- (a) the name and description of the owner required to be entered pursuant to the registration regulations shall be the name and description of the transferee of the ship or of the share therein; and
  - (b) there shall also be entered a note that the registration is conditional upon a bill of sale transferring the ship or the share therein to the person or persons named in the Register being produced to the Registrar within twenty-one days.
- (4) The Registrar shall only be satisfied that it is proper for him or her to make the entry in the Register and grant a certificate of registry pursuant to subsection (3) if—
- (a) sections 13, 14, 15, and 17 and section 18 as modified by subsection (3) have been complied with;
  - (b) the transferee, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration, referring to the ship as described in the surveyor's certificate issued pursuant to section 13, and containing the following particulars—
    - (i) if he or she is a person qualified to own a Saint Christopher and Nevis ship, a statement of his or her qualifications to own a Saint Christopher and Nevis ship, or in the case of a body corporate, of such circumstances of the constitution and the business thereof as prove it to be qualified to own a Saint Christopher and Nevis ship;
    - (ii) if the ship is a foreign ship, a statement of the ship's foreign name;
    - (iii) a statement that there is in existence a written contract for the transfer of the ship or a share in the ship and that the ship is not registered in Saint Christopher and Nevis;
    - (iv) a statement that the owner has agreed—
      - (aa) to transfer the ship or any share in the ship to the transferee;

- (bb) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and
  - (cc) to procure the termination of the registration of the ship in the country in which it is then registered; and
  - (v) a statement that, to the best of his or her knowledge and belief, upon the execution of the bill of sale, a majority interest in the ship will be owned by persons qualified to be owners of Saint Christopher and Nevis ships, and the ship is otherwise entitled to be registered; and
- (c) there is produced to the Registrar a certified copy of the contract referred to in the declaration made pursuant to paragraph (b).

(5) Where a ship is registered pursuant to subsection (2), the transferee shall, within twenty-one days after the date of issue of the certificate of registry granted pursuant to subsection (2)(b), deliver to the Registrar a declaration made in accordance with section 16 and a bill of sale executed pursuant to the contract the certified copy of which has been produced to the Registrar pursuant to subsection (4)(c) and thereupon the Registrar shall make the entries in the Register required by section 18 and grant a certificate of registry pursuant to section 21.

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

#### **Consequences of registration pursuant to section 36.**

**37.** (1) Where a ship is registered pursuant to section 36, it shall be deemed to be a Saint Christopher and Nevis ship for the purposes of this Act.

(2) Where a ship is registered pursuant to section 36 it shall not hoist any colours other than Saint Christopher and Nevis' national colours specified in section 67.

#### **Provisions relating to the application of this Act where a ship is registered under section 36.**

**38.** Where a certificate of registry is granted in respect of a ship pursuant to section 36(2)—

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

**Definition of transferee in this Part.**

**39.** In sections 36 and 38, “transferee” means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 36(1).

*Name of Ship***Rules as to name of ship.**

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

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

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

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

(5) If it is shown to the satisfaction of the Registrar that the name of any ship has been changed without his or her permission he or she shall direct that the ship’s name be altered into that which she bore before the change, and the name shall be altered in the Register, in the ship’s certificate of registry, and on her bows and stern accordingly.

**Offences.**

**41.** If any person acts, or suffers any person under his or her control to act, in contravention of section 40, or omits to do, or suffers any person under his or her control to omit to do, anything required by that section, he or she commits an offence, and for each such offence is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale, and, except in the case of an application being made under that section with respect to a foreign ship which not having at any previous time been registered as a Saint Christopher and Nevis ship has become a Saint Christopher and Nevis ship, the ship may be detained until there is compliance with that section.

*Registration of Alterations and Registration Anew***Registration of alterations.**

**42.** When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the Register, then the Registrar shall, on application being made to him or her, and on receipt of a certificate from the proper surveyor stating the particulars of the alterations, either cause the alteration to be registered, or direct that the ship be registered anew.

**Offences.**

43. If default is made in registering anew a ship, or in registering an alteration of a ship so altered as provided in section 42, the owner of the ship commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale and, in addition, to a fine not exceeding one hundred dollars for every day during which the offence continues after conviction.

**Procedure for registration of alterations.**

44. (1) For the purpose of the registration of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar, and the Registrar shall, in his or her discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.

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

**Registration anew on change of ownership.**

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

**Procedure for registration anew.**

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

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

*Tonnage Measurement***Tonnage of ships of foreign countries adopting tonnage regulations.**

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

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

(3) Where the Director orders a ship to be treated as provided in subsection (2), any space shown in the ship's certificate of registry or other national papers as



deducted from the tonnage shall, if a similar deduction in the case of a Saint Christopher and Nevis ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions as being so evidenced, unless a surveyor of ships certifies to the Director that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a Saint Christopher and Nevis ship.

(4) The order referred to in this section may—

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

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

#### **Tonnage regulations.**

**48.** (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Minister (“tonnage regulations”) and whenever the tonnage of any ship is ascertained and registered in accordance with the tonnage regulations, the same shall be repeated in every subsequent registration thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, and in either of those cases the ship shall be re-measured, and its tonnage determined and registered according to the tonnage regulations.

(2) Tonnage regulations may—

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

(3) Tonnage regulations may make provision—

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

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

(5) Tonnage regulations may provide for the issue, by the Director or by persons appointed by such organisations as may be authorised for the purpose by the Director, of certificates of the tonnage of any ship or the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in Saint Christopher and Nevis, and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the regulations.

(6) Regulations requiring the surrender of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale.

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

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

### *Unregistered Ships*

#### **Liabilities of unregistered ships.**

**49.** (1) Where a ship—

- (a) is twenty-four metres or more in length; and
- (b) a majority interest in the ship is owned by a body corporate established under the laws of Saint Christopher and Nevis and having a place of business in Saint Christopher and Nevis; and
- (c) is not registered in Saint Christopher and Nevis or elsewhere,

then (notwithstanding that the ship is not entitled to any benefits, privileges, advantage or protection usually enjoyed by a Saint Christopher and Nevis ship) the ship shall, for the purposes mentioned in subsection (2), be dealt with in the same manner in all respects as if the ship were a Saint Christopher and Nevis ship.

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

- (a) payment of dues, fees or other charges;
- (b) liability to fines and forfeiture; and
- (c) punishment of any offences punishable under this Act.

#### **Application of this Act to unregistered ships.**

**50.** (1) Subject to subsection (2), sections 86 to 101, sections 105, 106, 114, 119(6), sections 131 to 136 and sections 139, 323, 324 and 429 shall apply to sea-going ships of twenty-four metres or more in length—

- (a) in which a majority interest is owned by a body corporate established under the laws of Saint Christopher and Nevis and having a place of business in Saint Christopher and Nevis; and
- (b) which are not registered in Saint Christopher and Nevis or elsewhere.

(2) In the application of section 90 to ships described in subsection (1), for the reference to a ship ceasing to be registered in Saint Christopher and Nevis, there shall be substituted a reference to its ceasing to be entitled to be so registered.

(3) Subject to subsection (4), sections 131 to 136, and section 426 shall apply to the sea-going ships less than twenty-four metres in length described in paragraphs (a) and (b) of subsection (1).

(4) In the application of section 426 to ships described in subsection (3), where—

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

(b) the master or a seaman of such a ship dies in a country outside Saint Christopher and Nevis,

an inquiry into the cause of death shall be held only if the Director so directs.

### *Miscellaneous*

#### **Termination of overseas registration.**

**51.** (1) Where a ship is entitled to be registered in Saint Christopher and Nevis by virtue of section 5 and the ship is so registered, the ship shall not be registered under the law of a country outside Saint Christopher and Nevis except pursuant to a dispensation granted under section 33.

(2) Where a ship is entitled to be registered in Saint Christopher and Nevis by virtue of section 28(1) and the ship is so registered, the ship shall not be registered under the law of a country outside Saint Christopher and Nevis except where such registration is effected by an owner of the ship whose name is noted in the register under section 30(2)(e)(ii).

(3) Where a ship is registered under the law of a country outside Saint Christopher and Nevis in contravention of subsection (1) or (2), the registered owner, subject to subsection (4), commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

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

#### **Requirement for insurance cover.**

**52.** (1) Every Saint Christopher and Nevis ship shall carry insurance cover against risk of loss or damage to third parties, and, in particular—

(a) in respect of the shipowner's liabilities to a crew member under any provision of Part V; and

(b) without prejudice to the relevant provisions of Part XIV and Schedules 3 and 4, claims in respect of loss or damage caused by any cargo carried on board the ship.

(2) Every ship anchoring in or trading in or from Saint Christopher and Nevis waters or entering a port in Saint Christopher and Nevis shall carry insurance cover against risks of loss or damage to third parties, and against wreck removal expenses in an amount satisfactory to the Receiver of Wreck.

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

**Trusts, equitable interests and liabilities of beneficial interests.**

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

(2) Where, on the bankruptcy of a registered owner or mortgagee whose title is transmitted to his or her trustee in bankruptcy, that person may be registered as the owner or mortgagee of a Saint Christopher and Nevis ship or a shareholder therein, provided the ship remains entitled to be registered as a Saint Christopher and Nevis ship pursuant to section 5.

(3) The expression “beneficial interest”, where used in this Part, includes interests arising under contract and other equitable interests, and without prejudice to the provisions of this Act for preventing trusts being entered in the Register or received by the Registrar, and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees, and without prejudice to the provisions of the Act relating to the exclusion of unqualified persons from the ownership of a Saint Christopher and Nevis ship, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any personal property.

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

**Registrar may dispense with declaration or evidence.**

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

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

**Fees.**

**55.** (1) Such fees as the Minister may determine shall be paid in respect of the measurement of a ship’s tonnage.

(2) All fees authorised to be taken under this Part, shall, except where otherwise provided in this Act, be paid into the Consolidated Fund.

**Evidence of certificate of registry and other documents.**

**56.** (1) A person, on payment of a prescribed fee, may, on application to the Registrar at a reasonable time during the hours of his or her official attendance, inspect the Register.

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

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

(3) A person shall be entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar, of any information contained in an entry in the Register.

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

(5) Subsection (5) of section 443 shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.

(6) In subsections (1), (3) and (4), “prescribed fee” means the fee fixed by the Director for the purposes of those subsections and published in the *Gazette*.

**Forms of documents.**

**57.** (1) The several instruments and documents referred to in the First Schedule shall, subject to subsection (3), be in the form prescribed or as near thereto as circumstances permit.

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

(3) In this section—

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

**Instruction as to registration.**

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

**Forgery of documents.**

**59.** If any person forges, or fraudulently alters—

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

he or she commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding eighteen months, or both; or
- (ii) on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years, or both.

**False declaration.**

**60.** (1) If any person in the case of any declaration made in the presence of or produced to the Registrar under this Part, or in any document or other evidence produced to the Registrar—

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

he or she commits an offence and in respect of each offence is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(2) If any person wilfully makes a false declaration touching the qualification of himself or herself or of any other person or of any body corporate to own a Saint Christopher and Nevis ship or any share therein or with respect to the entitlement of a ship to be registered, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars and that ship or share therein is subject to forfeiture under this Act to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or body corporate on behalf of whom the declaration is made.

**Registration regulations.**

**61.** The Minister may make regulations for and in connection with the registration of ships as Saint Christopher and Nevis ships.

**Matters to be prescribed in registration regulations.**

**62.** (1) Without prejudice to the generality of section 64, the regulations may, in particular, make provision with respect to any of the following matters—

- (a) the issue of certificates (including provisional certificates) of registry, their production and surrender;
- (b) restricting and regulating the names of ships registered or to be registered;

- (c) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
  - (d) the period for which registration may remain effective without renewal;
  - (e) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
  - (f) the refusal, suspension and termination of registration specifying the circumstances;
  - (g) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
  - (h) the charging of fees in connection with registration or registered ships;
  - (i) the transfer of the registration of ships to and from the Register, from and to Registers, or corresponding records in registries other than in Saint Christopher and Nevis;
  - (j) inspection of the registry;
  - (k) any matter in relation to the registration of small ships and pleasure vessels; and
  - (l) any other matter which is authorised or required by this Act to be prescribed in registration regulations.
- (2) The regulations may—
- (a) make different provision for different classes or description of ships and for different circumstances;
  - (b) without prejudice to paragraph (a), make provision for the granting of exemptions or dispensations by the Director from specified requirements of the regulations, subject to such conditions (if any) as he or she thinks fit to impose;
  - (c) make such transitional, incidental or supplementary provision as appears to the Minister to be necessary or expedient;
  - (d) make provision for the registration of any class or description of ships to be such as to exclude the application of any private law provisions for registered ships and, if they do, may regulate for the transfer, transmission or mortgaging of ships of the class or description so excluded;
  - (e) make provision for any matter which is authorised or required by those provisions to be prescribed by regulations; and
  - (f) provide for—
    - (i) the approval of forms by the Director; and
    - (ii) the discharge of specified functions by specified authorities or persons.
- (3) The regulations may provide that any reference in any other enactment or in any instrument made under any other enactment to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purposes of this Act and the regulations.

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

**Certified copy of entry in Register to be evidence.**

**63.** Any document purporting to be a copy of any information contained in an entry in the Register and to be certified as a true copy by the Registrar shall be evidence of the matters stated in the document.

PART III

NATIONAL CHARACTER AND FLAG

**National character of ship to be declared before clearance.**

**64.** (1) A customs officer shall not grant clearance for any ship until the master of the ship has declared to that officer the name of the nation to which he or she claims that the ship belongs, and that officer shall thereupon inscribe that name on the clearance.

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

**Offences relating to Saint Christopher and Nevis character of ship.**

**65.** (1) If the master or owner of a ship which is not a Saint Christopher and Nevis ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Saint Christopher and Nevis ship then, except as provided by subsections (2) and (3), the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 66.

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

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

(4) If the master or owner of a Saint Christopher and Nevis ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 66.

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

- (a) the flying of a national flag;
- (b) the carrying or production of certificates of registry or other documents relating to the nationality of the ship; and
- (c) the display of marks required by the law of any country.



**Penalties.**

**66.** (1) A person who commits an offence under section 65 is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, or imprisonment for a term not exceeding two years, or both.

(2) This section and section 65 apply to things done outside, as well as to things done within, Saint Christopher and Nevis.

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

**67.** (1) The national colours of a Saint Christopher and Nevis ship shall be the flag provided for the use of ships owned by citizens of Saint Christopher and Nevis and Saint Christopher and Nevis ships; and such shall wear no other.

(2) A Saint Christopher and Nevis ship shall hoist the national colours—

(a) on entering or leaving any port;

(b) on a signal being made to the ship by any ship in the service of the Government.

(3) If any person uses or permits any person to use any flag of Saint Christopher and Nevis on board a foreign ship for the purpose of making that ship appear to be a Saint Christopher and Nevis ship he or she commits an offence and liable, on summary conviction, to imprisonment for two years.

(4) In any proceedings under this section, the burden of proving the right to use the flag and assume the character of a Saint Christopher and Nevis ship shall be upon the person using and assuming the same.

**Proceedings on forfeiture of a ship.**

**68.** (1) Where any ship has either wholly or as to any share in it becomes liable to forfeiture under this Act—

(a) any commissioned naval or military officer; or

(b) any person appointed by the Minister for the purposes of this section, may seize and detain the ship and bring the ship for adjudication before the Court.

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

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

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

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

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

## PART IV

## PROPRIETARY INTERESTS IN SHIPS

*General***Right of owners and mortgagees.**

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

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

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

(4) There shall be no stamp duty payable in respect of ship's mortgages registered in Saint Christopher and Nevis' registry.

*Transfers and Transmissions***Transfers.**

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

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

**Declaration of transfer.**

**71.** (1) Where a registered ship or a share therein is transferred in accordance with section 70(1), the transferee shall not be entitled to be registered as owner thereof until he or she, or, in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration (in this Act called a "declaration of transfer") referring to the ship, and containing—

- (a) a statement of the qualification of the transferee to own a Saint Christopher and Nevis ship, or if the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Saint Christopher and Nevis ship; and
- (b) a declaration that, to the best of his or her knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Saint Christopher and Nevis ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Saint Christopher and Nevis ships, subsection 1(a) shall have effect only in relation to persons who are so qualified.

**Registration of transfer.**

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

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

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

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

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

- (a) that person shall authenticate the transmission by making and signing a declaration (in this Act called a “declaration of transmission”) identifying the ship and containing the several statements required to be contained in a declaration of transfer under section 71, or as near thereto as circumstances admit, and also provide a statement of the manner in which the property has been transmitted;
- (b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is acceptable by the Court as proof of the title of persons claiming under a bankruptcy;
- (c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract therefrom; and
- (d) if the transmission was consequent upon an order of a Court, a copy of the order or judgment of that Court.

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

**Order for sale on transmission to unqualified person.**

74. (1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 70, but as a result

of the transmission a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of a Saint Christopher and Nevis ship, then the Court may, on an application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the Court directs.

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

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

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

#### **Transfer of ship or sale by order of Court.**

75. Where the Court, whether under this Act or otherwise, orders the sale of any ship or share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he or she were the registered owner thereof, and the Registrar shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.

#### **Power of Court.**

76. The Court may, if it thinks fit, without prejudice to the exercise of any other power of the Court, on the application of any interested person, make an order prohibiting, for a time specified, any dealing with a ship or any share therein, and the Court may make the order on any terms and conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires and the Registrar, without being made a party to the proceedings, shall on being served with the order or an official copy obey the same.

### *Mortgages*

#### **Mortgage of ship or share.**

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

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

(3) Where a mortgage executed in accordance with subsection (2) is produced to the Registrar, he or she shall Register the mortgage in the prescribed manner.

(4) Mortgages shall be registered in the order in which they are produced to the Registrar for the purposes of registration and he or she shall enter and sign on

each mortgage a statement to the effect that it has been registered by him or her, stating the date and time of the registration.

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

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

#### **Priority of mortgages.**

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

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

#### **Entry of discharge of mortgage.**

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

(2) If for good reason the registered mortgage cannot be produced to the Registrar, he or she may, on being satisfied that the mortgage has been properly discharged, record in the Register that the mortgage has been discharged.

#### **Protection of undischarged mortgage.**

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

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

**Mortgagee not owner and mortgagee's power of sale.**

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

(2) Subject to subsection (3), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship or share in respect of which he or she is registered, and to give effectual receipts for the purchase money.

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

**Mortgage not affected by bankruptcy.**

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

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

**83.** (1) A registered mortgage of a ship or share may be transferred to any person and on production of the instrument effecting the transfer the Registrar shall record it by entering in the Register the name of the transferee as mortgagee of the ship or share, and shall enter and sign on the instrument of transfer a statement to the effect that it has been registered by him or her, stating the date and time of the registration.

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

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

## PART V

## MASTER AND SEAMAN

*Interpretation and Application of Part***Interpretation.**

**84.** (1) In this Part—

“crew agreement” has the meaning given to it by section 86;

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

“ship’s boat” includes a life-raft.

(2) References in this Part to going to sea include references to going to sea from any country outside Saint Christopher and Nevis.

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

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

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

#### **Application of this Part.**

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

(2) The exceptions referred to in subsection (1) are sections 104, 107 to 113, 115, 116, 119, 122 to 129 and 130.

### *Engagement and Discharge of Crews*

#### **Crew agreements.**

**86.** (1) Except as provided under subsection (5), an agreement in writing shall be made between each person employed as a seaman in a Saint Christopher and Nevis ship and the persons employing him or her, and shall be signed both by him or her and by or on behalf of them.

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

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

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

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

(4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

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

(a) such description of ships as may be specified in the regulations; or

(b) such description of seamen as may be specified.

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

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

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

(9) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars and the ship, if in Saint Christopher and Nevis, may be detained.

#### **Regulations relating to crew agreements.**

**87.** (1) The Minister may make regulations—

- (a) requiring such notice as may be specified in the regulations to be given to special agents, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;
- (b) providing for the delivery to the special agents or the Registrar of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;
- (c) requiring the posting in ships of copies of or extracts from crew agreements;
- (d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and
- (e) requiring any documents carried in a ship in pursuance of section 86 to be produced on demand to a customs officer.

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

#### **Regulations for discharge of seamen.**

**88.** (1) The Minister may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from Saint Christopher and Nevis ships.

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



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

(3) Regulations made under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside Saint Christopher and Nevis from a Saint Christopher and Nevis ship without the consent of the special agent.

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

#### **Seaman left behind aboard otherwise than on discharge.**

**89.** Regulations made under section 88 may apply any provision thereof, with such modifications as appear to the Minister to be appropriate, to cases where a seaman employed in a Saint Christopher and Nevis ship is left behind outside Saint Christopher and Nevis otherwise than on being discharged from the ship.

#### **Discharge of seaman when the ship ceases to be registered in Saint Christopher and Nevis.**

**90.** Where a Saint Christopher and Nevis ship ceases to be registered, any seaman employed in the ship shall be discharged from the ship unless he or she consents in writing to continue his or her employment in the ship, and sections 91 to 94 shall apply in relation to his or her wages as if the ship had remained a Saint Christopher and Nevis ship.

#### *Wages, etc.*

#### **Payment of seamen's wages.**

**91.** (1) Where a seaman employed under a crew agreement relating to a Saint Christopher and Nevis ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seaman under the agreement shall either—

- (a) be paid to him or her in full at the time when he or she so leaves the ship (in this section and in section 92 referred to as the “time of discharge”); or
- (b) be paid to him or her in accordance with subsections (4) and (5).

(2) If the amount shown in the account delivered to a seaman under section 92(1) as being the amount payable to him or her under subsection (1)(a) is replaced by an increased amount shown in a further account delivered to him or her under section 92(3) the balance shall be paid to him or her within seven days of the time of discharge, and if the amount so shown in the account delivered to him or her under section 92(1) exceeds two hundred dollars and it is not practicable to pay the whole of it at the time of discharge, not less than two hundred dollars nor less than one-

quarter of the amount so shown shall be paid to him or her at that time and the balance within seven days of that time.

(3) If any amount which, under subsection (1)(a) or (2), is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of fifty-six days following the time of discharge, and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of twenty percent per annum.

(4) Where the crew agreement referred to in subsection (1) provides for the seaman's basic wages to be payable up to date at specified intervals not exceeding one month, and for any additional amount of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall, subject to subsection (5), be paid to him or her not later than the date on which the next payment of his or her basic wages following the time of discharge would have fallen due if his or her employment under the agreement had continued.

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

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

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

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act, or default of the seaman; or
- (d) any other cause, not being the wrongful act or default of the persons liable to pay his or her wages or of their servants or agents,

and so much of those provisions as relates to interest on the amount due shall not apply if the Court in proceedings for its recovery so directs.

(8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him or her under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his or her employment under the crew agreement.

(9) Where a seaman, in pursuance of section 90, is discharged from a ship outside Saint Christopher and Nevis but returns to Saint Christopher and Nevis under arrangements made by the persons who employed him or her, the preceding provisions of this section shall have effect, in relation to the wages due to him or her under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) to the time of discharge there was substituted references to the time of his or her return to Saint Christopher and Nevis, and subsection (8) were omitted.

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

- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was dispatched by the recorded delivery service to the seaman's last known address; or
- (b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.

#### **Account of seamen's wages.**

**92.** (1) Subject to subsection (4) and (5) and to regulations made under section 93 or 134, the Master of every Saint Christopher and Nevis ship shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him or her under the crew agreement and of the deductions subject to which the wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him or her a further account stating the adjusted amounts, and that account shall be delivered not later than the time at which the balance of his or her wages is payable to the seaman.

(4) Where section 91(4) or (5) applies to the payment of any amount of wages due to a seaman under a crew agreement—

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

and section 91(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) Where a seaman is employed under a crew agreement relating to more than one ship, any account which under the preceding provisions of this section would be required to be delivered to him or her by the master shall instead be delivered to him or her by the persons employing him or her and shall be so delivered on or before the termination of his or her employment under the crew agreement.

(6) If a person fails without reasonable excuse to comply with the provisions of this section he or she commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

#### **Regulations relating to wages and accounts.**

**93.** The Minister may make regulations—

- (a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any deduction authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his or her obligations under the agreement is alleged against him or her and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

- (b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;
- (c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;
- (d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his or her ship in Saint Christopher and Nevis otherwise than on being discharged therefrom; and
- (e) prescribing the form and manner in which any account required to be delivered by section 92 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

**Power of special agent to decide disputes on wages.**

**94.** (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a special agent for decision, but the special agent shall not be bound to accept the submission or, if he or she has accepted it, to decide the dispute, if he or she is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him or her.

(2) The decision of a special agent on a dispute submitted to him or her under this section shall be final.

**Restriction on assignment of and charge upon wages.**

**95.** (1) As respects the wages due or accruing to a seaman employed in a Saint Christopher and Nevis ship—

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

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

**Power of Court to award interest on wages due.**

**96.** In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him or her as wages the Court, unless it appears to it that the delay in paying the sum was due to—

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

may order them to pay, in addition to the sum due, interest on it at the rate of twenty percent per annum or such lower rate as the Court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

**Allotment notes.**

**97.** (1) Subject to the provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Minister, allot to any person or persons part of the wages to which he or she will become entitled in the course of his or her employment in a Saint Christopher and Nevis ship or ships.

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

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

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

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

**Right of person named in allotment to sue in own name.**

**98.** (1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 97 shall have the right to recover that part in his or her own name and for that purpose shall have the same remedies as the seaman has for the recovery of his or her wages.

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

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

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

(2) Where a Saint Christopher and Nevis ship is sold while outside Saint Christopher and Nevis or ceases to be a Saint Christopher and Nevis ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he or she is employed, then, unless it is otherwise

provided in the agreement, he or she shall, subject to the provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his or her employment is terminated for every day on which he or she is unemployed in the two months following that date.

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

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

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

#### **Protection of certain rights and remedies.**

**100.** (1) A seaman's lien, his or her remedies for the recovery of his or her wages, his or her right to wages in case of the wreck or loss of his or her ship, and any right he or she may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Subsection (1) does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

#### **Remedies of master for remuneration, disbursements, etc.**

**101.** The master of a ship shall have the same lien for his or her remuneration, and all disbursement or liabilities properly made or incurred by him or her on account of the ship, as a seaman has for his or her wages.

### *Safety, Health and Welfare*

#### **Obligations of shipowners as to seaworthiness.**

**102.** (1) In every contract of employment between the owner of a Saint Christopher and Nevis ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—

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

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

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

#### **Shipowners' relief from liability for unseaworthiness.**

**103.** No liability on the owner of a ship arises under section 102(1) in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

#### **Regulations for Crew accommodation.**

**104.** (1) The Minister may make regulations with respect to the crew accommodation to be provided in Saint Christopher and Nevis ships.

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

- (a) prescribe the minimum space per person which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of the accommodation;
- (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of the accommodation and authorise the surveyor to inspect such works; and
- (d) provide for the maintenance and repair of the accommodation and prohibit or restrict the use of that accommodation for purposes other than those for which it is designed.

(3) Regulations made under this section may exempt ships of any description from any requirements of the regulations and the Director may grant other exemptions from any such requirement with respect to any ship.

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

(5) If the provisions of any regulations made under this section are contravened in the case of a ship the owner or master commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars and the ship, if in Saint Christopher and Nevis, may be detained.

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

#### **Complaints about provisions or water.**

**105.** (1) If three or more seaman employed in a Saint Christopher and Nevis ship consider that the provisions or water provided for the seaman employed in that ship are not in accordance with safety regulations made under this Act containing requirements as to the provisions and water to be provided on ships (whether because

of bad quality, unfitness for use or deficiency in quantity), they may complain to the master, who shall investigate the complaint.

(2) If the seamen are dissatisfied with the action taken by the master as a result of his or her investigation or by his or her failure to take any action they may state their dissatisfaction to him or her and may complain to the special agent, and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.

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

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

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

#### **Expenses of medical and other treatment during voyage.**

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

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

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

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

#### **Applications of sections 108 to 112.**

**107.** Sections 108 to 112 apply to every Saint Christopher and Nevis ship and to any ship registered under the laws of a country outside Saint Christopher and Nevis which carries passengers—

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



**Manning Regulations.**

**108.** (1) Subject to subsection (3), the Minister may make regulations (referred to in this Act as the “Safe Manning Regulations”)—

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

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

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

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

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

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

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

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

**Power to exempt from manning requirements.**

**109.** (1) The Director may exempt any ship or description of ship from any requirements of the regulations made under section 108.

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

**Prohibition on going to sea undermanned.**

**110.** (1) Subject to section 109, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 108, the owner or master commits an offence and is liable—

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

and the ship, if in Saint Christopher and Nevis, may be detained.

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

**Production of certificates and other documents of qualifications.**

**111.** (1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he or she is qualified for the purposes of section 108 shall, on demand, produce it to the Superintendent, a surveyor of ships or proper officer and (if he or she is not himself or herself the master) to the master of the ship.

(2) If, without reasonable excuse, a person fails to comply with subsection (1), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars.

**Crew’s knowledge of English.**

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

- (a) if the special agent has informed the master of that opinion, the ship shall not go to sea; and
- (b) if the ship is in Saint Christopher and Nevis, it may be detained.

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

**Unqualified seamen going to sea as qualified persons.**

**113.** (1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman, he or she commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding ten thousand dollars;
- (b) on conviction on indictment, to a fine not exceeding twenty thousand dollars.

(2) In this section, “qualified” means qualified for the purposes of section 108.

**Medical treatment on board ship.**

**114.** Where a Saint Christopher and Nevis ship does not carry a doctor among the seamen employed in it, the master shall make arrangements for securing that any medical attention on board the ship is given either by him or her or under his or her supervision by a person appointed by him or her for the purpose.

**Special certificates of competence.**

**115.** (1) The Director may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 108(1)(b), and the Minister may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 108(14).

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

**Young persons.**

**116.** (1) A person under school-leaving age shall not be employed in any Saint Christopher and Nevis ship except as permitted by regulations under this section.

(2) The Minister may make regulations—

- (a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship in such capacities as may be so specified;
- (b) prescribing circumstances and capacities in which persons over school-leaving age but under the age of eighteen or under such lower age as may be specified in the regulations must not be employed in a Saint Christopher and Nevis ship or may be so employed only subject to such conditions as may be specified in the regulations.

(3) Regulations made for the purposes of this section may make different provisions for different employment and different descriptions of ships and any other different circumstances.

(4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars.

(5) For the purposes of this section, a person employed in a ship shall be deemed to be over school-leaving age if he or she has, and under school-leaving age if he or she has not, attained the age which is the upper limit of compulsory school age under the enactment relating to education in Saint Christopher and Nevis.

**Financial assistance.**

**117.** (1) The Minister may give any person or body of persons of any description determined by him or her, financial assistance in respect to expenses incurred or to be incurred by that person or body in connection with the training of officers and ratings

for service in merchant ships, including expenses incurred or to be incurred by that person in connection with his or her undergoing such training.

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

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

#### **Uniform.**

**118.** (1) Subject to subsection (3), if a person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he or she commits an offence.

(2) A person who commits an offence under subsection (1) is liable, on summary conviction—

- (a) except in a case falling within paragraph (b), to a fine not exceeding level five on the standard scale;
- (b) if he or she wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level five on the standard scale or to imprisonment for a term not exceeding one month.

(3) Subsection (1) shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

(4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level five on the standard scale.

#### *Offences by Seamen*

#### **Conduct endangering ship, persons, etc.**

**119.** (1) This section applies—

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

(2) If a person to whom this section applies, while on board his or her ship or in its immediate vicinity—

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

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, he or she, subject to subsections (6) and (7), commits an offence.

(3) The conditions referred to in subsection (2) are—

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

(4) If a person to whom this section applies—

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

he or she, subject to subsections (6) and (7), commits an offence.

(5) A person who commits an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale;
- (b) on conviction on indictment, to a fine not exceeding ten thousand dollars or, to imprisonment for a term not exceeding two years, or both.

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

- (a) in the case of an offence under subsection (2) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
- (b) in the case of an offence under subsection (2), that at the time of the act or omission alleged against the accused he or she was under the influence of a drug taken by him or her for medical purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had;
- (c) in the case of an offence under subsection (4), that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (d) in the case of an offence under either of subsection (2) or (4)—
  - (i) that he or she could have avoided committing the offence only by disobeying a lawful command; or
  - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of it being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him or her.

(7) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) shall have effect as if subsection (2)(a)(i) and (b)(i) were omitted, and no proceedings for any offence under this section shall be instituted against any such person without the consent of the Attorney-General.

(8) In this section—

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

“duty”—

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

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

#### **Concreted disobedience and neglect of duty.**

**120.** (1) If a seaman employed in a Saint Christopher and Nevis ship combines with other seamen employed in that ship—

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

he or she commits an offence.

(2) A seaman who commits an offence under subsection (1) is liable—

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

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

### *Disciplinary Offences*

#### **Breaches by seamen of codes of conduct.**

**121.** (1) The Minister may make regulations under the provisions of this section for the purpose of maintaining discipline on board Saint Christopher and Nevis ships, and in this section, “disciplinary body” means a body established or approved by the Minister under subsection (6).

(2) Regulations may provide for the hearing on shore in Saint Christopher and Nevis, by a disciplinary body, of a complaint by the master or owner of a Saint Christopher and Nevis ship, other than a fishing vessel, against a seaman alleging that during his or her employment on board the ship the seaman contravened, on or off the ship and in Saint Christopher and Nevis or elsewhere, a provision of a code of conduct approved by the Director for the purposes of this section.

(3) Regulations may enable a disciplinary body—

- (a) to dismiss the complaint if it finds the allegation not proved; or
- (b) if it finds the allegation proved—
  - (i) to warn the seaman;
  - (ii) to reprimand the seaman; or
  - (iii) to recommend to the Director that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 141 and shall be required to surrender any such book which has been issued to him or her.

(4) Regulations may—

- (a) enable the seaman to appeal against such a recommendation to another disciplinary body (an “appellate body”); and
- (b) enable an appellate body—
  - (i) to confirm the recommendation;
  - (ii) to cancel the recommendation; or
  - (iii) in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he or she shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.

(5) Regulations may make provision for securing that a recommendation that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Director unless it has been confirmed, either on appeal or otherwise, by an appellate body.

(6) Regulations may make provision for the establishment or approval for the purposes of this section of such number of bodies as the Minister thinks fit, and with respect to the composition, jurisdiction and procedure of any such body.

(7) Regulations may make provision for the payment of such remuneration and allowances as the Minister may determine to any member of such a body.

(8) Regulations may make different provisions for different circumstances and may contain such incidental and supplemental provisions the Minister considers appropriate.

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

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

#### *Disqualification of Seamen and Inquiries*

##### **Inquiry into fitness or conduct of officer.**

**122.** (1) If it appears to the Director that an officer—

- (a) is unfit to discharge his or her duties, whether by reason of incompetence or 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 section 148,

the Director may cause an inquiry to be held by one or more persons appointed by him or her and, if he or she does so, may, if he or she thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 108 and require the officer to deliver it to him or her.

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

(3) An inquiry under this section shall be conducted in accordance with rules made under section 126(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

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

- (a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1), cancel or suspend any certificate issued to him or her under section 108 or censure him or her;
- (b) may make such order with regard to the costs of the inquiry as they think just; and



(c) shall make a report on the case to the Director,  
and if the certificate is cancelled or suspended, the officer (unless he or she has delivered it to the Director in pursuance of subsection (1)) shall deliver it forthwith to the persons holding the inquiry or to the Director.

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

**Disqualification of holder of certificate other than officer.**

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

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

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

(4) Where the decision is to suspend or cancel the certificate, the notice shall state the date from which the cancellation is to take effect or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Director not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 124.

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

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

(7) This section applies to every certificate issued under section 115 and to any certificate issued under section 108 other than one certifying that a person is qualified as an officer.

**Inquiry into fitness of conduct of seaman.**

**124.** (1) Where a person has, before the date mentioned in section 123(4), required his or her case to be dealt with by an inquiry under this section, the Minister shall cause an inquiry to be held by one or more persons appointed by him or her.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 126(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

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

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

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

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

#### **Rehearing and appeal from inquiry.**

**125.** (1) Where an inquiry has been held under section 122 or 124, the Minister may order the whole or part of the case to be reheard, and shall do so—

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

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

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

#### **Rules as to inquiries and appeals.**

**126.** (1) The Minister may make rules for the conduct of inquiries under sections 122 and 124, appeals and for any rehearing under section 125.

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

(3) Rules of Court made for the purpose of rehearings under section 125 which are held by the Court, or of appeals to the Court, may require the Court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a rehearing or hear such an appeal with the assistance of one or more assessors.

**Failure to deliver cancelled or suspended certificate.**

**127.** If a person fails to deliver a certificate as required under section 122, 123 or 124, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars.

**Power to restore certificate.**

**128.** Where a certificate has been cancelled or suspended under section 122, 123, 124 or 125, the Director, if he or she is of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

**Power to summon witness to inquiry.**

- 129.** (1) The persons holding an inquiry under section 122 or 124 may—
- (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his or her custody or under his or her control which relate to any matter in question at the inquiry; and
  - (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.
- (2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—
- (a) the persons holding the inquiry are satisfied by evidence on oath that—
    - (i) the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry;
    - (ii) he or she has been duly served with the summons; and
    - (iii) a reasonable sum has been paid or tendered to him or her for costs and expenses; and
  - (b) if appears to them that there is no just excuse for the failure,
- they may issue a warrant to arrest him or her and bring him or her before the inquiry at a time and place specified in the warrant.

**Refusal to give evidence to inquiry.**

**130.** (1) If any person attending or brought before an inquiry referred to in section 129 refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—

- (a) commit him or her to custody until the end of such period not exceeding one month as may be specified in the warrant or until he or she gives evidence or produces the document (whichever occurs first); or
- (b) impose on him or her a fine not exceeding level 1 on the standard scale, or both.

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

### *Civil Liability of Seamen for Offences*

#### **Civil liability for absence without leave.**

**131.** (1) The provisions of this section apply with respect to the liability of a seaman employed in a Saint Christopher and Nevis ship for damages for being absent from his or her ship at a time when he or she is required under his or her contract of employment to be on board.

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

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

- (a) if no special damages are claimed his or her liability shall be twenty dollars;
- (b) if special damages are claimed his or her liability shall not be more than two hundred dollars.

#### **Civil liability for smuggling.**

**132.** If a seaman employed in a Saint Christopher and Nevis ship is found in civil proceedings before a Court in Saint Christopher and Nevis to have committed an act of smuggling, whether within or outside Saint Christopher and Nevis, he or she shall be liable to make good any loss or expense that the act has caused to any other person.

#### **Civil liability for fines under immigration Acts.**

**133.** (1) The provisions of this section shall apply where, at a time when a Saint Christopher and Nevis ship is in the national or territorial seas of any country outside Saint Christopher and Nevis, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman, the penalty shall be treated as being attributable to his or her absence without leave and may, subject to the provisions of section 131, be recovered from him or her as special damages for breach of contract.

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

### *Relief and Repatriation and Relief Costs*

#### **Relief and return of seaman left behind or shipwrecked.**

**134.** (1) Where—

- (a) a person employed as a seaman in a Saint Christopher and Nevis ship is left behind in any country outside Saint Christopher and Nevis or is taken to such a country on being shipwrecked; or
- (b) a person who becomes so employed under an agreement entered into outside Saint Christopher and Nevis is left behind in Saint Christopher and Nevis or is taken to Saint Christopher and Nevis on being shipwrecked,

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

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

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

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

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

- (a) for determining the place to which a person is to be returned;
- (b) for requiring the master of any Saint Christopher and Nevis ship to convey a person to a place determined in accordance with the regulations and for enabling the special agent to give the master directions for that purpose;
- (c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and
- (d) for the keeping of records and the rendering of accounts.

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

(7) This section applies to a person left behind on being discharged in pursuance of section 90, whether or not at the time he or she is left behind the ship is still a Saint Christopher and Nevis ship.

(8) This section applies to the master of a ship as it applies to a seaman and sections 135 and 136 shall have effect accordingly.

#### **Limit of employer's liability under section 134.**

**135.** Where a person left behind in or taken to any country as mentioned in section 134(1) remains there after the end of a period of three months, the persons who last employed him or her as a seaman shall not be liable under that section to make provision for his or her return or for any matter arising after the end of that period,

unless they have before the end of that period been under an obligation imposed on them by regulations made under that section to make provision with respect to him or her.

**Recovery of expenses from employers incurred for relief and return.**

**136.** Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 134, then—

- (a) if the expenses are incurred by the Minister, or are incurred by the government of any country outside Saint Christopher and Nevis and repaid to them on behalf of the Government, the Minister may recover them from the employers;
- (b) if the expenses are incurred by the seaman, he or she may recover them from the employers unless they prove either that under the terms of his or her employment they were to be borne by him or her or that he or she would not have been left behind but for his or her own wrongful act or neglect.

**Recovery of expenses from seaman.**

**137.** Where, in the case of any seaman, expenses are incurred by the Minister or are incurred by the government of any country outside Saint Christopher and Nevis and repaid to them on behalf of the Government—

- (a) in respect of any matter for which, but for section 135, the seaman's last employers would have been required to make provision under section 134; or
- (b) in respect of any matter of which provisions is required to be made under section 134(5)(b),

the Minister may recover them from the seaman, (or, if he or she has died, from his or her personal representatives).

*Documentation*

**Official and other log books.**

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

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

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

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

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

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

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

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

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

(10) If a person intentionally destroys or mutilates or renders illegible any entry in any book he or she commits an offence and is liable, on summary conviction, to a fine not exceeding fifteen thousand dollars.

#### **List of crew.**

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

(2) The Minister may make regulations—

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

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

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

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

**Saint Christopher and Nevis seamen's cards.**

**140.** (1) The Minister may make regulations providing—

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

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

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

(3) If a person makes a statement which he or she knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or herself or another person a Saint Christopher and Nevis seaman’s card, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

**Discharge books.**

**141.** (1) The Minister may make regulations providing—

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

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

(2) Regulations made under this section may provide—



- (a) for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 121 (3) or (4); and
  - (b) for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (3) Regulations made under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding ten thousand dollars or not exceeding a lesser amount.
- (4) A person who, in Saint Christopher and Nevis or elsewhere—
- (a) obtains employment as a seaman on board a Saint Christopher and Nevis ship and does so when he or she is disentitled to a discharge book by virtue of regulations made under subsection (2)(a); or
  - (b) employs as a seaman a person who he or she knows or has reason to suspect is disentitled as provided in paragraph (a),

commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale or, on conviction on indictment, to a fine not exceeding ten thousand dollars or, imprisonment for a term not exceeding one year or both.

#### **Handing over of documents by master.**

**142.** (1) If a person ceases to be a master of a Saint Christopher and Nevis ship during a voyage of the ship he or she shall deliver to his or her successor the documents relating to the ship or its crew which are in his or her custody.

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

## PART VI

### PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION

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

#### **Collision regulations.**

**143.** The Minister may make regulations (hereinafter referred to as the “collision regulations”)—

- (a) for the prevention of collisions at sea;
- (b) respecting the lights to be carried and exhibited; and
- (c) respecting the steering and sailing rules to be observed by ships,

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

#### **Saint Christopher and Nevis ships to observe collision regulations.**

**144.** (1) All owners and masters of Saint Christopher and Nevis ships shall obey the collisions regulations and shall not carry or exhibit any other lights or use any fog signals other than such as are prescribed by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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

#### **Foreign ships in Saint Christopher and Nevis waters.**

**145.** The collision regulations shall be observed by all foreign ships and seaplanes within Saint Christopher and Nevis waters, and in any case before a Court in Saint Christopher and Nevis concerning a breach of the collision regulations arising within Saint Christopher and Nevis waters, foreign ships and seaplanes shall be treated as if they were Saint Christopher and Nevis ships and seaplanes registered in Saint Christopher and Nevis.

#### **Collision liability.**

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

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

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

(4) If the collision is accidental or caused by *force majeure*, or if the cause is left in doubt, the damage shall be borne by those who have suffered them, notwithstanding that the vessels, or any one of them, may have been at anchor, or was otherwise made fast, at the time of the collision.

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

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

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

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

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

#### **Inspection to enforce compliance with collision regulation.**

**147.** A surveyor or inspector may inspect a ship of any nationality in a port of Saint Christopher and Nevis to determine whether the ship is properly provided with lights

and shapes and the means of making sound signals as required by the collision regulations, and if the surveyor or inspector finds that the ship is not so provided, he or she shall specify in writing the action required to rectify the deficiency and shall detain the ship until such deficiency is rectified to his or her satisfaction.

**Duty to render assistance following collision.**

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

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

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

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

**Offences.**

**149.** If the master of a ship fails without reasonable cause to comply with section 148, he or she commits an offence and is liable, on conviction—

- (a) in the case of a failure to comply with section 148(1)(a), to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding six months or both; and
- (b) in the case of a failure to comply with section 148(1)(b), to a fine not exceeding level 5 on the standard scale,

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

**Master to notify hazards to navigation.**

**150.** (1) The master of any Saint Christopher and Nevis ship upon encountering any of the dangers to navigation specified in subsection (2), shall send information by any means of communication at his or her disposal to the appropriate shore based authorities via a coast radio station, as listed in the Admiralty List of Radio Signals Volume 1, and the information shall be repeated to ships in the vicinity as practicable.

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

- (a) dangerous ice;
- (b) a dangerous derelict;
- (c) a tropical storm;
- (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;

- (e) winds of force 10 or above on the Beaufort scale for which no storm warning has been received; or
  - (f) any other direct danger to navigation.
- (3) The information referred to in subsections (1) and (2) shall—
- (a) be sent on the authority of the master of the ship in English, or by means of the International Code of Signals, and where it is transmitted by radio messages, it may be sent in one of the working languages of the International Telecommunication Union and, where language difficulties are encountered, the IMO Standard Communication Phrases may be used;
  - (b) when sent on the authority of the master of the ship by means of radio, be preceded by the safety signal or code sequence as prescribed by the radio regulations and shall be in a format permitted under those regulations.
- (4) Every person in charge of a radio station in Saint Christopher and Nevis or on board any Saint Christopher and Nevis ship shall, on receiving the signal prescribed in the regulations for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and if so required by regulations made under subsection (1) shall transmit the message in the prescribed manner.
- (5) If the master fails to comply with this section, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (6) It shall be a defence for any person charged under subsection (5) to show that he or she took all reasonable precautions to avoid the commission of the offence.
- (7) For the purposes of this section—
- (a) “Admiralty List of Radio Signals” means the publication of that name published by the Hydrographer of the Navy in force at the date of these regulations, and any amendment, correction or replacement thereto;
  - (b) “International Code of Signals” means the publication of that name published by the Organisation in 1985, and any document published by the Organisation amending that publication;
  - (c) “radio regulations” means the radio regulations annexed to, or regarded as being annexed to, the International Telecommunication Convention 1992 and all amendments now in force;
  - (d) “tropical storm” means a hurricane, typhoon, cyclone or other storm of a similar nature, and a master of a ship shall be deemed to have encountered a tropical storm if he or she has reason to believe that there is such a storm in the vicinity.
- (8) A transmission of messages in pursuance of this section shall be without charge.

**Master to proceed moderately in danger area.**

**151.** (1) The master of a Saint Christopher and Nevis ship, when ice is reported on or near his or her course, shall at night either proceed at a safe speed adapted to the

prevailing circumstances or change his or her course so as to keep amply clear of the ice reported and of the area of danger.

(2) The master of a ship who fails to comply with this section, commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Duty to assist ships in distress.**

**152.** (1) The master of a Saint Christopher and Nevis ship, on receiving at sea a signal from any source that a ship or aircraft or a survival craft thereof is in distress, shall proceed with all speed to the assistance of the persons in distress, informing them if possible that he or she is doing so, and if—

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

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

(2) The master of a ship shall be released from the duty imposed by subsection (1) as soon as he or she is informed of the requisition of one or more ships, other than his or her own, under section 153 that the requisition is being complied with by the ship or ships requisitioned.

#### **Right to requisition ships when in distress.**

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

(2) The master of a ship shall be released from the duty imposed by section 152(1) and, if his or her ship has been requisitioned, from the duty imposed by subsection (1), if he or she is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer required.

#### **Duty to assist persons in danger at sea.**

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

#### **Application of duties imposed by sections 152, 153 and 154, penalties for failure to comply and salvage rights.**

**155.** (1) The duties imposed on the master of a ship by sections 152, 153 and 154 shall apply to the masters of Saint Christopher and Nevis ships and to the masters of foreign ships when in Saint Christopher and Nevis waters.

(2) If a master fails to comply with sections 152, 153 and 154, he or she commits an offence for each such failure, and upon summary conviction is liable, for each such offence, to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding six months, or both.

(3) Compliance by a master with sections 152, 153 and 154 shall not affect his or her right, or the right of any other person to salvage.

#### **Regulations for signals of distress.**

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

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

- (a) any signal except in circumstances and for the purposes prescribed; or
- (b) any signal that is liable to be mistaken for any prescribed signal,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale, and in addition, is liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(3) Where the master of a ship who contravenes subsection (2) is a certificated officer under this Act, he or she shall be subjected to an inquiry into his or her conduct as provided in section 122.

#### **Reports of accidents to ships.**

**157.** (1) When a ship—

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; or
- (b) has sustained any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery,

the owner or master thereof shall, within twenty-four hours after the happening of the accident or causing of the damage or as soon as possible thereafter, transmit to a proper officer if the ship is in a foreign port, or otherwise to the Director, a report of the accident or damage.

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

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

(3) If the owner or managing owner, or if there is no owner or managing owner resident in Saint Christopher and Nevis, the representative person of the owner or the agent of any ship to which this section applies, has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1), he or she shall satisfy himself or herself that the accident or damage has been reported to the Director by the master, and, where any such owner, managing owner, representative person or agent has reason to believe that the accident or damage has not been so reported, he or she shall as soon as possible, send to the Director notice in writing stating the name of the ship, its official number, and its port of registry or the port to which it belongs, stating to the best of his or her

knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the location of the ship.

(4) The master, owner, managing owner, representative person or agent who fails, without reasonable cause, to comply with this section commits an offence and is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(5) This section applies to all Saint Christopher and Nevis ships and to all foreign ships carrying passengers between places in Saint Christopher and Nevis.

#### **Apprehended loss of ship.**

**158.** (1) If the owner, managing owner or agent of any Saint Christopher and Nevis ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been lost, he or she shall cause a reasonable search to be made for the ship and shall, as soon as may be convenient, send to the Director a notice in writing signed by him or her and stating—

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

(2) Any managing owner or agent of a ship who fails, without reasonable cause, to comply with this section within a reasonable period from the time when he or she has reason to believe that the ship has been lost, commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Record of boat drill to be kept in official log book.**

**159.** (1) The master of a Saint Christopher and Nevis ship shall enter a statement in the official log book of every occasion on which life boat and fire drill is practised on board, and on which the appliances and equipment required to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination.

- (2) Where in the case of—
- (a) a passenger ship, lifeboat drill or fire drill was not practised in any week;
  - (b) any other ship, lifeboat drill or fire drill was not practised in any two weeks;
  - (c) any ship, the said appliances and equipment were not examined in any such period as prescribed,

the master shall state the reasons therefor in the official log book.

#### **Notices to mariners and navigational warnings.**

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

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

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

*Aids to Navigation and Charts and Publications*

**Interpretation and application.**

**161.** (1) For the purposes of this section and sections 162 to 167—

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

“coastal area” includes the coast of Saint Christopher and Nevis and all Saint Christopher and Nevis waters except those within the limits of ports and harbours under the Saint Christopher Air and Sea Ports Authority Act, Cap. 8.07, and Nevis Air and Sea Ports Authority Act, Cap. 8.05 and the approaches thereto.

(2) Sections 162 to 167 shall apply to the coastal areas of Saint Christopher and Nevis.

**Establishment and management of aids.**

**162.** (1) There shall be established within the coastal area of Saint Christopher and Nevis such aids to navigation as may be necessary to facilitate safe navigation.

(2) If it is proposed to establish or discontinue an aid, or alter the lighting characteristics or any other distinguishing features of an aid, the Director shall be consulted before the proposal is carried into effect.

**Nautical publications, charts and other information.**

**163.** (1) The Director may cause the publication and updating of information on aids to navigation and declare such publications and any other publications to be approved nautical publications.

(2) In any legal proceedings, the production of an approved nautical publication authenticated by the Director shall be *prima facie* evidence of the matters appearing therein.

(3) The Minister may make regulations specifying such charts, directions or information as appear to him or her to be necessary or expedient for the safe operation of ships.

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

(5) If a ship goes to sea or attempts to go to sea without carrying the charts, copies of directions or information which it is required to carry according to the regulations made under this section, the master and owner each commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.



**Prosecution of offences relating to aids.**

**164.** Any person who—

- (a) contravenes section 162;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;
- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;
- (e) trespasses on or without lawful excuse, is found in or on an aid, or on any land upon which an aid is situated,

commits an offence and, in addition to the expenses of making good any damage so occasioned, is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

**Detention of ships.**

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

**Fire or lights detrimental to navigation.**

**166.** (1) No person shall show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of Saint Christopher and Nevis.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(3) The Director may cause to be extinguished any fire or light in respect of which notice is given under this section where the person to whom the notice has been given fails to comply within the time specified therein.

(4) For the purpose of extinguishing false or unauthorised lights, an officer authorised by Saint Christopher and Nevis Ports Authority or the Director may enter the place where the light is situated and forthwith extinguish the same without causing unnecessary damage.

**Characteristics of aids to navigation.**

**167.** The Director may prescribe the system of lighting and other characteristics, marks and features of aids to navigation and in doing so shall have due regard to the International Association of Lighthouse Authorities, IALA Harmonised Buoyage “System B”, or any other international system of buoyage which may replace it.

## PART VII

## PREVENTION OF POLLUTION AND SAFETY OF LIFE AT SEA

*General***Interpretation.**

**168.** In this Part—

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

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

“Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to section 183;

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

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

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

“Passenger Certificate” and “Saint Christopher and Nevis Cargo Ship Safety Construction Certificate” mean the certificates of those names issued pursuant to section 184;

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

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

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

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

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

“short international voyage” means an international voyage—

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety;
- (b) which does not exceed 600 nautical miles in length between the last port of call and the final destination, no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could reasonably have prevented or forestalled;

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

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

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

#### **Prevention of pollution from, ships, etc.**

**169.** (1) The Minister may, by Order, make provision as he or she considers appropriate for the purpose of giving effect to any provision of any of the following which have been ratified or acceded to by the Government of Saint Christopher and Nevis—

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November, 1973;
- (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act aforesaid;
- (c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February, 1978;
- (d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November, 1990;
- (e) any international agreement not mentioned in paragraphs (a) to (d) which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships,

and in paragraph (e) the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c).

(2) The powers conferred by subsection (1) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force.

(3) Without prejudice to the generality of subsection (1), an Order made under that subsection may, in particular, include provision—

- (a) for applying for the purpose mentioned in that subsection any enactment or instrument relating to the pollution of the sea or other waters and also any of sections 259 and 422 to 425 inclusive;
- (b) with respect to the carrying out of surveys and inspections for the purpose aforesaid and the issue, duration and recognition of certificates for that purpose;
- (c) for repealing the provisions of any enactment or instrument so far as it appears to the Minister that those provisions are not required having regard to any provision made or proposed to be made by virtue of this section;
- (d) with respect to the application of the Order to the Government and the extraterritorial operation of any provision made by or under the Order;
- (e) that a contravention of a provision made by or under the Order shall be an offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or on conviction, on indictment, by imprisonment for a term not exceeding two years and a fine;
- (f) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 281 with such modifications, if any, as are prescribed by the Order,

and nothing in any of the preceding provisions of this subsection shall be construed as prejudicing the generality of any other of those provisions and in particular paragraph (e) shall not prejudice paragraph (a).

(4) An Order made under subsection (1) may—

- (a) make different provisions for different circumstances;
- (b) make provision in terms of any document which the Minister considers relevant from time to time;
- (c) provide for exemptions from any provisions of the Order;
- (d) provide for the delegation of functions exercisable by virtue of the Order;
- (e) include such incidental, supplemental and transitional provisions as appear to the Minister to be expedient for the purposes of the Order;
- (f) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of subsection (3)(a) and (c)); and
- (g) provide that any enactment or instrument applied by the Order shall have effect as so applied subject to such modifications as may be specified in the Order.

(5) Where an Order made under subsection (1) authorises the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to (d) or falling within paragraph (e) of that subsection, the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

(6) Regulations made by virtue of paragraph (e) of subsection (4) may make provision corresponding to the provision authorised for an Order by paragraphs (a) to (d) of subsection (4).

(7) An Order made in pursuance of subsection (1)(b) may apply to areas of land or sea or other Saint Christopher and Nevis waters notwithstanding that the agreement in question does not relate to those areas.

(8) The Minister may, by Order, make such provision as he or she considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) for the protection and preservation of the marine environment from pollution by matter from ships.

(9) Without prejudice to the generality of subsection (8), an Order made under that subsection may, in particular, include provision—

- (a) corresponding to any provision that is authorised by subsections (3) and (4); and
- (b) specifying areas of sea above any of the areas for the time being designated under any law as waters within which the jurisdiction and rights of Saint Christopher and Nevis are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment,

and provision authorising the making of regulations authorises the amendment or revocation of regulations made by virtue of paragraph (e) of subsection (4).

#### **Application of Safety Convention and exceptions and exemptions thereto.**

**170.** (1) Subject to subsection (2), the Safety Convention, including all its related instruments, shall, unless excepted by this Act, apply to all Saint Christopher and Nevis ships and all other ships engaged on international voyages while they are in Saint Christopher and Nevis waters.

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

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

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

(4) Notwithstanding that any provision of this Part or of any regulations made hereunder is expressed to apply to ships that are not Saint Christopher and Nevis ships while they are within any port in Saint Christopher and Nevis, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

(5) This Part applies to Saint Christopher and Nevis ships wherever they may be and to other ships whilst they are in Saint Christopher and Nevis waters, but not to fishing vessels or pleasure vessels.

(6) For the purpose of this Part, the classes for passenger ships not engaged on international voyages are as defined in the Regulations, made by the Minister.

(7) The Director or such person as he or she may authorise for the purpose may exempt any ship or class of ship from any safety requirements imposed by or under this Act either absolutely or subject to such conditions as he or she thinks fit.

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

(9) Without prejudice to subsection (7), any ship which embodies features of a novel kind may be exempted from any requirements imposed by or under this Act relating to safety construction, life-saving appliances and radio communications, the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages, provided that such ship shall comply with safety requirements which, in the opinion of the Director or such person as he or she may authorise for the purpose, are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship.

(10) Where the exemption referred to in subsection (9) is granted, the Director shall communicate to the Organisation particulars of the exemptions and the reasons therefor.

(11) The Director or such person as he or she may authorise for the purpose may, if he or she considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to safety construction, life-saving appliances and radio communications unreasonable or unnecessary, exempt from those requirements individual Saint Christopher and Nevis ships, or classes of ships which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

#### **Regulations relating to transfers between ships in territorial waters and safety at sea.**

**171.** (1) The Minister may, by regulations, make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within Saint Christopher and Nevis waters, such provision as he or she considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(2) Regulations made under this section may, in particular, do any of the following things—

- (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
- (b) make provision about—
  - (i) the design of, and standards to be met by, ships and equipment;

- (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board; and
    - (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
  - (c) provide for proposed transfers to be notified to and approved by persons appointed by the Minister, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
  - (d) provide—
    - (i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations; and
    - (ii) for references in the regulations to any document so specified to operate as references to that document as revised or reissued from time to time;
  - (e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;
  - (f) provide for the granting by the Minister of exemptions from specified provisions of the regulations, on such terms (if any) as the Minister may specify, and for altering or cancelling exemptions;
  - (g) limit any provision of the regulations to specified cases or kinds of case.
- (3) Regulations made under this section may provide—
- (a) that a contravention of the regulations shall be an offence punishable, on summary conviction, by a fine not exceeding forty thousand dollars and on conviction, on indictment, by imprisonment for a term not exceeding two years or a fine or both;
  - (b) that any such contravention shall be an offence punishable only, on summary conviction, by a fine not exceeding forty thousand dollars or such lower amount as is prescribed by the regulations;
  - (c) that, in such areas as are prescribed by the regulations, such persons as are so prescribed commit an offence created by virtue of paragraph (a) or (b).
- (4) Regulations made under this section may—
- (a) make different provisions for different classes or descriptions of ships and for different circumstances; and
  - (b) make such transitional, incidental or supplementary provision as appears to the Minister to be necessary or expedient.
- (5) The Minister may make such regulations as may appear to him or her to be necessary and expedient to give effect to the Safety Convention and its related instruments, and to provide generally for safety at sea.
- (6) For the purpose of giving effect to the provisions of Chapter VIII of the Annex to the Safety Convention, the Minister may make such regulations as he or she considers appropriate with respect to ships provided with nuclear power plants.

*Surveys and Certification***Regulations for cargo ship safety construction requirements and surveys.**

**172.** (1) The Minister may make regulations (in this Act referred to as “Cargo Ship Safety Construction and Survey Regulations”) prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Saint Christopher and Nevis ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

(2) The said regulations shall include requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.

(3) This section applies to—

- (a) Saint Christopher and Nevis cargo ships of not less than 500 tons;
- (b) Saint Christopher and Nevis cargo ships of such lower tonnage and of such description as the Minister may specify; and
- (c) foreign cargo ships while they are within Saint Christopher and Nevis waters and while they are not exempted under this Act.

**Surveyor’s duties.**

**173.** (1) Surveyors appointed pursuant to section 411 shall, as and when required by or under this Act, carry out surveys of—

- (a) the hull and machinery of ships;
- (b) the equipment of ships, including her tackle, and appurtenances;
- (c) the life-saving, fire-fighting and other safety equipment of ships;
- (d) the radiotelegraphy and radiotelephony installations of ships; and
- (e) the stowage and manner of loading of ships’ cargoes and the stowage of dangerous goods.

(2) The survey and inspections of ships, so far as regards the enforcement of this Part, shall be carried out by surveyors appointed under section 411.

**Surveyor’s power of inspection.**

**174.** (1) A surveyor may at all reasonable times inspect any ship in Saint Christopher and Nevis waters and any Saint Christopher and Nevis ship anywhere, for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, Collision Regulations and the relevant regulations made under this Act.

(2) Where the surveyor finds that the said Convention or the regulations have not been complied with, he or she shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what action, in his or her opinion, is required to rectify such deficiency.

(3) Every notice so given shall be communicated in a manner directed by the Director to the proper officer of customs of any port at which the ship may seek a clearance, and if the surveyor so requires such clearance may be denied and the ship may be detained.



(4) Where the surveyor considers such ship unsafe, or, where a passenger ship, unfit to carry passengers, or the machinery or equipment is defective in any way so as to expose persons on board to serious danger, he or she shall detain that ship, and a surveyor may also detain any ship in respect of which any of the provisions of this Act have not been complied with, if in his or her opinion such detention is warranted in the circumstances, and in any such case of detention as is referred to in this subsection, section 436 shall apply.

(5) Where, under this section, a surveyor visits any ship he or she may ask the owner or his or her agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge of the ship, any questions concerning the ship as he or she thinks fit and every such person shall fully and truthfully answer every such question.

(6) A surveyor may reasonably require of the owner or his or her agent the master or chief engineer or any other person on board or in charge, or appearing to be in charge of the ship that the machinery of the ship be activated or dismantled so that he or she may satisfy himself or herself as to its condition and every person to whom such a request is made, capable of so doing, shall comply with the requirement.

(7) A person who contravenes subsection (5) or (6) commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Surveyor to report to Director.**

**175.** (1) A surveyor, if satisfied on inspection that he or she can with propriety do so, shall forward a report to the Director which shall contain a statement showing—

- (a) that the hull and machinery are sufficient for the service intended and in good condition;
- (b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) that the safety equipment and radio installations required under this Part are on board and in good condition;
- (d) that the master, mates and engineers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage on which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) if the ship is a passenger ship, the number of passengers which she may carry; and
- (g) the steam pressure that may be carried on the boilers.

#### **Record of inspections and certificates.**

**176.** A surveyor shall keep a record of the inspections he or she makes and certificates he or she issues in such form and with such particulars respecting them as the Director may direct, and shall furnish copies thereof and any other information pertaining to the duties of his or her office which the Director may require.

#### **Survey requirements for passengers ships.**

**177.** The structure, machinery and equipment of a passenger ship shall be subjected to the following surveys pursuant to this Part—

- (a) a survey before the ship is put in service, which shall include a complete inspection of its structure, machinery and equipment, including the outside of the ship's bottom and the inside and the outside of the boilers and shall be such as to ensure that the arrangements, material and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment fully comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (b) a periodical survey before the Passenger Ship Safety Certificate or Passenger Certificate may be renewed, which shall include an inspection of the ship's structure, machinery and equipment referred to in paragraph (a) to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in section 181(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

**Survey requirements for the radio installations of cargo ships.**

**178.** The radio installations, including those used in life-saving appliances, of a cargo ship of 300 tons or over engaged on international voyage shall be subjected to the following surveys pursuant to this Part—

- (a) a survey before the ship is put in service, which shall include a complete inspection of the radio installation, including, when appropriate, those used in life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in satisfactory condition and are fit for the service for which the ship is intended;
- (b) a periodical survey before the Cargo Ship Safety Radio Certificate may be renewed, which shall include an inspection of the radio installations, including when appropriate, those used in life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in section 181(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs

or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

**Survey requirements for the safety equipment of cargo ships.**

**179.** (1) The safety equipment of a cargo ship of 500 tons or over engaged on international voyages shall be subjected to the following surveys pursuant to this Part—

- (a) a survey before the ship is put in service, which shall include a complete inspection of the life-saving appliances and arrangements (except radio installations where only the arrangements shall be inspected), the shipborne navigational equipment, the fire safety systems and appliances, the inert gas system, the fire control plans, the means of embarkation of pilots, the nautical publications, lights, shapes and means of making sound and distress signals and other equipment to ensure that they comply with the relevant regulations applicable to the ship, are in satisfactory condition and are fit for the service for which the ship is intended;
- (b) a periodical survey before the Cargo Ship Safety Equipment Certificate may be renewed, which shall include an inspection of the equipment referred to in paragraph (a) to ensure that it complies with the relevant regulations applicable to the ship, is in a satisfactory condition and is fit for the service for which the ship is intended;
- (c) an annual survey, or in the case of a tanker of ten years of age and over, an intermediate survey, within three months before or after the anniversary date of the Cargo Ship Safety Equipment Certificate which shall include a general inspection of the equipment referred to in paragraph (a) to ensure that it is being maintained in accordance with section 181(1)(a) and it remains fit for the service for which the ship is intended;
- (d) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in section 181(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship and which shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

(2) In any period of five years, there shall be carried out at least one survey in accordance with this section.

**Survey requirements for the structure, machinery and equipment of cargo ships.**

**180.** The structure, machinery and equipment, excluding the radio installations and safety equipment to which sections 178 and 179 apply, of cargo ships of 500 tons or over shall be subjected to the following surveys pursuant to this Part—

- (a) a survey before the ship is put in service, which shall ensure that the arrangements, materials and scantlings of the structure including the sea connections, overboard discharge valves and other ship side

fittings, the boilers and other pressure vessels and their appurtenances (other than domestic boilers having a heating surface of 5 square meters or less and a working pressure of 3.5 bar gauge or less and other domestic pressure vessels having such a working pressure), main and auxiliary machinery including steering gear and associated control systems, electrical installation, structural fire protection and special measures for tankers and other equipment comply with the relevant regulations applicable to the ship, are in satisfactory condition and are fit for the service for which the ship is intended; and that the required stability information is provided; and which shall, for the purposes of the survey of the outside of the ship's bottom, the sea connections, overboard discharge valves and other ship side fittings and the rudder be carried out whilst the ship is in dry dock; and shall also, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping systems, vent piping, pressure/vacuum-valves and flame arresting screens;

- (b) a periodical survey, before the Cargo Ship Safety Construction Certificate or Saint Christopher and Nevis Cargo Ship Safety Construction Certificate may be renewed, which shall be such as to ensure that the arrangements, materials and scantlings referred to in sub-paragraph (a) comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended and which shall, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping system, vent piping, pressure/vacuum-valves and flame arresting screens;
- (c) in case of a tanker of ten years of age or over, at least one intermediate survey, during the period of validity of the certificate there is only one such survey, it shall be held not more than six months before, nor later than six months after, the half way date of the period of validity of the certificate, and in no case shall the period between surveys so required exceed three years and the surveys shall include an inspection of the arrangements, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship and the steering gear and associated control systems, cargo and bunker piping systems on deck and in the pump rooms, vent piping, pressure/vacuum-valves, flame arresting screens and the electrical installation in hazardous zones to ensure that they remain satisfactory for the service for which the ship is intended;
- (d) an annual survey within three months before or after each anniversary date of the Cargo Ship Safety Construction Certificate or Saint Christopher and Nevis Cargo Ship Safety Construction Certificate, except that an annual survey shall not be required in respect of a tanker of ten years of age or over in any year in which it has been surveyed in accordance with paragraph (c) within three months before or after the anniversary date of the Cargo Ship Safety Construction Certificate; such surveys to include a general inspection of the arrangement, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship to ensure that they are being maintained in accordance with section 181 (1)(a) and that they remain fit for the service for which the ship is intended;

- (e) a minimum of two surveys of the lower areas of the hull, including the sea connections, overboard discharge and other ship side fittings and the rudder with the ship in dry dock during any five year period, provided that in all cases the interval between any two such surveys shall not exceed thirty-six months and the surveys shall be such as to ensure that they remain satisfactory for the service for which the ship is intended;
- (f) an additional survey, either general or partial, according to the circumstances, to be made after a repair resulting from an investigation prescribed in section 181(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship, and shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

#### **Responsibilities of owner and master and compliance with ISM Code.**

**181.** (1) The owner and master of every ship to which this section applies shall ensure that—

- (a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provision of this Part applicable to the ship;
- (b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a surveyor, except by direct replacement;
- (c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment—
  - (i) it is reported at the earliest opportunity to a surveyor, or a special agent; and
  - (ii) if a Saint Christopher and Nevis ship is in such a case in a port outside Saint Christopher and Nevis, it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a special agent under subsection (1)(c)(i), the surveyor or special agent, as the case may be, shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

(3) Subsections (1) and (2) apply to—

- (i) Saint Christopher and Nevis ships; and
- (ii) except as regards subsection (1)(a), other ships which have been surveyed pursuant to this Part.

(4) All Saint Christopher and Nevis ships, all other ships while in Saint Christopher and Nevis waters and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.

(5) For the purpose of subsection (4), “ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organisation as may be amended from time to time, and “Company” has the same meaning as in the ISM Code.

**Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient.**

**182.** (1) In any case where a surveyor determines that the condition of a ship to which this section applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his or her opinion is required, and shall notify the Director.

(2) If the corrective action is not taken within a reasonable period as the surveyor may specify, the surveyor shall, at the end of that time, immediately notify the Director who may, on receipt of the notification, suspend the validity of the particular certificate issued to the ship and give notice of the suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies only to Saint Christopher and Nevis ships and other ships which have been surveyed pursuant to this Part.

**Issue of certificates to Saint Christopher and Nevis ships engaged on international or short international voyages.**

**183.** When a survey or surveys to meet the requirements set out in this Part are satisfactorily completed the Director, or any other person authorised by him or her, shall issue—

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

**Issue of certificates to Saint Christopher and Nevis ships not engaged on international voyages.**

**184.** When a survey or surveys, to meet the requirements set out in this Part are satisfactorily completed, the Director shall issue—

- (a) in the case of a Saint Christopher and Nevis passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or
- (b) in the case of a Saint Christopher and Nevis cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

**Form of certificate.**

**185.** (1) A Passenger Certificate shall indicate compliance with the provisions of this Act and state—

- (a) the limits (if any) beyond which the ship is not fit to ply;
- (b) the number of passengers which the ship is fit to carry;
- (c) any condition with which the ship has to comply.

(2) A Passenger Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificate shall be in the form prescribed by the Safety Convention.

**Duration and validity of certificates.**

**186.** (1) The duration of certificates issued under section 183 shall be as follows—

- (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding twelve months;
- (b) a Cargo Ship Safety Radio Certificate shall be issued for a period of validity not exceeding twelve months;
- (c) a Cargo Ship Safety Equipment Certificate shall be issued for a period of validity not exceeding twenty-four months;
- (d) a Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding five years.

(2) The duration of certificates issued under section 184 shall be as follows—

- (a) a Passenger Certificate shall be issued for a period of validity not exceeding twelve months;
- (b) a Saint Christopher and Nevis Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding five years.

(3) A certificate shall cease to be valid—

- (a) if its period of validity has been exceeded and the certificate has not been extended when permitted by section 188;
- (b) if annual and intermediate surveys have not been carried out in accordance with this Part and the certificate has not been endorsed;
- (c) upon the transfer of a ship to the flag of another state.

**Issue and duration of exemption certificates.**

**187.** (1) When an exemption is granted to a ship in accordance with the relevant provisions applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under section 183.

(2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificates to which it refers.

(4) Where an Exemption Certificate is issued, a statement to this effect shall be included on the certificate to which it refers.

**Extension and other provisions.**

**188.** (1) If a Saint Christopher and Nevis ship, at the time when a certificate issued under section 183(a) or (b) expires, is not in a port in Saint Christopher and Nevis or the port in which it is to be surveyed, the Director may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in Saint Christopher and Nevis or the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so and no certificate shall be extended for a period longer than five months, and a ship to which the extension is granted shall not, on its arrival in a port in Saint Christopher and Nevis or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port of Saint Christopher and Nevis without having obtained a new certificate.

(2) The Director may extend a certificate issued under section 183(a) or (b) which has not been extended under subsection (1) for a period of grace of up to one month from the date of expiry stated on it.

(3) In the case of a Saint Christopher and Nevis ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Director may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respect to life-saving appliances stated on the certificate.

(4) The memorandum referred to in subsection (3) shall be attached to the certificate during the particular voyage and shall be returned to the Director at the completion of the voyage.

(5) In the case of a ship that has transferred from the registry of the government of another country to Saint Christopher and Nevis registry, the Director, subject to such survey requirements that may be considered to be necessary, may issue one or more of the certificates prescribed by sections 183 and 184 for a period determined by the Director, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the government of that other country if satisfied that—

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the Government of that country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in paragraph (a) have been complete, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other country or the Director except by direct replacement.



**Issue and endorsement of certificates by another government.**

**189.** The Director may request through a proper officer or otherwise, the government of a country to which the Safety Convention applies to survey a ship other than a ro-ro passenger ship and, if satisfied that the requirements of the Convention are complied with to issue or authorise the issue to the ship the certificates referred to in section 183, and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Director.

**Ships not registered in Saint Christopher and Nevis and to which the Safety Convention applies.**

**190.** (1) The Director may, at the request of a government of a country to which the Safety Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 183 and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Director.

(2) Where a memorandum, issued by or under the authority of the government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the Safety Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.

(3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that there is in force a certificate or certificates required by this Part, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of section 181 are being complied with.

**Other ships which are not Saint Christopher and Nevis ships.**

**191.** (1) When a survey or surveys of ships which are not Saint Christopher and Nevis ships, to meet the requirements set out in this Part, are completed in accordance with this Part—

(a) the Director shall issue, in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or

(b) the Director shall issue, in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(2) The certificates referred to in subsection (1) shall be subject to the requirements of this Part as though they were issued under section 183.

**Cancellation of a certificate.**

**192.** (1) The Director may cancel a certificate issued to a Saint Christopher and Nevis ship where he or she has reason to believe that—

(a) the certificate was issued on false or erroneous information; or

- (b) since any survey required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.
- (2) The Director may require that a certificate issued to a Saint Christopher and Nevis ship which has expired or has been cancelled be surrendered, as directed.
- (3) No person shall—
  - (a) intentionally alter a certificate referred to in this Part;
  - (b) intentionally make a false certificate referred to in this Part;
  - (c) in connection with any survey required by this Part, knowingly or recklessly furnish false information;
  - (d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in this Part; or
  - (e) fail to surrender a certificate required to be surrendered under subsection (2).

**Posting up of certificates.**

**193.** The owner and master of every ship issued with a certificate in accordance with this Part shall ensure that it is posted up in a prominent and accessible place in the ship.

**Prohibition on proceeding to sea without the appropriate documentation.**

**194.** (1) No Saint Christopher and Nevis ship shall proceed to sea unless it has been surveyed and there is in force the following certificate or certificates—

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

(2) No ship registered in a country to which the safety Convention applies shall proceed to sea from a port in Saint Christopher and Nevis unless there is in force such Safety Convention certificates that would be required if the ship was a Saint Christopher and Nevis ship, and the extension provisions in section 188 shall apply to such certificates as if the ship was a Saint Christopher and Nevis ship and the government of the country in which the ship is registered was substituted for the Director.

(3) No cargo ship of 500 tons and over not engaged on international voyages shall proceed to sea from a port in Saint Christopher and Nevis unless it has been surveyed and there is in force a Saint Christopher and Nevis Cargo Ship Safety Construction Certificate, unless there is in force a Cargo Ship Safety Construction Certificate as referred to in this Part.

(4) No ship registered in a country to which the Safety Convention does not apply shall proceed to sea from a port in Saint Christopher and Nevis unless the ship

is in the possession of documentation which shows that either the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it was a Saint Christopher and Nevis ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(5) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.

(6) The master of every ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section, and a clearance shall not be granted and the ship may be detained until those certificates are produced.

#### **Prohibition on proceeding on a voyage or excursion without appropriate certificate.**

**195.** (1) A passenger ship of Class III or IV, shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate appropriate to the ship's Class and applicable to that voyage or excursion.

(2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

#### **Limit on the number of passengers on passenger ships.**

**196.** The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's Passenger Ship Safety Certificate or Passenger Certificate.

#### **Offences.**

**197.** (1) If a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the requirements of sections 177 to 180, the owner and master of the ship each commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or imprisonment for a term not exceeding two years or both.

(2) Any contravention of section 181(1), section 194 (1) to (5) or section 195 is an offence by both the owner and master, and each commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale or, imprisonment for a term not exceeding two years, or both.

(3) Any contravention of section 192(3) is an offence, punishable on summary conviction by a fine not exceeding level 5 on the standard scale or, imprisonment for a term not exceeding six months, or both.

(4) If a ship proceeds to sea without section 193 being complied with, the owner and master each commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) Any contravention of section 196, is an offence by both the owner and master and each commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars, or on conviction on indictment to a fine not exceeding twenty thousand dollars, or imprisonment for a term not exceeding two years, or both.

(6) Any contravention of section 194 (6) is an offence by the master and is punishable, on summary conviction, by a fine not exceeding level 3 on the standard scale.

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

#### **Power to detain.**

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

#### **Arbitration.**

**199.** (1) Should an owner, or any other person making application for a survey required by this Part, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within twenty-one days of the completion of the survey, on the person responsible for issuing the particular certificate under section 183 or 184, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him or her.

(2) A person shall not be qualified for appointment as an arbitrator under this section unless he or she is—

- (a) a person holding a certificate of competency as a Class 1 Deck Officer or as a Class 1 Marine Engineer Officer, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a barrister or solicitor with at least ten years experience in shipping law; or
- (d) a person with special experience of the shipping industry.

(3) In connection with his or her functions under this section, an arbitrator shall have the powers of inspection conferred by the relevant provisions of Part XIV.

#### *Miscellaneous*

#### **Penalty for non-compliance with conditions of exemption certificates.**

**200.** Where an exemption certificate, issued in respect of any Saint Christopher and Nevis ship, specifies conditions on which the certificate is issued and any of those conditions is not complied with, the owner and the master of the ship commits an offence, and each is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Inspection of ships holding Safety Convention Certificates.**

**201.** (1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship, it shall be accepted and the ship shall be exempted from surveys or inspection under this Part, unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the Certificate or that the ship and its equipment

are not in compliance with regulations made under this Act respecting the maintenance of conditions of the ships and their equipment after survey.

(2) Where a Certificate is not acceptable due to the circumstances referred to in subsection (1), or if a Certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances, namely—

- (a) the local Consular Officer of the ship's flag state or, in his or her absence, the nearest diplomatic representative of the ship's flag state; and
- (b) nominated surveyors or recognised organisations responsible for the issue of the certificate referred to in subsection (1).

(3) Where any ship referred to in subsection (2) is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

#### **Ships to carry stability information.**

**202.** (1) Every Saint Christopher and Nevis passenger ship, regardless of size, and every Saint Christopher and Nevis cargo ship having a length of twenty-four meters and upwards, shall carry on board such information about the ship's stability as may be prescribed.

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

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and master commits an offence and each is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Regulations for local safety certificates including fishing vessels.**

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

- (a) fishing vessels; and
- (b) pleasure vessels.

(2) In making regulations respecting fishing vessels, the Minister shall have due regard to the International Convention for the Safety of Fishing Vessels, 1977, as amended by the Protocol of 1993 and the provisions of the Fisheries Act, Cap. 14.07.

## PART VIII

### SAFETY OF SUBMERSIBLES

#### *Interpretation and Application*

#### **Interpretation.**

**204.** In this Part, except where the context otherwise requires—

“apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;

“casualty” means—

- (a) loss or presumed loss or abandonment of or damage to submersible craft or supporting apparatus;
- (b) loss of life or serious injury to any person occurring in the course of the launch, recovery, operation or support of a submersible craft or supporting apparatus; or
- (c) any incident involving serious danger to the life or health of any person in a submersible craft;

“diving bell” means any compression chamber which is capable of being manned and is used or designed for use under the surface of the water in supporting human life, being a chamber in which any occupant is or may be to a pressure of more than 300 millibars above atmospheric pressure during normal operation;

“owner” means the owner for the time being of any submersible craft;

“pressure hull” means the pressure resistant structure of a submersible craft which is subject to pressure differential during service conditions;

“Register of submersible craft” means the Register maintained by the Registrar in accordance with section 207(1);

“submersible craft” means any description of manned mobile submersible apparatus, not being a diving bell, which is designed to maintain some or all of its occupants at or near atmospheric pressure including free, self-propelled, tethered, towed or bottom contact propelled apparatus and atmospheric diving suits;

“supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible craft.

#### **Application of this Part.**

**205.** (1) Subject to subsection (3), this Part applies to any submersible craft—

- (a) a majority interest in which is owned by persons each of whom is a Saint Christopher and Nevis citizen or a body corporate established under the laws of Saint Christopher and Nevis and has its principal place of business in Saint Christopher and Nevis;
- (b) which is operated within waters which are adjacent to Saint Christopher and Nevis and which are within the seaward limits of the territorial seas of Saint Christopher and Nevis;
- (c) which is launched, recovered, operated or supported from a Saint Christopher and Nevis ship; or
- (d) any other craft which is registered in the Register of submersible craft.

(2) This Part applies to any supporting apparatus which is used in connection with a submersible craft to which this Part applies.

(3) Except as provided in this Part, the provisions of this Act and any orders, rules and regulations made under it shall not apply to any submersible craft registered in the Register of submersible craft.

(4) The Director may grant exemptions from all or any of the provisions of this Part or any regulations made under it (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he or she may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

### *Restriction on Operation*

#### **Restriction on operation of submersible craft.**

**206.** (1) Every submersible craft—

- (a) in which a majority interest is owned by persons each of whom is a Saint Christopher and Nevis citizen or a body corporate established under the laws of Saint Christopher and Nevis and having its principal place of business in Saint Christopher and Nevis;
- (b) which is operated within waters which are adjacent to Saint Christopher and Nevis and which are within the seaward limits of the territorial seas of Saint Christopher and Nevis; or
- (c) which is launched, recovered, operated or supported from a Saint Christopher and Nevis ship,

shall be registered in the Register of submersible craft pursuant to this Part and have in force in respect of it a safety certificate issued under this Part.

(2) A submersible craft which is required by virtue of subsection (1) to be registered in the Register of submersible craft and to have in force in respect of it a safety certificate issued under this Part shall not be launched, recovered, operated or supported unless it is so registered and has such a safety certificate in force in respect of it.

(3) Subject to subsection (4), a supporting apparatus shall not be—

- (a) operated within waters which are adjacent to Saint Christopher and Nevis and which are within the seaward limits of the territorial seas of Saint Christopher and Nevis; or
- (b) launched, recovered, operated or supported from a Saint Christopher and Nevis ship.

(4) Subsection (3) shall not apply where—

- (a) the submersible craft which the supporting apparatus is used to support, is registered in the Register of submersible craft pursuant to this Part; and
- (b) there is in force in respect of such submersible craft and the supporting apparatus a safety certificate issued under this Part.

### *Registration, etc. of Submersible Craft*

#### **Register of submersible craft.**

**207.** (1) The Registrar shall maintain a Register of submersible craft.

(2) Without prejudice to the power of the Registrar to Register any submersible craft in the Register of submersible craft, every submersible craft to

which this Part applies by virtue of paragraphs (a), (b) and (c) of section 205(1) shall be registered in accordance with this Part.

**Requirements for registration of submersible craft.**

**208.** (1) Any person who is the owner of any submersible craft which is required to be registered in the Register of submersible craft under section 207(2) shall make an application in writing to the Registrar for the registration of the submersible craft.

(2) Subject to subsection (5), the owner of a submersible craft shall—

- (a) before making an application for registration, appoint an individual or a body corporate satisfying the prescribed requirements to be the representative person in relation to the submersible craft; and
- (b) ensure that, so long as the submersible craft remains registered, an individual or body corporate satisfying those requirements is so appointed.

(3) For the purposes of subsection (2), the prescribed requirements are that the representative person is either—

- (a) an individual resident in Saint Christopher and Nevis; or
- (b) a body corporate incorporated in Saint Christopher and Nevis and having its principal place of business in Saint Christopher and Nevis.

(4) The provisions of subsection (3) shall not apply if the owner of the submersible craft is either—

- (a) an individual resident in Saint Christopher and Nevis; or
- (b) a body corporate incorporated in Saint Christopher and Nevis and having its principal place of business in Saint Christopher and Nevis.

(5) Any application for the registration of a submersible craft shall contain such particulars as may be prescribed by the Director and, where a representative person is required to be appointed under this Part, the name and address of the representative person.

(6) There shall be payable in respect of an application for the registration of a submersible craft such a fee as may from time to time be specified by the Director.

(7) Upon receiving an application for the registration of a submersible craft which complies with the requirements of subsections (5) and (6), the Registrar of Shipping, if satisfied that the submersible craft may properly be so registered, shall, subject to section 209, assign to the submersible craft a number and shall Register it in the Register of submersible craft and the particulars set out in subsection (9) shall be entered with such registration.

(8) Upon the registration of a submersible craft, the Registrar shall issue to the owner making the application for registration a certificate of registry, upon which shall be entered the particulars set out in subsection (9).

(9) The particulars to be entered in the Register of submersible craft and upon the certificate of registry are the following—

- (a) the number of the certificate of registry;
- (b) the registration number assigned to the submersible craft;
- (c) the names of the owner and operator of the submersible craft; and



- (d) where registration is conditional upon the appointment of a representative person, the name and address of the representative person.

**Grounds for refusing registration.**

**209.** The Registrar may refuse to Register a submersible craft if the Director is satisfied that, having regard—

- (a) to the condition of the submersible craft so far as relevant to its safety or to any risk of pollution; or
- (b) to the safety, health and welfare of persons employed or engaged in any capacity on board the submersible craft,

it would be inappropriate for the submersible craft to be registered.

**Notification of changes affecting submersible craft and amendment of particulars.**

**210.** (1) Any person who is registered as the owner of a submersible craft to which this Part applies shall forthwith inform the Registrar in writing of—

- (a) any change in the particulars contained in the certificate of registry of the submersible craft;
- (b) any change in the identity, or in the address of the representative person appointed in respect of the submersible craft; or
- (c) the destruction of the submersible craft or his or her intention to withdraw the submersible craft from use.

(2) The Registrar may, whenever it appears to him or her necessary or appropriate to do so for giving effect to this Part or for bringing up to date or otherwise correcting the particulars entered on the Register of submersible craft, cause the Register to be amended.

(3) Where the Registrar has been notified by the owner that the submersible craft has been destroyed or that the owner intends to withdraw the submersible craft from use, the power to amend the particulars of registration under subsection (1) shall include a power to terminate the registration of the submersible craft.

**Termination of registration.**

**211.** (1) Subject to subsection (3), where the Director is satisfied of any of the matters set out in subsection (2), he or she may direct the Registrar to terminate the registration of a submersible craft.

(2) The matters of which the Director must be satisfied for the purposes of subsection (1) are as follows—

- (a) that there has been a change either—
- (i) in the ownership of the submersible craft; or
- (ii) in the identity, or the address, of the representative person appointed in respect of the submersible craft, which has not been notified to the Registrar;
- (b) that it is a condition of the registration of the submersible craft that a representative person be appointed and no person is then appointed to act in such capacity;

- (c) that having regard to the—
    - (i) condition of the submersible craft so far as relevant to its safety or to any risk of pollution, or
    - (ii) safety, health and welfare of persons employed or engaged in any capacity on board the submersible craft,
      - it is inappropriate for the submersible craft to continue to be registered;
  - (d) that any penalty imposed on the owner of the submersible craft in respect of a contravention of this Part, or any regulations made under it, has remained unpaid for a period of more than three months and no appeal against the penalty is pending;
  - (e) that any summons for any such contravention has been duly served on the owner of the submersible craft and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time; or
  - (f) that the submersible craft is being operated without the registration number assigned to it by the registrar pursuant to section 208(8) being displayed and marked in accordance with the provisions of section 212.
- (3) Before exercising the power conferred by subsection (1) to direct the Registrar to terminate the registration of a submersible craft, the Director shall—
- (a) serve on the owner of the submersible craft or on the person for the time being appointed as the representative person in relation to the submersible craft, a notice stating—
    - (i) that he or she is satisfied as mentioned in paragraph (a), (b), (c), (d), (e), or (f) of subsection (2); and
    - (ii) that he or she intends, after the end of the period of thirty days beginning with the date of service of the notice, to direct that the registration of the submersible craft in question be terminated unless he or she is satisfied that it would be inappropriate to do so by any representations made to him or her by or on behalf of the owner within that period;
  - (b) have regard to any representations made to him or her by the owner of the submersible craft within the period of thirty days specified in subparagraph (ii) of paragraph (a).
- (4) Where the registration of any submersible craft has been terminated by virtue of this section, the Director may subsequently, if he or she is satisfied that it would be appropriate to do so, direct the Registrar to restore the registration of the submersible craft.

**Display of registration number.**

**212.** At any time when a submersible craft to which this Part applies is being operated, the registration number assigned to it under section 208(8) shall be—

- (a) displayed on a metal plate permanently affixed to the internal structure of the main pressure hull of the submersible craft; and

- (b) conspicuously marked on the external structure of the submersible craft.

*Regulations for Construction and Operation of Submersible Craft*

**Regulations for construction, equipment, etc., of submersible craft.**

**213.** The Minister may make regulations—

- (a) specifying construction requirements for submersible craft and supporting apparatus to which this Part applies;
- (b) specifying requirements for the carriage of equipment and stores by submersible craft and supporting apparatus to which this Part applies;
- (c) requiring submersible craft and supporting apparatus to which this Part applies to be surveyed and providing for the making of declarations of survey;
- (d) specifying the criteria which are to be satisfied prior to the issue of a certificate under section 214;
- (e) prescribing obligations which any person concerned in the operation of submersible craft and supporting apparatus to which this Part applies shall fulfil;
- (f) prescribing the qualifications necessary to be held by any person concerned in the operation of a submersible craft and supporting apparatus to which this Part applies;
- (g) imposing penalties on summary conviction in respect of a contravention of any provisions of any such regulations not exceeding, in respect of any one contravention, ten thousand dollars; and
- (h) for detaining any submersible craft or supporting apparatus in respect of which a contravention of any such regulations has or is suspected to have occurred and, in relation to such submersible craft or supporting apparatus, for applying sections 436 and 437 subject to such modifications as may be prescribed in the regulations.

**Issue, duration, extension, suspension, etc., of safety certificates.**

**214.** (1) If the Director is satisfied, on receipt of a declaration of survey in respect of a submersible craft and its supporting apparatus that they comply with regulations made under section 213, he or she may issue to the owner Safety Certificates in respect of the submersible craft and its supporting apparatus which shall be in such form as he or she may prescribe.

(2) Safety Certificates issued under this section shall remain in force for two years or for such shorter period as may be specified in the certificates or until suspended or revoked by the Director, subject, in the case of a two years' certificate, to an annual inspection at not less than nine nor more than fifteen months after the survey for the issue of the certificate.

(3) Safety Certificates may be extended by the Director without a declaration of survey for such further period, not exceeding four months, as he or she thinks fit.

(4) The Director may at any time suspend or revoke a Safety Certificate if he or she is satisfied that—

- (a) the submersible craft or its supporting apparatus have not been surveyed in accordance with the provisions of regulations made under section 213;
- (b) the submersible craft or its supporting apparatus no longer complies with the criteria laid down in regulations made under section 213;
- (c) the submersible craft or its supporting apparatus is in a condition unfit for operation;
- (d) information supplied for the purposes of any survey of the submersible craft or its supporting apparatus was materially incorrect; or
- (e) the submersible craft or its supporting apparatus has been significantly changed from the particulars supplied at the time of any survey.

(5) While a Safety Certificate is in force, the owner shall report to the Director any modifications or any instance of damage which affects or may affect the safety of the submersible craft or its supporting apparatus.

*Inquiries and Investigations, Offences and Legal Proceedings in relation to  
Submersible Craft*

**Inquiries and investigations.**

**215.** (1) Where a casualty has occurred in respect of a submersible craft or supporting apparatus to which this applies, the Director—

- (a) may cause a preliminary inquiry into the casualty to be held; and
- (b) may (whether or not a preliminary inquiry into casualty has been held) cause a formal investigation into the casualty to be held in the manner provided for under Part XVII and the provisions of that Part shall apply as appropriate to any casualty referred to in this section.

(2) The Director may cause any report made following an inquiry or investigation into a casualty to be made public at such time and in such manner as he or she thinks fit.

**Offences, general.**

**216.** (1) Any person who causes or permits a submersible craft to be launched, recovered, operated or supported or is otherwise concerned in the launch, recovery, operation or support of a submersible craft in contravention of section 206(2) commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars.

(2) Any person who causes or permits supporting apparatus to be operated or is otherwise concerned in the operation of supporting apparatus in contravention of section 206(2) commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars.

(3) Any person who contravenes section 208(1), 208(2)(b), 210(1), 212 or 214(5) commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars in respect of any one conviction.

(4) In any proceedings for an offence under this Part, it shall be a defence for the person charged with this offence to prove—

- (a) that he or she exercised all due diligence to prevent the commission of the offence; and
- (b) that the offence was committed without his or her consent, connivance or default.

(5) Where a body corporate commits an offence under this Part or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of the director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, commit that offence and liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its directors, subsection (1) shall apply in relation to the acts and defaults of a director in connection with his or her functions of management as if he or she were a director of the body corporate.

#### **Service of documents and notices in proceedings.**

**217.** (1) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under this Part or regulations made under it, shall, where the person to be served is the owner of a submersible craft to which this Part applies, be treated as duly served on him or her if—

- (a) delivered to any representative person for the time being appointed in relation to the submersible craft;
- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the Registrar under section 210(1)(b) in relation to that person; or
- (c) left for any such person at that address.

(2) In any proceedings for an offence under this Part or regulations made under it, an averment in any process of the fact that anything was done or situated within waters which are adjacent to Saint Christopher and Nevis and which are within seaward limits of the territorial sea of Saint Christopher and Nevis shall, unless the contrary be proved, be sufficient evidence that the thing, if otherwise proved, was done or situated within the waters.

(3) Any proceedings for an offence under this Part or regulations made under it may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in Saint Christopher and Nevis.

(4) This Part and any regulations made under it shall apply to persons, whether or not they are Saint Christopher and Nevis citizens, and to companies, whether or not incorporated under the laws of Saint Christopher and Nevis.

(5) Any notice required to be served under this Part may be served by post.

(6) Any notice required to be served under this Part on the owner of any submersible craft shall, where two or more persons are shown in the Register of submersible craft, be treated as duly served if served on any one of those persons.

(7) For the purpose of section 25 of the Interpretation Act, Cap. 1.02 (service of documents by post) a letter containing—

- (a) a notice to be served on any person under subsections (5) and (6); or

(b) a notice to be served on a representative person under subsection (1), shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him or her in the Register of submersible craft; and a letter containing any other notice to which subsection (1) applies shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of his or her residence or of a place where he or she carries on business).

#### **Detention.**

**218.** (1) Any submersible craft to which this Act applies and which is launched, recovered, operated or supported in contravention of section 206(1) and any supporting apparatus operated in connection with it shall be liable to be detained.

(2) Sections 436 and 437 shall have effect in relation to a submersible craft detained under this Part and for the purpose of applying those sections—

- (a) the words “submersible craft” shall be substituted for the word “ship” wherever it occurs, except when the vessel to be detained may properly be described as a ship within the meaning of this Act; and
- (b) the words “Part VIII” shall be substituted for the words “this Act” wherever they occur.

### PART IX

#### LOAD LINES

##### *General*

#### **Interpretation.**

**219.** (1) In this Part, unless the context otherwise requires—

“alteration” includes deterioration;

“1966 Convention” means the International Convention on Load Lines, 1966 as amended;

“Convention country” and “Contracting Government” have the meanings given to them by section 248;

“non-Saint Christopher and Nevis ship” means a ship which is not registered in Saint Christopher and Nevis;

“post-1966 Convention ship” means a ship whose keel is laid, or which is at a similar stage of construction, on or after the material date; and “pre-1966 Convention ship” means a ship which is not a post-1966 Convention ship;

“valid Convention certificate” has the same meaning given to it by section 231(5).

(2) For the purposes of the definitions of pre-1966 and post-1966 Convention, the material date—

- (a) in relation to a ship which is registered in or flies the flag of a Convention country, other than Saint Christopher and Nevis, is the date as from which it is declared under section 248 that the government of that country has accepted or acceded to the 1966

Convention or that it is a territory to which that Convention extends;  
and

(b) in relation to any other ship, is 21st July, 1968.

(3) In this Part, subject to subsection (4), “international voyage” means a voyage between—

(a) a port in Saint Christopher and Nevis and a port outside Saint Christopher and Nevis; or

(b) a port in a Convention country (other than Saint Christopher and Nevis) and a port in any other country or territory (whether or not a Convention country) which is outside Saint Christopher and Nevis.

(4) In determining, for the purposes of subsection (3), what are the ports between which a voyage is, no account shall be taken of any deviation by a ship from its intended voyage made which is due solely to stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled, and for the purposes of that subsection, any colony, protectorate or other dependency, and any territory for whose international relations a government is separately responsible shall be taken to be a separate territory.

(5) Any reference in this Part to the gross tonnage of a ship shall be construed as a reference to the tonnage of the ship as ascertained in accordance with the tonnage regulations, and, where in accordance with those regulations alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of this Part, be taken to be the larger of those tonnages.

(6) For the purposes of this Part, the length of a ship shall be ascertained in accordance with regulations made by the Minister under this Part.

(7) Any reference in this Part to any provision of the 1966 Convention shall, in relation to any time after that provision has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that provision as so amended.

#### **Ships to which Part applies.**

**220.** This Part applies to all ships except—

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

#### **Load Line Regulations.**

**221.** (1) The Minister shall make regulations in accordance with the following provisions of this Part (referred to as “the Load Line Regulations”), and in making those regulations the Minister shall, in particular, give effect to the 1966 Convention.

(2) The Load Line Regulations shall make provision—

- (a) for the surveying, and periodical inspection of ships to which this Part applies;
- (b) for determining freeboards to be assigned from time to time to such ships including timber freeboards;
- (c) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the

position of that deck to be indicated on each side of the ship by a mark of a description prescribed by the regulations; and

- (d) for determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the regulations, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations.
- (3) The Load Line Regulations shall include the following provisions—
- (a) provisions specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Part applies as appear to the Minister to be relevant to the assignment of freeboards to such ships;
  - (b) provisions whereby, at the time when freeboards are assigned to a ship in accordance with the Load Line Regulations, such particulars relating to those requirements as may be determined in accordance with the regulations are to be recorded in such manner as may be so determined; and
  - (c) provisions for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of this Part to be taken to comply, or not to comply, with the conditions of assignment,

and those provisions shall be set out separately in the Load Line Regulations under the title of “regulations as to conditions of assignment”.

(4) The Load Line Regulations shall also include provisions requiring such information relating to the stability of any ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the regulations to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) In relation to any matter authorised or required by this Part to be prescribed by the Load Line Regulations, those regulations may make different provisions by reference to (or to any combination of) any of the following, that is to say, different descriptions of ships, different areas, different seasons of the year and any other different circumstances.

(6) Except in so far as the context otherwise requires, in this Part, “deck-line” means such a mark as is referred to in subsection (2)(c), and “load lines” means such lines as are referred to in subsection (2)(d).

### *Saint Christopher and Nevis Ships*

#### **Compliance with Load Line Regulations.**

**222.** (1) Subject to any exemption conferred by or under this Part, no Saint Christopher and Nevis ship to which this Part applies shall proceed or attempt to proceed to sea unless—

- (a) the ship has been surveyed in accordance with the Load Line Regulations;



- (b) the ship is marked with a deck-line and with load lines in accordance with those regulations;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required by those regulations to be provided as mentioned in section 221(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) If any ship proceeds or attempts to proceed to sea in contravention of subsection (1), the owner or master of the ship commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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

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

#### **Submersion of load lines.**

**223.** (1) Where a Saint Christopher and Nevis ship to which this Part applies is marked with load lines, the ship shall not be so loaded that—

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship is submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of subsection (1), the owner and master of the ship commit, subject to subsection (5), an offence and are liable, on summary conviction, to a fine not exceeding ten thousand dollars and to such additional fine, not exceeding an amount calculated in accordance with subsection (3), as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) Any additional fine imposed under subsection (2) shall not exceed one hundred thousand dollars for each complete centimetre by which—

- (a) in a case falling within subsection (1)(a), the appropriate load line on each side of the ship was submerged; or
- (b) in a case falling within subsection (1)(b), the appropriate load line on each side of the ship would have been submerged as therein mentioned.

(4) If the master of a ship takes the ship to sea when it is loaded in contravention of subsection (1), or, if any other person, having reason to believe that the ship is so loaded, sends or is party to sending the ship to sea when it is loaded in contravention of that subsection, then without prejudice to any fine to which he or she may be liable in respect of an offence under subsection (2), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(5) Where a person is charged with an offence under subsection (2), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances

which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(6) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) may be detained until it ceases to be so loaded.

(7) For the purposes of the application of this section to a ship in any circumstances prescribed by the Load Line Regulations in accordance with section 221(2)(d) of this Part, “the appropriate load line” means the load line which, in accordance with those regulations, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

#### **Miscellaneous offences in relation to marks.**

**224.** Where a Saint Christopher and Nevis ship to which this Part applies is marked in accordance with any requirements as to marking imposed by or under this Part, then if—

- (a) the owner or master of the ship fails without reasonable excuse to keep the ship so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his or her control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he or she does so under the authority of a person empowered under the Load Line Regulations to authorise him or her for that purpose,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Issue of load line certificates.**

**225.** (1) Where a Saint Christopher and Nevis ship to which this Part applies has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship on his or her application.

(2) For the purposes of this section, the appropriate certificate—

- (a) in the case of a pre-1966 Convention ship of not less than 150 gross tonnage, and in the case of a post-1966 Convention ship of not less than 24 meters in length, is a certificate which shall continue to be called an “International load line certificate (1966)”; and
- (b) in the case of any other ship, is a certificate which shall continue to be called a “Saint Christopher and Nevis load line certificate”.

(3) Subject to subsection (4), any certificate required by subsection (1) to be issued shall—

- (a) be issued by the Director or by a person authorised for that purpose by the Director; and
- (b) be in such form and issued in such manner as may be prescribed by the Load Line Regulations.

(4) The Director may request a Contracting Government to issue an International load line certificate (1966) in respect of any ship to which this Part applies which is a Saint Christopher and Nevis ship falling within subsection (2)(a),

and the following provisions of this Part shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Government in Saint Christopher and Nevis, as they have effect in relation to an International load line certificate (1966) issued by the Director.

**Effect of load line certificate.**

**226.** Where a certificate, issued in pursuance of section 225 and for the time being in force, is produced in respect of the ship to which the certificate relates—

- (a) the ship shall be deemed to have been surveyed in accordance with the Load Line Regulations; and
- (b) if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the Load Line Regulations, and the positions of those lines so marked correspond to the positions of the deck-line and load lines so specified in the certificate, the ship shall be deemed to be marked as required by those regulations.

**Duration, endorsement and cancellation of load line certificates.**

**227.** (1) The Load Line Regulations shall make provision for determining the period during which any certificate issued under section 225 is to remain in force, including—

- (a) a provision enabling the period for which any such certificate is originally issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and
- (b) provision for cancelling any such certificate in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

- (a) periodical inspection of the ship in accordance with the Load Line Regulations, and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

**Ships not to proceed to sea without load line certificate.**

**228.** (1) Subject to any exemption conferred by or under this Part, no Saint Christopher and Nevis ship to which this Part applies shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the customs officer from whom a clearance for the ship is demanded, and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(4) In this section, “the appropriate certificate” means the certificate which is the appropriate certificate for the purposes of section 225.

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

**229.** (1) Where a certificate is issued in respect of a ship under section 225 the owner of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use.

(2) Before any Saint Christopher and Nevis ship to which this Part applies leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship, subject to subsection (4), shall cause a notice to be posted up in some conspicuous place on board the ship, which shall be in such form and containing such particulars relating to the depth to which the ship is for the time being loaded as may be specified in regulations made by the Minister under this Part.

(3) Where a notice required by subsection (2) has been posted up, the master of the ship shall cause it to be kept posted up and legible as required by that subsection until the ship arrives at some other dock, wharf, harbour or other place.

(4) If the owner or master of a ship fails to comply with any requirement of this section, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Inspection of ships.**

**230.** A surveyor may inspect any Saint Christopher and Nevis ship to which this Part applies for the purpose of verifying that the provisions of this Part have been complied with in respect of the ship.

*Non-Saint Christopher and Nevis Ships***Valid Convention certificates.**

**231.** (1) This section applies to any non-Saint Christopher and Nevis ship to which this Part applies which—

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

(2) The Director may, at the request of the government of a country as referred to in subsection (1), issue in respect of a ship referred to in subsection (1), a certificate in such form as may be prescribed by the Load Line Regulations, if the Director is satisfied that he or she could properly issue a certificate in respect of the ship under subsection 225(1) if the ship were a Saint Christopher and Nevis ship.

(3) The Load Line Regulations shall make such provision as appears to the Minister to be appropriate for ensuring that certificates which are issued as International load line certificates (1966) in respect of ships to which this section applies, and are so issued by governments other than the Government in Saint Christopher and Nevis, shall be recognised for the purposes of this Part in such circumstances as may be prescribed by the regulations.

(4) Certificates issued as mentioned in subsection (2) or (3) shall be included among the certificates called “International load line certificates (1966)”.

(5) In this Part, “valid Convention certificate” means a certificate which either—

- (a) has been issued under subsection (2) and is for the time being in force; and
- (b) having been issued as mentioned in subsection (3), is produced in circumstances in which it is required by the Load Line Regulations to be recognised for the purposes of this Part.

#### **Compliance with Load Line Regulations.**

**232.** (1) Subject to subsection (2), and to any exemption conferred by or under this Part, no non-Saint Christopher and Nevis ship to which this Part applies shall proceed or attempt to proceed to sea from any port in Saint Christopher and Nevis unless—

- (a) the ship has been surveyed in accordance with the Load Line Regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with those regulations;
- (c) the ship complies with the conditions of assignment; and
- (d) the information required by those regulations to be provided as mentioned in section 221(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) Subsection (1) does not apply to a ship in respect of which a valid Convention certificate is produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of the preceding provisions of this section, the owner or master of the ship commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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

(5) If any such ship as is mentioned in subsection (1), not being a ship in respect of which a valid Convention certificate is produced, does not comply with the conditions of assignment it shall be deemed to be unsafe for the purposes of Part XI.

#### **Submersion of load lines.**

**233.** (1) Where a non-Saint Christopher and Nevis ship to which this Part applies is within any port in Saint Christopher and Nevis, and is marked with load lines, the ship shall not be loaded that—

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Subsections (2), (3), (5) and (6) of section 223 shall have effect for the purposes of this section as if any references in those subsections to subsection (1) of that section, or to subsection (1)(a) or (b) of that section, were a reference to subsection (1), or (as the case may be) to the corresponding provision of subsection (1) of this section, subject, however, to subsection (3).

(3) In the case of a ship to which section 231 applies, the ship shall not be detained, and no proceedings shall be brought by virtue of subsection (2), unless the ship has been inspected by a ship surveyor or engineer surveyor in pursuance of section 236.

(4) In relation to a ship in respect of which a valid Convention Certificate is produced, “load line” in subsection (1) means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified in the certificate, the “appropriate load line” means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(5) Where a valid Convention Certificate is not produced in respect of a ship, then, for purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the Load Line Regulations in accordance with section 221(2)(d), “the appropriate load line” means the load line which, in accordance with those regulations indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(6) In subsections (4) and (5), “the relevant provisions” means the provisions of subsection (1) and any provisions of section 223 as applied by subsection (2).

#### **Saint Christopher and Nevis load line certificates.**

**234.** (1) Where a non-Saint Christopher and Nevis ship to which this Part applies has been surveyed and marked in accordance with the Load Line Regulations, then on the application of the owner of the ship a Saint Christopher and Nevis load line certificate shall be issued to him or her by the Director or by a person authorised for the purpose by the Director.

(2) Subject to subsection (3), sections 226 and 237 shall have effect in relation to a certificate issued under subsection (1) as they have effect in relation to a certificate issued under section 225.

(3) Any certificate issued under subsection (1) in respect of a ship to which section 231 applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Director if he or she has reason to believe that the ship is plying on international voyages.

#### **Production of certificate to customs officer.**

**235.** (1) Subject to any exemption conferred by or under this Part, before a non-Saint Christopher and Nevis ship to which this Part applies proceeds to sea from any port in Saint Christopher and Nevis, the master of the ship shall produce the appropriate certificate to the customs officer from whom a clearance for the ship is demanded, and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(2) For the purposes of this section, the appropriate certificate—

- (a) in the case of a ship to which section 231 applies, where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention certificate;
- (b) in the case of such a ship, where a clearance for the ship is demanded in respect of any other voyage, is either a valid Convention certificate or a Saint Christopher and Nevis load line certificate for the time being in force in respect of the ship; and

- (c) in any other case, is a Saint Christopher and Nevis load line certificate for the time being in force in respect of the ship.

#### **Provisions as to inspection.**

**236.** (1) Subject to the provisions of this section, a surveyor of ships may inspect any non-Saint Christopher and Nevis ship to which this Part applies while the ship is within any port in Saint Christopher and Nevis.

(2) Any such surveyor may go on board any ship to which section 231 applies, while the ship is within any port in Saint Christopher and Nevis, for the purpose of demanding production of any International load line certificate (1966) or Saint Christopher and Nevis load line certificate for the time being in force in respect of the ship.

(3) If on any such demand a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) shall be limited to seeing—

- (a) that the ship is not loaded beyond the limits allowed by the certificate;
- (b) that lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) that no material alterations have taken place in the hull or superstructures of the ship which affect the position in which any of those lines ought to be marked; and
- (d) that the fittings and appliances for the protection of openings, the guard rails, the free ports and means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) If on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in subsection (3)(c) or (d), that the ship is manifestly unfit to proceed to sea without danger to human life, it shall be deemed to be unsafe for the purposes of Part XI.

(5) Where a ship is detained under the provisions of this Act as applied by subsection (4), the Director shall order the ship to be released as soon as he or she is satisfied that the ship is fit to proceed to sea without danger to human life.

#### *Exemption*

#### **Power to make exemption orders.**

**237.** (1) If, in the opinion of the Director, the sheltered nature and conditions of international voyages—

- (a) between near neighbouring ports in Saint Christopher and Nevis and in another Convention country; or
- (b) between near neighbouring ports in any two or more countries or territories outside Saint Christopher and Nevis,

make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Director is satisfied that the government of the other country or territory (or, as the case may be, of each of the other countries or territories) concurs in that opinion, the Director may, by order specifying those ports,

direct that ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the provisions of this Part.

(2) The Director may, by order, direct that ships under the 80 tons Register engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from the provisions of this Part while not carrying cargo, or (if the order does so provide) shall exempt from the provisions of this Part whether carrying cargo or not.

(3) Any order made under this section may be made subject to such conditions as the Director thinks fit, and, where such order is made subject to conditions, the exemption conferred by that order shall not have effect in relation to a ship unless the ship complies with those conditions.

#### **Further powers to exempt ships.**

**238.** (1) In this section any reference to exempting a ship is a reference to exempting the ship either—

- (a) from all the provisions of this Part and of the Load Line Regulations; or
- (b) from such of those provisions as are specified in the instrument conferring the exemption.

(2) On the application of the owner of a Saint Christopher and Nevis ship to which this Part applies, which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship not less than 24 meters in length, the Director may exempt the ship if in his or her opinion the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Part and of the Load Line Regulations, the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a Saint Christopher and Nevis ship to which this Part applies, which is either—

- (a) a pre-1966 Convention ship of less than 150 gross tonnage or a post-1966 Convention ship of less than 24 meters in length; or
- (b) a ship not falling within paragraph (a) which does not ply on international voyages,

the Director may exempt the ship.

(4) Without prejudice to subsection (3), where a Saint Christopher and Nevis ship to which this Part applies, which is either a pre-1966 Convention ship of not less than 150 gross tonnage or a post-1966 Convention ship of less than 24 meters in length, does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, the Director, on the application of the owner of the ship, specifying the international voyage in question, may exempt the ship while engaged on that voyage.

(5) Any exemption conferred under this section may be conferred subject to such conditions as the Director thinks fit, and, where any such exemption is conferred subject to conditions the exemption shall not have effect unless those conditions are complied with.

#### **Issue of exemption certificates.**

**239.** (1) Where the Director exempts a ship under section 238, the Director shall issue the appropriate certificate to the owner of the ship.



- (2) For the purposes of this section, the appropriate certificate—
- (a) where the exemption is conferred under subsection (2) or subsection (4) of section 238, is an “International Load Line Exemption Certificate”; and
  - (b) where the certificate is conferred under subsection (3) of that section, is a “Saint Christopher and Nevis Load Line Exemption Certificate”.

(3) Any certificate issued under this section shall be in such form, and shall be issued in such a manner as may be prescribed by the Load Line Regulations.

#### **Durations, endorsement and termination of certificates and exemptions.**

**240.** (1) The Load Line Regulations shall make provision for determining the period during which any exemption conferred under section 241, or any certificate issued under section 239, is to remain in force, including—

- (a) provision enabling the period for which any exemption or certificate is originally conferred or issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and
- (b) provision for terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be so prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

- (a) the periodical inspections of the ship, in accordance with the Load Line Regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

#### **International Load Line Exemption Certificates.**

**241.** (1) The Load Line Regulations shall make such provision as appears to the Minister to be appropriate for ensuring that exemption certificates which in accordance with the 1966 Convention, are issued in respect of ships to which section 231 applies, and are so issued by governments other than the Government in Saint Christopher and Nevis, shall in such circumstances as may be prescribed by the regulations have the like effect for the purposes of this Part as if they were valid Convention certificates.

(2) Certificates issued as mentioned in subsection (1) shall be included among “International Load Line Exemption Certificates”.

#### *Subdivision Load Lines and Deck Cargo*

#### **Subdivision load lines.**

**242.** Where, in pursuance of safety regulations, a Saint Christopher and Nevis passenger ship to which this Part applies is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 223, then that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

**Deck cargo.**

**243.** (1) The Minister shall make regulations (in this section referred to as “the deck cargo regulations”) prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which this Part applies, and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

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

(3) In prescribing any such special requirements as are mentioned in subsection (2), the Minister shall have regard, in particular, to the provisions of Chapter IV of the 1966 Convention.

(4) If any provisions of the deck cargo regulations are contravened—

- (a) in the case of a Saint Christopher and Nevis ship; or
- (b) in the case of any other ship, while the ship is within any port in Saint Christopher and Nevis,

the master of the ship commits, subject to subsection (5), an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(5) Where a person is charged with an offence under subsection (4), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(6) For the purpose of securing compliance with the deck cargo regulations, any person authorised for the purpose by the Director may inspect any ship to which this Part applies which is carrying cargo in any uncovered space on its deck.

*Miscellaneous***Notice to consular officer of proceedings against foreign ships.**

**244.** (1) Where any non-Saint Christopher and Nevis ship is detained under this Part and where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being.

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

**Surrender of certificates.**

**245.** (1) The Director may require any certificate which can be issued under this Part, which has expired or been cancelled, to be surrendered as he or she directs.

(2) If any owner or master of a ship fails without reasonable excuse to comply with such a requirement, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

**Penalty for false certificate etc.**

**246.** If any person intentionally makes, assists in making or procures to be made, a false or fraudulent certificate which can be issued under this Part, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

**Admissibility of certificates in evidence.**

**247.** Any certificate issued under this part shall be admissible in evidence.

**Convention countries.**

**248.** In this Part—

“Contracting Government” means any such Government as is referred to in paragraph (a);

“Convention country” means a country or territory which is either—

- (a) a country the government of which has been declared under this paragraph to have accepted or acceded to the 1966 Convention, and has not been so declared to have denounced that Convention; or
- (b) a territory to which it has been so declared that the 1966 Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend.

**Orders, rules and regulations.**

**249.** Any order, rules or regulations made under this Part may contain such transitional or other incidental and supplementary provisions as may appear to the Minister, to be appropriate.

PART X

CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

*General*

**Application.**

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

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

(3) The provisions of this Part and any regulations made under section 255 respecting dangerous goods, shall apply to all Saint Christopher and Nevis Ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers at any place in Saint Christopher and Nevis as they apply to Saint Christopher and Nevis ships.

**Interpretation.**

**251.** In this Part, “grain” includes wheat, maize, corn, oats, rye, barley, rice, pulses, seeds and processed forms thereof, whose behaviour is similar to that of grain in its natural state.

*Carriage of Grain and other Bulk Cargoes***Bulk cargo regulations.**

**252.** The Minister may make regulations relating to—

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

**Carriage of grain.**

**253.** (1) Where grain is loaded on board any Saint Christopher and Nevis ship, or is loaded within the port in Saint Christopher and Nevis on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting, and if such precautions are not taken the owner or the master of the ship, or any agent of the owner who was charged with the loading, or with sending the ship to sea, laden with the grain, commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars, and the ship shall be deemed for the purposes of Part XI to be unsafe by reason of improper loading.

(2) Where any ship, having been loaded with grain outside Saint Christopher and Nevis without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Saint Christopher and Nevis so laden, the owner or master of the ship commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars, and the ship shall be deemed for the purposes of Part XI to be unsafe by reason of improper loading.

(3) No offence is committed under subsection (2) where the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

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

**Delivery of notice and offence.**

**254.** On the arrival at a port in Saint Christopher and Nevis from a port outside Saint Christopher and Nevis of any ship carrying a cargo of grain, the master shall cause to be delivered to a customs officer a notice stating—

- (a) the draught of water and freeboard of the ship after the loading of her cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried—

- (i) the kind of grain and the quantity thereof, stated in cubic feet, quarters bushels, of tons weight;
- (ii) the mode in which the grain is stowed; and
- (iii) the precautions taken to prevent the grain from shifting,

and if the master fails to deliver any notice required by this section, or if in any such notice he or she makes any statement that he or she knows to be false in a material particular, or recklessly makes any statement that is false in a material particular, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

### *Dangerous Goods*

#### **Dangerous goods regulations.**

**255.** (1) The Minister may by regulations prescribe which goods, articles or materials to be carried in a ship are dangerous goods in accordance with the Safety Convention in relation to the carriage of dangerous goods, and such regulations shall incorporate by reference, the International Maritime Dangerous Goods (IMDG) Code of the Organisation, including amendments thereto or replacements thereof.

(2) Without restricting the generality of subsection (1), the Minister may, by regulations, prescribe—

- (a) the method of packing and stowing such goods;
- (b) the quantity of such goods which may be carried in any ship;
- (c) the place or places within a ship in which they may be carried;
- (d) the marking that is to be placed on any package or container in which goods may be placed for shipment; and
- (e) the precautions to be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the provisions of the regulations.

#### **Carriage and marking of dangerous goods.**

**256.** (1) No person shall send by or carry in a Saint Christopher and Nevis ship, except in accordance with this Part and regulations made pursuant to section 255, any dangerous goods.

(2) No person shall send by or carry in a Saint Christopher and Nevis ship any dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the same in accordance with such regulations as the Minister may make and without first giving written notice of the nature of such goods and of the name and address of the sender thereof to the master or owner of the ship.

#### **Offences relating to dangerous goods.**

**257.** (1) Any person who contravenes any of the provisions of this Part with respect to dangerous goods, including regulations made under section 255, commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars.

(2) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods within a ship, that ship shall be deemed, for the purposes of Part XI, to be unsafe by reason of improper loading.

#### **Rejection and disposal of dangerous goods by ship.**

**258.** (1) The master or owner of any ship may refuse to take on board any package or parcel that he or she suspects might contain any dangerous goods and may require the package to be opened to ascertain its nature.

(2) When any dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board any ship without the marking or the written notice described in section 256, the master or owner of the ship may cause the goods, together with any package or container thereof, to be thrown overboard, and neither the master nor the owner of the ship is subject to civil or criminal liability in any Court in respect of such action.

#### **Forfeiture of dangerous goods.**

**259.** (1) Where any dangerous goods have been sent by or carried in any ship in a manner that would constitute an offence under this Part, the Court may order the goods, and any packaging or container thereof, to be forfeited.

(2) The Court may exercise the powers conferred by subsection (1) notwithstanding that—

- (a) the owner of the goods concerned has not committed any offence in respect of the goods, or is not before the Court, or has had no notice of the proceedings; and
- (b) there is no evidence to show to whom the goods belong,

but the Court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

## PART XI UNSAFE SHIPS

#### **Power to detain unsafe ships.**

**260.** (1) Where the Director has reason to believe that any ship, being in any port in Saint Christopher and Nevis, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in subsection (2) unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which it is intended, such ship is liable to be detained.

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

- (a) the condition, or the unsuitability for its purpose, of—
  - (i) the ship or its machinery or equipment; or
  - (ii) any part of the ship or its machinery or equipment;
- (b) under manning;
- (c) overloading or unsafe or improper loading;
- (d) any other matter relevant to the safety of the ship,

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consist of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

**Power to pay compensation and require security for compensation.**

**261.** (1) Subject to subsection (2), where a ship is detained under the provisions of this Act or any regulations made under this Act and the owner of the ship proves to the satisfaction of the Director that there was not reasonable cause for the detention of the ship, the Government may pay compensation to the owner of the ship for any loss or damage sustained by the owner by reason of such detention.

(2) In determining whether to pay such compensation and the amount thereof, the Government shall have regard to the provisions of any international agreement signed on behalf of the Government of the United Kingdom and applicable in or extended to Saint Christopher and Nevis.

(3) Subject to subsection (4), where a complaint is made to the Minister or the Director that a Saint Christopher and Nevis ship is unsafe, or otherwise does not comply with the provisions of this Act or any regulations made under this Act, the Minister, acting in his or her discretion may, if he or she thinks fit, require the complainant to give security to the satisfaction of the Minister for any compensation which may become payable by the Government pursuant to subsection (1).

(4) The security referred to in subsection (3) shall not be required where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship and is not in the opinion of the Director frivolous or vexatious.

(5) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government determines to pay compensation to the owner of the ship pursuant to subsection (1), the complainant shall be liable to pay to the Government all such compensation as the Government may pay under subsection (1) in respect of the detention of the ship.

**Owner and master liable in respect of unsafe ship.**

**262.** (1) If a ship which—

- (a) is in a port in Saint Christopher and Nevis; or
- (b) is a Saint Christopher and Nevis ship and is in any other port,

is unsafe, then, subject to subsections (4) and (5), the master and the owner of the ship each commits an offence.

(2) Where, at the time when a ship is unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed, whether wholly or in part, by any person other than the owner, and have been so assumed by that person or, as the case may be, by each of those persons either—

- (a) directly, under the terms of a charter party or management agreement made with the owner; or
- (b) indirectly, under the terms of a series of charter parties or management agreements,

the reference to the owner in subsection (1) shall be construed as a reference to that other person or, as the case may be, to each of those other persons.

(3) A person who commits an offence under this section is liable, on summary conviction, to a fine not exceeding twenty thousand dollars, or imprisonment not exceeding twelve months, or both.

(4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or
- (b) it was reasonable for such arrangements not to have been made.

(5) It shall also be a defence in proceedings for an offence under this section to prove—

- (a) that, under the terms of one or more charter parties or management agreement entered into by the accused, the relevant responsibilities, namely—
  - (i) where the accused is the owner, his or her responsibilities with respect to the matters relevant to the ship's safety; or
  - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by him or her as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

- (b) that in all the circumstances of the case, the accused had taken such steps as it was reasonable for him or her to take, and exercised such diligence as it was reasonable for him or her to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a),

and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6).

(6) Those matters are—

- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
- (b) the extent to which the accused was or was not able, under the terms of any such charter party or management agreement as is mentioned in subsection (5)(a)—
  - (i) to terminate it; or
  - (ii) to intervene in the management of the ship,in the event of any such deficiency, and whether it was reasonable for the accused to place himself or herself in that position.

(7) In this section—

“management agreement”, in relation to a ship, means any agreement (other than a charter party, or a contract of employment) under which the ship is managed,



either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person);

“relevant responsibilities” shall be construed in accordance with subsection (5).

(8) Reference in this section to responsibilities being assumed by a person under the terms of a charter party or management agreement are references to their being so assumed by him or her whether or not he or she has entered into a further charter party or management agreement providing for them to be assumed by some other person.

#### **Use of unsafe lighters, etc.**

**263.** (1) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of—

- (a) the defective condition of its hull or equipment;
- (b) overloading or improper loading; or
- (c) under manning,

it is so unsafe that human life is thereby endangered, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars.

(2) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

#### **Owner liable for unsafe operation of ship.**

**264.** (1) It shall be the duty of the owners of a ship to which this section applies to take all reasonable steps to ensure that the ship is operated in a safe manner.

(2) This section applies to—

- (a) any Saint Christopher and Nevis ship; and
- (b) any ship which—
  - (i) is registered under the laws, or flies the flag, of any country other than Saint Christopher and Nevis; and
  - (ii) is within Saint Christopher and Nevis waters while proceeding to or from a port in Saint Christopher and Nevis,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him or her by subsection (1), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars, or imprisonment for a term not exceeding twelve months, or both.

(4) Where any such ship is bareboat chartered, or is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 263, any reference to the owner of the ship in subsection (1) or (3) shall be construed as including a reference—

- (a) to the charterer under the bareboat charter;
- (b) to any such manager as mentioned above; or

- (c) if the ship is both chartered and managed as mentioned above, to both the charterer and any such manager,

and accordingly the reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him or her to take in the circumstances of the case.

## PART XII

### WRECK AND SALVAGE

#### **Interpretation.**

**265.** (1) In this Part—

“damage to the environment” means a physical damage to human health or to marine life or resources in coastal or inland waters or area adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

“maritime casualty” means a collision of vessels, stranding or other incident of navigation or other occurrence on board a vessel or external to it, resulting in material damage or imminent threat of material damage to a vessel or cargo;

“payment” means any reward, remuneration or compensation due under this Part;

“property” means any property not permanently and intentionally attached to the shoreline and includes freight at risk, and wherever the context so requires also includes a vessel, cargo, equipment and effects;

“Receiver” means the Receiver of Wreck appointed under section 266;

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“Salvage Convention” means the International Convention on Salvage, 1989;

“salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters;

“salvage services” means services rendered in direct connection with salvage operations;

“salvor” means any person rendering salvage services;

“vessel” includes any ship or boat, or any other description of vessel used in navigation;

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either—

(a) found or taken possession of within Saint Christopher and Nevis waters; or

(b) found or taken possession of beyond those waters and brought within those waters,

shall be treated as wreck for the purposes of this Part.

(3) A wreck found in a marine park or protected area declared as such under the Marine Parks and Protected Area Act shall, notwithstanding anything contained in this Part, not be salvaged or removed without the written authority of the Minister.

(4) Before granting an authorisation under subsection (3), the Minister shall consider the need to preserve the wreck for historical or other purposes, taking into account such environmental considerations as may be necessary.

(5) When the Minister grants authorisation under subsection (3), he or she may impose such term and conditions and issue such directives as he or she may consider fit.

### *Wreck*

#### **Appointment and powers of Receiver of Wreck.**

**266.** (1) The Director shall be the Receiver of Wreck for Saint Christopher and Nevis and in that capacity shall exercise general direction and supervision over all matters relating to wreck and salvage.

(2) Sections 268, 269 and 270 apply in circumstances where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Saint Christopher and Nevis or any tidal water within Saint Christopher and Nevis waters.

(3) Where any function is conferred on the Receiver by any of those sections, that function may be discharged by any customs officer.

(4) An officer discharging any such function of the Receiver shall, with respect to any goods or articles belonging to a vessel, the delivery of which to the Receiver is required by any provision of this Part, be treated as the agent of the Receiver.

(5) An officer discharging any functions under subsection (4) shall not be entitled to any fees payable to the Receiver, but shall not be deprived of any right to salvage to which he or she would otherwise be entitled.

(6) In any of those sections, “shipwrecked persons”, in relation to a vessel, means persons belonging to the vessel.

#### **Fees of Receiver.**

**267.** (1) There shall be paid to the Receiver the expenses properly incurred by him or her in the performance of his or her duties and such fees in respect of such other matters as may be prescribed, and the Receiver shall not be entitled to any other remuneration.

(2) The Receiver shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him or her and may, if the property in respect of which any such expenses and fees are due is not under arrest in any Court, seize or detain the property until his or her expenses and fees are paid, or until security is given therefor to his or her satisfaction.

(3) Whenever any dispute arises as to the amount payable to the Receiver in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final.

(4) All fees received by the Receiver in respect of any services performed by him or her as such Receiver, shall be paid to the Accountant-General, and a separate

account thereof shall be kept, and the monies arising therefrom shall be applied in defraying any expenses duly incurred in carrying this Part into effect.

**Duty of Receiver where vessel is in distress.**

**268.** (1) In circumstances in which this section applies by virtue of section 266 in relation to any vessel the Receiver shall, on being informed of the circumstances—

- (a) forthwith proceed to the place where the vessel is;
- (b) take command of all persons present; and
- (c) assign such duties and give such directions to each person as he or she thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.

(2) The Receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he or she is requested to do so by the master.

(3) Subject to subsection (2), if any person intentionally disobeys the direction of the Receiver he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Powers of Receiver in case of vessel in distress.**

**269.** (1) In circumstances where this section applies by virtue of section 266 in relation to any vessel the Receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment—

- (a) require such persons as he or she thinks necessary to assist him or her;
- (b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his or her men, or vessel, as may be in his or her power; and
- (c) require the use of any vehicle that may be near at hand.

(2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Power to pass over adjoining land.**

**270.** (1) In the circumstances where this section applies by virtue of section 266 in relation to any vessel, all persons may, subject to subsections (3) and (4), for the purpose of—

- (a) rendering assistance to the vessel;
- (b) saving the lives of shipwrecked persons; or
- (c) saving the cargo or equipment of the vessel,

pass and repass over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.

(2) The right of passage conferred by subsection (1) is a right of passage with or without vehicles.

(3) No right of passage is conferred by subsection (1) where there is some public road equally convenient.

(4) The rights conferred by subsection (1) shall be so exercised as to do as little damage as possible.

(5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of, or by which, the damage is caused.

(6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.

(7) If the owner or occupier of any land—

- (a) impedes or hinders any person in the exercise of the rights conferred by this section;
- (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or
- (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### **Duties of finder, etc. of wreck.**

**271.** (1) If any person finds or takes possession of any wreck in Saint Christopher and Nevis waters or finds or takes possession of any wreck outside Saint Christopher and Nevis waters and brings it within those waters he or she shall—

- (a) if he or she is the owner of it, give notice to the Receiver stating that he or she has found or taken possession of it and describing the marks by which it may be recognised; or
- (b) if he or she is not the owner of it, give notice to the Receiver that he or she has found or taken possession of it and, as directed by the Receiver, either hold it to the Receiver's order or deliver it to the Receiver.

(2) If any person fails, without reasonable excuse, to comply with subsection (1), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale, and if he or she is not the owner of the wreck he or she shall also—

- (a) forfeit any claim to salvage; and
- (b) be liable to pay twice the value of the wreck—
  - (i) if it is claimed, to the owner of it; or
  - (ii) if it is unclaimed, to the person entitled to the wreck.

(3) Any sum payable under subsection (2)(b) to the owner of the wreck or to the persons entitled to the wreck may be recovered summarily as a civil debt.

#### **Provisions as respects cargo, etc.**

**272.** (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coast of Saint Christopher and Nevis, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the Receiver.

- (2) If any person (whether the owner or not)—
- (a) conceals or keeps possession of any such cargo or article; or
  - (b) refuses to deliver any such cargo or article to the Receiver or to any person authorised by the Receiver to require delivery,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(3) The Receiver or any person authorised by him or her may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

#### **Receiver to give notice of wreck.**

**273.** (1) Where the Receiver takes possession of any wreck he or she, shall within forty-eight hours—

- (a) make a record describing the wreck and any marks by which it is distinguished; and
- (b) if in his or her opinion the value of the wreck exceeds ten thousand dollars, also transmit a similar description to the Director.

(2) The record made by the Receiver under subsection (1)(a) shall be kept by him or her available for inspection by any person during official working hours without charge.

#### **Claims of owners of wreck.**

**274.** (1) The owner of any wreck in the possession of the Receiver who establishes his or her claim to the wreck to the satisfaction of the Receiver within one year from the time when the wreck came into the Receiver's possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him or her.

- (2) Where—
- (a) a foreign ship has been wrecked on or near the coasts of Saint Christopher and Nevis; or
  - (b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of Saint Christopher and Nevis are found on or near the coast or are brought into any port,

the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.

(3) In subsection (2), “appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo, may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

#### **Immediate sale of wreck in certain cases.**

**275.** (1) The Receiver may at any time sell any wreck in his or her possession if, in his or her opinion—

- (a) it is under the value of ten thousand dollars;

- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value to pay for storage.

(2) The proceeds of sale shall, after defraying the expenses of the sale, be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

**Right of Government to unclaimed wreck.**

**276.** The Government is entitled to all unclaimed wrecks found in Saint Christopher and Nevis or in Saint Christopher and Nevis waters.

**Notice of unclaimed wreck to be given to persons entitled.**

**277.** (1) Any person who is entitled to an unclaimed wreck found at any place in Saint Christopher and Nevis or in Saint Christopher and Nevis waters shall give the Receiver a statement containing the particulars of his or her entitlement and specifying an address to which notices may be sent.

(2) Where a statement has been given to the Receiver under subsection (1) and the entitlement is proved to the satisfaction of the Receiver, the Receiver shall, on taking possession of any wreck found at a place to which the statement refers, within forty-eight hours, send to the specified address a description of the wreck and of any marks distinguishing it.

**Disposal of unclaimed wreck.**

**278.** (1) Where, as respects any wreck found in Saint Christopher and Nevis or in Saint Christopher and Nevis waters and in the possession of the Receiver, no owner establishes a claim to it within one year after it came into the Receiver's possession, the wreck shall be dealt with as provided in this section.

(2) If the wreck is claimed by any person who has delivered the statement required by section 277 and has proved to the satisfaction of the Receiver his or her entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.

(3) If the wreck is not claimed by any person in accordance with section 277, the Receiver shall sell the wreck and pay the proceeds as prescribed by subsection (6), after making the deductions required by subsection (4) and paying to the salvors the amount of salvage determined under subsection (5).

- (4) The amounts to be deducted by the Receiver are—
  - (a) the expenses of the sale;
  - (b) any other expenses incurred by him or her; and
  - (c) his or her fees.

(5) The amount of salvage to be paid by the Receiver to the salvors shall be such amount as the Minister directs generally or in the particular case.

(6) The proceeds of sale, after making those deductions and salvage payments, shall be paid by the Receiver to the Accountant-General.

**Effect of delivery of wreck, etc. under this Part.**

**279.** (1) Delivery of wreck or payment of the proceeds of sale of wreck by the Receiver under this Part shall discharge the Receiver from all liability in respect of the delivery or payment.

(2) Delivery of wreck by the Receiver under this Part shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

**Offence for taking wreck to foreign port.**

**280.** (1) A person commits an offence if he or she takes into a foreign port and sells—

- (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of Saint Christopher and Nevis or any tidal water within Saint Christopher and Nevis waters;
- (b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or
- (c) any wreck found within the waters referred to in paragraph (a).

(2) A person who commits an offence under this section is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars, or to imprisonment for a term not exceeding five years, or both.

**Offence for interfering with wrecked vessel or wreck.**

**281.** (1) Subject to subsection (2), a person commits an offence if, without the permission of the master, that person boards or attempts to board any vessel which is wrecked, stranded or in distress.

(2) No offence is committed under subsection (1) if the person is the Receiver or a person lawfully acting as the Receiver or if the person acts by command of the Receiver or a person so acting.

(3) A person commits an offence if—

- (a) he or she impedes or hinders or attempts to impede or hinder the saving of—
  - (i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;
  - (ii) any part of the cargo or equipment of any such vessel; or
  - (iii) any wreck;
- (b) the person conceals any wreck;
- (c) the person defaces or obliterates any mark on a vessel; or
- (d) the person wrongfully carries away or removes—
  - (i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;
  - (ii) any part of the cargo or equipment of any such vessel; or
  - (iii) any wreck.



(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1).

(5) A person who commits an offence under this section is liable, on summary conviction—

- (a) in the case of an offence under subsection (1), to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence under subsection (3), to a fine not exceeding level 4 on the standard scale.

#### **Powers of entry, etc.**

**282.** (1) Where the Receiver has reason to believe that—

- (a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or
- (b) any wreck is being otherwise improperly dealt with,

the Receiver may apply to the Court for a search warrant.

(2) Where a search warrant is granted under subsection (1) to the Receiver, he or she may, by virtue of the warrant—

- (a) enter any house, or other place wherever situated, or any vessel; and
- (b) search for, seize and detain any wreck found there.

(3) If any seizure of wreck is made under this section in consequence of information given by any person to the Receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding two hundred dollars, as the Receiver may allow.

#### **Release of goods from customs control.**

**283.** (1) The Comptroller of Customs shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked—

- (a) on its homeward voyage to be forwarded to the port of its original destination; and
- (b) on its outward voyage to be returned to the port at which the goods were shipped.

(2) In this section, “goods” includes wares and merchandise.

#### **Powers of Ports Authority in relation to wrecks.**

**284.** (1) Where any vessel is sunk, stranded or abandoned in, or near any approach to, any port, harbour or tidal water under the control of the Saint Christopher Air and Sea Ports Authority and the Nevis Air and Sea Ports Authority in such a manner as, in the opinion of the relevant Authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that port, harbour or water or approaches thereto, the relevant Authority may exercise any of the powers in subsection (2).

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

- (a) to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;

- (b) to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed;
- (c) subject to subsections (5) and (6), to sell, in such manner as the relevant Authority thinks fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b);
- (d) to reimburse itself, out of the proceeds of the sale, for the expenses incurred by it in relation to the sale; and
- (e) where the proceeds of a sale under paragraph (c) are less than the expenses incurred, to recover the balance in civil proceedings as a debt due to the relevant Authority.

(3) The other property to which the powers conferred by subsection (2) extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.

(4) Any surplus of the proceeds of a sale under subsection (2)(c) shall be held by the relevant Authority in trust for the persons entitled thereto.

(5) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under subsection (2)(c) until at least seven days' notice of the intended sale has been given by advertisement in a local newspaper circulating in Saint Christopher and Nevis.

(6) At any time before the property is sold under subsection (2)(c), the owner of the property shall be entitled to have it delivered to him or her on payment of its fair market value.

(7) The market value of property for the purposes of subsection (6) shall be that agreed to between the Authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Minister.

(8) The sum paid to the relevant Authority in respect of any property under subsection (6) shall, for the purposes of this section, be treated as the proceeds of sale of the property.

(9) Any proceeds of sale arising under subsection (2)(c) from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

(10) An order of the court is not necessary for the taking of possession and sale of a vessel under this section and no liability attaches to the Crown, the relevant Authority or any person acting under the authorisation of the relevant Authority for any act performed under section (2).

(11) This section is without prejudice to any other powers of the Saint Christopher Air and Sea Ports Authority and the Nevis Air and Sea Ports Authority or a Managing Director of any of those Authorities, under the Saint Christopher Air and Sea Ports Authority Act of 1993 and the Nevis Air and Sea Ports Authority Act, of 1995 or any other enactment relating to wrecks.

*Salvage***Non-application to platforms and drilling units.**

**285.** Sections 287 to 320 shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

**Non-application to foreign state-owned vessels.**

**286.** (1) Sections 287 and 320 shall not apply to warships or other non-commercial vessels owned or operated by a foreign state and entitled at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that state has decided to apply the Salvage Convention to such ships or vessels.

(2) For the purposes of any proceedings under this Act, a certificate signed by the Secretary-General of the Organisation, setting out a State's decision to apply the Convention to ships and vessels referred to in subsection (1) and the terms and conditions of such application, shall be *prima facie* evidence of the facts stated therein.

**Life salvage.**

**287.** (1) Where services are rendered—

- (a) wholly or in part in Saint Christopher and Nevis waters in saving life from any vessel; or
- (b) outside Saint Christopher and Nevis waters in saving life from any Saint Christopher and Nevis vessel,

the owner of the vessel, cargo or equipment saved shall pay to the salvor a reasonable amount of salvage to be determined in the manner set out in this Part.

(2) Salvage in respect of the preservation of life, when payable by the owner of a vessel, shall have priority over all other claims for salvage.

(3) Under no circumstances shall salvage be due from a person whose life has been saved.

**Salvage of cargo.**

**288.** (1) Where any vessel is wrecked, stranded or in distress in Saint Christopher and Nevis waters or on the shores of Saint Christopher and Nevis and services are rendered—

- (a) by any person assisting the vessel or saving the cargo or equipment of the vessel or any part thereof;
- (b) by any person other than the Receiver in saving any wreck,

the owner of the vessel, cargo, equipment or wreck shall pay to the salvor, a reasonable amount of salvage, to be determined in the manner set out in this Part.

(2) A salvor of human life, who has participated in services rendered in the event of a maritime casualty giving rise to salvage shall be entitled to a fair share of the remuneration awarded to the salvor for salvaging the vessel or other property or preventing or minimising damage to the environment.

**Services excluded from salvage remuneration.**

**289.** Nothing in this Part shall entitle any person to salvage remuneration—

- (a) in respect of salvage services rendered contrary to any express and reasonable prohibition of such services on the part of the vessel or aircraft or by the owner of property to which such services are rendered;
- (b) in respect of services rendered by a tug to, or in respect of, the vessel or aircraft which it is towing or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of towage;
- (c) if that person has caused the distress giving rise to the salvage, either intentionally or through negligence;
- (d) if and to such extent as it appears that that person has concealed or unlawfully disposed of any property salvaged.

**Conditions for salvage remuneration.**

**290.** (1) Except as otherwise provided in section 299, no remuneration shall be due under this Act if the salvage operations had no useful result.

(2) A salvor shall be entitled to remuneration under this Part notwithstanding that the vessel performing the salvage operation and the vessel, cargo or other property salvaged belong to the same owner.

**Salvage contracts.**

**291.** (1) Sections 287 to 317 shall apply to any salvage operation unless a contract expressly or by implication provides otherwise.

(2) The master of a Saint Christopher and Nevis vessel shall have the authority to conclude contracts for salvage operations on behalf of the vessel and the master and the owner of a Saint Christopher and Nevis vessel shall have the authority to conclude contracts on behalf of the owner of property on board the vessel.

(3) Nothing in this section shall affect the application of section 292 or the duties to prevent or minimise damage to the environment provided in paragraph (b) of section 293 and paragraph (b) of section 294.

**Annulment or modification of contracts.**

**292.** Any contract relating to salvage or any terms thereof may be annulled or modified by the Court, where it appears to the Court that—

- (a) the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is too large or too small for the services actually rendered.

**Duties of salvor.**

**293.** The salvor shall owe a duty to the owner of the vessel or other property in danger to—

- (a) carry out the salvage operation with due care;

- (b) exercise due care to prevent or minimise danger to the environment in performing the duty specified in paragraph (a);
- (c) seek assistance from other salvors whenever the circumstances reasonably so require; and
- (d) accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or the owner of other property in danger, provided that the amount of his or her reward shall not be prejudiced where he or she proves that such a request was unreasonable.

**Duties of owner and master.**

**294.** The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—

- (a) to co-operate fully with him or her during the course of the salvage operations;
- (b) in performing the duty specified in paragraph (a), to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested to do so by the salvor.

**Powers of Director.**

**295.** (1) The Director may—

- (a) give directions in relation to any salvage operation; and
- (b) take measures in accordance with generally recognised principles of international law to protect the environment from pollution following a maritime casualty or acts relating to such casualty which may reasonably be expected to result in harmful consequences.

(2) The Director shall, in giving directions and taking measures under subsection (1), take into account the need for co-operation between salvors, other interested parties and the public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

(3) Any public officer or other person acting under directions referred to in this section shall be under a duty to exercise due care in preventing or minimising damage to the environment.

(4) Any public authority or an officer thereof who is reasonably within the vicinity of a vessel or person in distress or danger of being lost at sea shall render assistance to save the vessel and life by co-operating in—

- (a) the procurement and provision of facilities to salvor;
- (b) the admittance to the port of vessels in distress;
- (c) ensuring the efficient and successful performance of the salvage operation for the purpose of saving life or property; and
- (d) preventing or minimising damage to the environment.

**Criteria for fixing salvage awards.**

**296.** Salvage rewards shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are listed—

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success achieved by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and the expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations; and
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

**Responsibility for payment of reward.**

**297.** (1) Payment of a reward fixed in accordance with section 296 shall be made by all of the owners of the vessel and other property interests in proportion to their respective salvaged values.

(2) For expediency, the ship owner shall pay the reward on behalf of all interests referred to in subsection (1) subject to his or her retaining the right to be reimbursed by these other interests.

(3) The ship owner who makes the payment under subsection (2), may require the other interests to provide security not exceeding the values of their respective salvaged interests until he or she has been fully reimbursed.

**Quantum of reward.**

**298.** The salvage reward, excluding any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property salvaged.

**Special compensation.**

**299.** (1) Where a salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under this Part equivalent at least to the special compensation assessable under subsection (2), the salvor shall be entitled to special compensation from the owner of that vessel equivalent to his or her expenses as defined in subsection (3).

(2) Where, in the circumstances set out in subsection (1), the salvor by his or her salvage operations has prevented or minimised damage to the environment, the

special compensation payable by the owner to the salvor under subsection (1) may be increased up to a maximum of thirty percent of the expenses incurred by the salvor, and the Court or person determining the award may, where it or he or she deems it fair and just, increase such special compensation further, bearing in mind the criteria set out in section 296, but in no event shall the total increase be more than one hundred per cent of the expenses incurred by the salvor.

(3) For the purposes of subsections (1) and (2), “salvor’s expenses” means the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in paragraphs (h), (i) and (j) of section 296.

(4) The total special compensation assessable under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable under section 296.

(5) Where the salvor, in carrying out the salvage operations, has acted negligently and has thereby failed to prevent or minimise damage to the environment, he or she may be deprived of the whole or a part of any special compensation payable under this section.

(6) Nothing in this section shall affect any right of recourse available to the owner of the vessel.

**Services rendered under existing contract.**

**300.** No payment is due under this Part unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger giving rise to the salvage operations arose.

**Apportionment between salvors.**

**301.** (1) The apportionment between salvors of a reward fixed under section 296 shall be made on the basis of the criteria listed in that section.

(2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the State in which the vessel is registered.

(3) Where the salvage referred to in subsection (1) has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his or her servant, and in the absence of formal contract, the Court or person determining the apportionment and disbursement shall apply general principles of law and equity according to the merits of the case in order to reach a just and equitable decision.

**Salvor’s misconduct, and offences.**

**302.** (1) A salvor may be deprived of the whole or part of the payment due to him or her under this Part to the extent that the salvage operation has become necessary or more difficult because of fault or neglect on his or her part or if the salvor is found guilty of fraud or other dishonest conduct.

(2) Any person who, for the purpose of obtaining salvage or for any other purpose—

(a) wilfully sets any vessel adrift; or

- (b) cuts, breaks or unfastens the moorings of any vessel with intent to set the vessel adrift,

commits an offence and is liable, on conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months, or both.

#### **Maritime lien.**

**303.** Nothing in this Part shall affect the salvor's maritime lien under any law of Saint Christopher and Nevis, provided, however, that the salvor may not enforce his or her maritime lien when reasonable security for his or her claim, including interest and costs, has been tendered or provided.

#### **Duty to provide security.**

**304.** (1) A person liable for a payment under this Part shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

(2) Without prejudice to subsection (1), the owner of the salvaged vessel shall take all reasonable steps to ensure that the owner of the cargo provides security to the satisfaction of the owner of the vessel or of the salvor for the claims against them, including interest and costs, before the cargo is released.

(3) The salvaged vessel and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operation, until security to the satisfaction of the salvor has been put up for the salvor's claim against the relevant vessel or property.

(4) In the event of any dispute between the salvor and a person liable for a payment under this Part, or between the owner of the vessel and the owner of the cargo referred to in subsection (2), relating to the security to be provided under this section, the tribunal having jurisdiction over the salvors' claim may, upon the application of any such party in that behalf, decide the amount and the terms of such security.

#### **Interim payment.**

**305.** (1) The Court or person adjudicating the claim of the salvor may, upon the application of the salvor, make an interim order for payment to the salvor of such amount as the Court or person may deem fair and just, and on such terms, including terms as to security where appropriate, as may be fair and just in the circumstances of the case.

(2) In the event of any interim payment under subsection (1), the security provided under section 304 shall be reduced accordingly.

#### **State-owned cargoes.**

**306.** Non-commercial cargoes owned by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law, shall not be subject to seizure, arrest or detention by any legal process, or to any *in rem* proceedings, without the express consent of the State owner of such cargo.



**Humanitarian cargoes.**

**307.** No humanitarian cargoes donated by a State shall be subject to seizure, arrest or detention, where such State has agreed to pay for salvage service rendered in respect of such humanitarian cargoes.

**Determination of salvage dispute.**

**308.** (1) Disputes as to the amounts of salvage, whether rendered within or outside Saint Christopher and Nevis arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined by the Court in any case where all of the following conditions are met, namely—

- (a) the parties to the dispute consent;
- (b) the value of the property salvaged does not exceed twenty-five thousand dollars;
- (c) the amount claimed does not exceed ten thousand dollars.

(2) Subject to subsection (1), disputes as to salvage shall be determined by the Court, but if the claimant does not recover in the Court more than ten thousand dollars, he or she shall not be entitled to recover any costs, charges or expenses incurred by him or her in the prosecution of his or her claim unless the Court certifies that the case is a fit one to be tried by the Court.

(3) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property salvaged, or of their respective agents.

(4) The Court or the arbitrators to whom a dispute as to salvage is referred for determination may, for the purpose of determining any such dispute, call to their assistance, as an assessor, any person knowledgeable in maritime affairs and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his or her services such sum as may be prescribed.

**Appeal in cases of salvage dispute.**

**309.** Where a dispute relating to salvage has been determined by the Court or by arbitration, any party aggrieved by the decision may appeal therefrom, in like manner as in the case of any other judgement.

**Valuation of property salvaged.**

**310.** (1) Where any dispute relating to salvage arises, the Receiver may, on the application of either party, appoint a valuer to value the property, and when the valuation has been made, shall give copies thereof to both parties.

(2) A copy of the valuation purporting to be signed by the valuer and certified as a true copy by the Receiver, shall be admissible as evidence in any subsequent proceedings.

(3) Such fee as the Director may direct shall be paid in respect of any valuation made under this section by the person applying for such valuation.

**Detention of property liable to salvage.**

**311.** (1) Where salvage is due to any person under this Part, the Receiver shall—

- (a) where the salvage is due in respect of services rendered in assisting any vessel or in saving life therefrom or in saving the cargo or equipment thereof, detain the vessel or cargo or equipment; and
- (b) where the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Part, detain the wreck.

(2) Subject to subsection (3), the Receiver shall detain the vessel and the cargo and equipment or the wreck, as the case may be, until payment is made for salvage or process is issued for the arrest or detention of the property by the Court.

(3) The Receiver may release any property detained under subsection (2) where security is given to his or her satisfaction, or, where the claim for salvage exceeds ten thousand dollars, and any question is raised as to the sufficiency of the security to the satisfaction of the Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding ten thousand dollars may be enforced by the Court in the same manner as if bail had been granted in that Court.

#### **Sale of detained property.**

**312.** (1) The Receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following circumstances—

- (a) where the amount is not disputed and payment of the amount due is not made within twenty days after it has become due;
- (b) where the amount is disputed but no appeal lies from the decision of the first Court to which the dispute was referred, and payment is not made within twenty days after the decision of the Court;
- (c) where the amount is disputed and an appeal lies from the decision of the first Court to which the dispute is referred, and within thirty days after the decision of the first Court neither payment of the sum due is made nor proceedings are commenced for an appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the Receiver in payment of the expenses, fees and salvage, and any excess shall be paid to the owners of the property, or any other persons entitled to it or in the absence of any such owners or person, into the Consolidated Fund.

(3) In this section, “detained property” means property detained by the Receiver under section 311(2).

#### **Apportionment of salvage by Receiver.**

**313.** (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Saint Christopher and Nevis has been finally determined either by the Court in the manner provided by this Part or by agreement, and does not exceed ten thousand dollars, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to the Receiver for leave to pay it to him or her.

(2) The Receiver shall, if he or she thinks fit, receive the amount referred to in subsection (1) and if he or she does, he or she shall give to the person paying it, a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate granted under subsection (2) shall be a full discharge and indemnity to the person by whom the amount was paid and to his or her vessel, cargo, equipment and effects, against the claims of all persons in respect of the services mentioned in the certificate.

(4) The Receiver shall promptly distribute any amount received by him or her under this section among the persons entitled thereto on such evidence and in such shares and proportions as he or she thinks fit, and may retain any money which appears to him or her to be payable to any person who is absent.

(5) Any decision by the Receiver under subsection (4) shall be made on the basis of the criteria set out in section 296.

(6) A distribution of any amount made by the Receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

#### **Apportionment of salvage by Court.**

**314.** (1) Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Saint Christopher and Nevis has been finally determined and exceeds ten thousand dollars, or whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Saint Christopher and Nevis has been finally determined, but in either case any delay or dispute arises as to the apportionment thereof, the Court may—

- (a) cause such amount to be apportioned among the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;
- (b) compel any person in whose hands or under whose control the amount may be to distribute such amount or to bring it into Court to be dealt with as the Court directs; and
- (c) issue such process as it thinks fit.

(2) Any decision of the Court under this section shall be made on the basis of the criteria set out in section 299.

#### **Salvor's right to interest.**

**315.** A salvor shall be entitled to be paid interest on any payment due to him or her under this Part, and the amount of such interest shall be at the discretion of the Court or person adjudicating the case.

#### **Application to the Government.**

**316.** (1) Where civil salvage services are rendered by or on behalf of the Government, or with the aid of Government property, the Government shall, subject to any regulations made under this section, be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies as any other salvor.

(2) Subject to the provision of any Act for the time being in force relating to proceedings against the Government and of any regulations made under this section, the provisions of this Part, except and to such extent as may be prescribed, shall apply in relation to salvage services rendered in assisting any ship of the Government, or in saving life therefrom, or in saving any cargo or equipment belonging to the

Government, in the same manner as if the ship, cargo or equipment belonged to a private person.

**Regulations.**

**317.** The Minister may make regulations providing for the application or modification of the provisions of this Part to ships referred to in subsection (2) of section 316, and in relation to the services referred to in subsection (1) of that section.

**Time limit for salvage proceedings.**

**318.** (1) No action shall be instituted in respect of any salvage services unless proceedings therein are commenced within two years after the date on which the salvage operations were terminated, but the Court may extend any such period to such extent and on such conditions as it considers fit.

(2) An action for indemnity by a person liable under this Part may be instituted within two years after the date of termination of the salvage operations, but the Court may extend the limitation period to such extent and on such conditions as it considers fit.

**The common understanding regarding the reward and special compensation.**

**319.** In fixing a reward under sections 226, 227 and 228, and assessing special compensation under section 299, the Court or arbitrator is under no duty to fix a reward under sections 226, 227 and 228, up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under section 299.

**Recourse for life salvage payment.**

**320.** (1) This section applies where—

- (a) services are rendered wholly or in part in Saint Christopher and Nevis waters in saving life from a vessel of any nationality or elsewhere in saving life from any Saint Christopher and Nevis ship; and
- (b) either—
  - (i) the vessel and other property are destroyed; or
  - (ii) the sum to which the salvor is entitled under section 288(2) is less than a reasonable amount for the services rendered in saving life.

(2) Where this section applies, the Minister may, if he or she thinks fit, cause to be paid to the salvor such sum or, as the case may be, such additional sum as he or she thinks fit in respect of the services rendered in saving life.

**PART XIII****CONTROL OF, AND RETURNS AS TO, PERSONS ON SHIPS****Offences in connection with passenger ships.**

**321.** (1) A person commits an offence if, in relation to a ship to which this section applies, he or she does any of the following things—

- (a) if, being drunk or disorderly, he or she has been on that account refused admission to the ship by the owner or any person in the employment of the owner, and, after having the amount of his or her fare (if he or she has paid it) returned or tendered to him or her, nevertheless persists in attempting to enter the ship;
- (b) if, being drunk or disorderly on board the ship, he or she is requested by the owner or any person in the employment of the owner to leave the ship at any place in Saint Christopher and Nevis at which he or she can conveniently do so, and, after having the amount of his or her fare (if he or she has paid it) returned or tendered to him or her, does not comply with the request;
- (c) if, on board the ship, after warning by the master or other officer thereof, he or she molests or continues to molest any passenger;
- (d) if, after having been refused admission to the ship by the owner or any person in the employment of the owner on account of the ship being full, and having had the amount of his or her fare (if he or she has paid it) returned or tendered to him or her, he or she nevertheless persists in attempting to enter the ship;
- (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in the employment of the owner to leave the ship before it has left that place, and having had the amount of his or her fare (if he or she has paid it) returned or tendered to him or her, he or she does not comply with that request;
- (f) if, on arriving in the ship at a place to which he or she has paid fare, he or she knowingly and intentionally refuses or neglects to leave the ship;
- (g) if, on board the ship he or she fails, when requested by the master or other officer thereof, either to pay his or her fare or show such ticket or other receipt, if any, showing the payment of his or her fare as is usually given to persons travelling by and paying their fare for the ship,

but his or her liability in respect of any such offence shall not prejudice the recovery of any fare payable by him or her.

(2) A person commits an offence if, on board any ship to which this section applies, he or she intentionally does or causes to be done anything in such a manner as to—

- (a) obstruct or damage any part of the machinery or equipment of the ship; or
- (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any ship to which this section applies, and all persons called by him or her to his or her assistance, may, without any warrant, detain any person who commits any offence under subsection (1) or (2) and whose name and address are unknown to the master or officer, and deliver that person to a police officer.

(4) A person who commits an offence under subsection (1) or (2) is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

(5) If any person commits an offence under subsection (1) or (2) and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his or her name and address, or gives a false name or address, that person is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

(6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate, issued under or recognised by this Act.

#### **Power to exclude drunken passengers from passenger ships.**

**322.** The master of any ship may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself or herself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him or her on shore at any convenient place.

#### **Stowaways.**

**323.** (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a Saint Christopher and Nevis ship, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) Nothing in section 433 shall be taken to limit the jurisdiction of any Court in Saint Christopher and Nevis to deal with an offence under this section which has been committed in a country outside Saint Christopher and Nevis by a person who is not a Saint Christopher and Nevis citizen.

#### **Unauthorised presence on board.**

**324.** Where a Saint Christopher and Nevis ship or a ship registered in any other country is in a port in Saint Christopher and Nevis and a person who is neither in the service of the Government of Saint Christopher and Nevis nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master or of any other person authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a police officer, or an officer authorised by the Director or a customs officer,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Master's power of arrest.**

**325.** The master of any Saint Christopher and Nevis ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him or her necessary or expedient in the interest of safety or for the preservation of order or discipline on board the ship.

#### **Unauthorised persons: offences relating to safety.**

**326.** (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of

section 134(5)(b), sections 119 and 120 shall apply as if he or she were a seaman employed in the ship.

(2) Subsection (1) shall, in its application to section 122 so far as that section applies to ships which are not sea-going ships, have effect—

- (a) with the omission of the words “goes to sea in a ship”; and
- (b) with the insertion, after the words “to give it”, of the words “is on board a ship while it is on a voyage or excursion”.

#### **Passenger returns to be made by master.**

**327.** (1) The master of every ship, whether or not a Saint Christopher and Nevis ship, which carries any passenger to a place in Saint Christopher and Nevis from any place out of Saint Christopher and Nevis, or from any place in Saint Christopher and Nevis to any place out of Saint Christopher and Nevis, shall furnish to such person and in such manner as the Director directs, a return giving the total number of any passengers so carried, distinguishing, if so directed by the Director, the total number of any class of passengers so carried, and giving, if the Director so directs, such particulars with respect to passengers as may be for the time being required by the Director.

(2) Any passenger shall furnish the master of the ship with any information required by the master for the purpose of the return.

(3) If—

- (a) the master of a ship fails to make a return as required by this section, or makes a false return; or
- (b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he or she knows to be false or recklessly gives to him or her information which is false,

the master or (as the case may be) passenger commits an offence and is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale in the case of a failure or refusal and level 3 on the standard scale in the case of a false return or false information.

#### **Returns of births and deaths in ship, etc.**

**328.** (1) The Minister may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.

(2) Regulations under this section may require the master of any Saint Christopher and Nevis ship to make a return to the special agent of—

- (a) the birth or death of any person occurring in the ship; and
- (b) the death of any person employed in the ship, wherever occurring outside Saint Christopher and Nevis,

and to notify any such death to such person (if any) as the deceased may have named to him or her as his or her next of kin.

(3) Regulations under this section may require the master of any ship not registered in Saint Christopher and Nevis which calls at a port in Saint Christopher and Nevis in the course of or at the end of a voyage to make a return to the

Superintendent of any birth or death of a Saint Christopher and Nevis citizen which has occurred in the ship during the voyage.

(4) The returns referred to in subsections (2) and (3) shall be for transmission to the Superintendent.

(5) Regulations under this section may require the Superintendent to record such information as may be specified in the regulations about such a death as is referred to in subsection (2) in a case where—

(a) it appears to him or her that the master of the ship cannot perform his or her duty under that subsection because he or she has himself or herself died or is incapacitated or missing; and

(b) any of the circumstances specified in subsection (6) exist.

(6) Those circumstances are that—

(a) the death in question has been the subject of—

(i) an inquest held by a coroner; or

(ii) an inquiry held in pursuance of section 246,

and the findings of the inquest or inquiry include a finding that the death occurred; and

(b) the deceased's body has been the subject of a post-mortem examination and in consequence the coroner is satisfied that an inquest is unnecessary.

(7) Regulations under this section may require the special agent to send a certified copy of any return or record made thereunder to the Registrar.

(8) The Registrar to whom any such certified copies are sent—

(a) shall record the information contained therein in the Marine Register; and

(b) may record in the Marine Register such additional information as appears to him or her desirable for the purpose of ensuring the completeness and correctness of the Register.

(9) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 4 on the standard scale.

(10) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside Saint Christopher and Nevis in circumstances where no return is required to be made under the preceding provisions of this section—

(a) any birth or death of a Saint Christopher and Nevis citizen which occurs in a ship not registered in Saint Christopher and Nevis;

(b) any death of any such citizen who has been employed in a ship not registered in Saint Christopher and Nevis which occurs elsewhere than in the ship; and

(c) any death of a person who has been employed in a Saint Christopher and Nevis ship which occurs elsewhere than in the ship.

(11) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.



## PART XIV

## LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE

## CHAPTER I

## LIABILITY FOR OIL POLLUTION

**Interpretation.**

**329.** (1) In this Chapter—

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship, or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a state which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 330 (2) or 331 (2);

“ship”, subject to section 331 (4), means any sea-going vessel or sea-borne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or, as the case may be, in the threat of contamination.

*Liability***Liability for oil pollution in the case of tankers.**

**330.** (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in Saint Christopher and Nevis by contamination resulting from discharge or escape;
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in Saint Christopher and Nevis by contamination resulting from discharge or escape; and
- (c) for any damage caused in Saint Christopher and Nevis by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then, except as otherwise provided by this Chapter, the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in Saint Christopher and Nevis; and
- (b) for any damage caused outside the ship in Saint Christopher and Nevis by any measures taken,

and in this Chapter any such threat is referred to as a “relevant threat of contamination”.

(3) Subject to subsection (4), this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any other ship—

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2), he or she shall also be liable for any damage or cost for which he or she would be liable under that subsection if the references in it to the Federation of Saint Christopher and Nevis included the territory of any other Liability Convention Country.

(6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purpose of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

#### **Liability for oil pollution in case of other ships.**

**331.** (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 330 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in Saint Christopher and Nevis by contamination resulting from the discharge or escape;
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in Saint Christopher and Nevis by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in Saint Christopher and Nevis by any measures so taken.

(2) Where as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 330 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then, except as otherwise provided by this Chapter, the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in Saint Christopher and Nevis; and
- (b) for any damage caused outside the ship in Saint Christopher and Nevis by any measures so taken,

and in the subsequent provisions of this Chapter, any such threat is referred to as a “relevant threat of contamination”.

(3) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) In this section, “ship” includes a vessel which is not sea-going.

#### **Exceptions from liability under sections 330 and 331.**

**332.** No liability shall be incurred by the owner of a ship under section 330 or 331 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he or she proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

#### **Restriction of liability for oil pollution.**

**333.** (1) Where, as a result of any occurrence—

- (a) any oil is discharged or escapes from a ship, (whether one to which section 330 or one to which section 331 applies); or
- (b) there arises a relevant threat of contamination,

whether or not the owner of the ship in question incurs a liability under section 330 or 331—

- (i) he or she shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and
- (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him or her either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(a) and (b)(ii) applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 330 or 331; or
- (f) any servant or agent of a person falling within paragraph (c), or (e).

(3) The liability of the owner of a ship under section 330 or 331 for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits; and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

### *Limitation of Liability*

#### **Limitation of liability under section 333.**

**334.** (1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 330 by reason of a discharge or escape or by reason of any relevant threat of contamination, then, subject to subsection (3)—

- (a) he or she may limit that liability in accordance with the provisions of this Chapter; and
- (b) if he or she does so, his or her liability (being the aggregate of his or her liabilities under section 333 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1), “the relevant amount” means—

- (a) in relation to a ship not exceeding 5,000 tons, 3,000,000 special drawing rights;
- (b) in relation to a ship exceeding 5,000 tons, 3,000,000 special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59,700,000 special drawing rights,

but the Minister may, by Order, make such amendments to paragraphs (a) and (b) as may be appropriate for the purpose of implementing any amendment in force for Saint Christopher and Nevis of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(3) Subsection (1) shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 330 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section, a ship's tonnage shall be its gross tonnage calculated in accordance with the Tonnage Regulations.

#### **Limitation actions.**

**335.** (1) Where the owner of a ship has or is alleged to have incurred a liability under section 333, he or she may apply to the Court for the limitation of that liability to an amount determined in accordance with section 336.

(2) If on such an application the Court finds that the applicant has incurred such a liability and is entitled to limit it, the Court shall, after determining the limit of the liability and directing payment into Court of the amount of that limit—

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into Court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(3) Where—

- (a) a distribution is made under subsection (2)(b) without the Court having found that the applicant is entitled to limit his or her liability; and
- (b) the Court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(4) A payment into Court of the amount of a limit determined in pursuance of this section shall be made in the currency of the United States dollars, and—

- (a) for the purpose of converting such an amount from special drawing rights into dollars one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
  - (i) the day on which the determination is made; or

- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Minister stating—
  - (i) that a particular sum in dollars has been so fixed for the day on which the determination was made; or
  - (ii) that no sum has been fixed for that day and that a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

- (c) a document purporting to be such a certificate shall, in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(5) No claim shall be admitted in proceedings under this section unless it is made within such time as the Court may direct or such further time as the Court may allow.

(6) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

- (a) by the owner or the persons referred to in section 342 as “the insurer”; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 330, for the damage or cost and who is entitled to limit his or her liability in connection with the ship by virtue of Chapter II of Part XV,

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(7) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce the damage to which the liability extends or might have extended, he or she shall be in the same position with respect to any distribution made in proceedings under this section as if he or she had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(8) The Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside Saint Christopher and Nevis.

(9) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b).

#### **Restriction on enforcement after establishment of limitation fund.**

**336.** Where the Court has found that a person who has incurred a liability under section 330 is entitled to limit that liability to any amount and he or she has paid into Court a sum not less than that amount—

- (a) the Court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgement or decree for any such claim shall be enforced, except so far as it is for costs,

if the sum paid into Court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him or her if the proper steps in the proceedings under section 335 had been taken.

#### **Concurrent liabilities of owners and others.**

**337.** Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 330 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the owner has been found, in proceedings under section 335 to be entitled to limit his or her liability to any amount and has paid into Court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the other ship by virtue of Chapter II of Part XV,

no proceedings shall be taken against the other person in respect of his or her liability, and if any such proceedings were commenced before the owner paid the sum into Court, no further steps shall be taken in the proceedings except in relation to costs.

#### **Establishment of limitation fund outside Saint Christopher and Nevis.**

**338.** Where the events resulting in the liability of any person under section 330 also resulted in a corresponding liability under the law of another Liability Convention Country, sections 336 and 337 shall apply as if the references to sections 330 and 335 included references to the corresponding provisions of that law and the references to sums paid into Court included references to any sums secured under those provisions in respect of the liability.

#### **Extinguishment of claims.**

**339.** No action to enforce a claim in respect of a liability incurred under section 330 or 331 shall be entertained by a Court in Saint Christopher and Nevis unless the action is commenced not later than three years after the claim arose nor later than six years after occurrences or first of the occurrences resulting in the discharge or escape, or, as the case may be, in the relevant threat of contamination, by reason of which the liability was incurred.

### *Compulsory Insurance*

#### **Compulsory insurance against liability for pollution.**

**340.** (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Minister.

(2) The ship shall not enter or leave a port in Saint Christopher and Nevis or arrive at or leave a terminal in the territorial sea of Saint Christopher and Nevis nor, if the ship is a Saint Christopher and Nevis ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) and showing that there is in force, in respect of the ship, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for the owner's liability).

(3) The certificate shall be—

- (a) if the ship is a Saint Christopher and Nevis ship, a certificate issued by the Director;
- (b) if the ship is registered in a Liability Convention Country other than Saint Christopher and Nevis, a certificate issued by or under the authority of the government of the other Liability Convention Country; and
- (c) if the ship is registered in a country which is not a Liability Convention Country, a certificate issued by the Director or by or under the authority of the government of any Liability Convention Country other than Saint Christopher and Nevis.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer, the Director or any surveyor authorised by the Director for the purpose and, if the ship is a Saint Christopher and Nevis ship, to any special agent.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave a terminal in contravention of subsection (2), the master or owner commits an offence and is liable, on summary conviction, to a fine not exceeding twenty thousand dollars.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master commits an offence and is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(7) If a ship attempts to leave a port in Saint Christopher and Nevis in contravention of this section the ship may be detained.

#### **Issue of certificate by Director.**

**341.** (1) Subject to subsection (2), if the Director is satisfied, on the application for such a certificate as is mentioned in section 340 in respect of a Saint Christopher and Nevis ship or a ship registered in any country which is not a Liability Convention Country, that there shall be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Director shall issue such a certificate to the owner.

(2) If the Director is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his or her obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 330 in all circumstances, he or she may refuse the certificate.

(3) The Minister may make regulations providing for the cancellation and surrender of a certificate under this section in such circumstances as may be prescribed by the regulations.



(4) If a person required by regulations under subsection (3) to surrender a certificate fails to do so he or she commits an offence and is liable, on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) The Director shall make available for public inspection a copy of any certificate issued by him or her under this section in respect of a Saint Christopher and Nevis ship.

#### **Rights of third parties against insurers.**

**342.** (1) Where it is alleged that the owner of a ship has incurred a liability under section 330 as a result of any discharge or escape of oil occurring or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 340 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”).

(2) In any proceedings brought against the insurer by virtue of this section, it shall be a defence in addition to any defence affecting the owner’s liability, to prove that the discharge or escape or, as the case may be, the threat of contamination, was due to the wilful misconduct of the owner himself or herself.

(3) The insurer may limit his or her liability in respect of claims made against him or her by virtue of this section in like manner and to the same extent as the owner may limit his or her liability but the insurer may do so whether or not the discharge or escape, or, as the case may be, the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 334(3).

(4) Where the owner and the insurer each apply to the Court for the limitation of his or her liability, any sum paid into Court in pursuance of either application shall be treated as paid also in pursuance of the other.

#### *Supplemental*

#### **Jurisdiction of Saint Christopher and Nevis Court and registration of foreign judgements.**

**343.** (1) Where—

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in Saint Christopher and Nevis and no measures are reasonably taken to prevent or minimise such damage in that territory; or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in Saint Christopher and Nevis,

no Court in Saint Christopher and Nevis shall entertain any action, whether *in rem* or *in personam*, to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of ship; or
- (ii) against any person to whom section 333(1)(a) and (b)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

- (2) In subsection (2), “relevant damage or cost” means—
- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention Country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention Country;
  - (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention Country; or
  - (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b),

and section 333(2)(e), shall have effect for the purpose of subsections (1)(a) and (b)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).

(3) Any judgement given by a court in a Liability Convention Country in respect of a liability incurred under any provision corresponding to section 330 shall be enforceable by the Court.

#### **Government ships.**

**344.** (1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any state for uses other than commercial purposes.

(2) In relation to a ship owned by a state and for the time being used for commercial purposes it shall be a sufficient compliance with section 340(2) if there is in force a certificate issued by the government of that state and showing that the ship is owned by that state and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in the Court in Saint Christopher and Nevis to enforce a claim in respect of a liability incurred under section 330 be deemed to have submitted to the jurisdiction of the Court, and accordingly rules of Court may provide for the manner in which such proceedings are to be commenced and carried on, but nothing in this subsection shall authorise the issue of execution against the property of any state.

#### **Limitation of liability under section 334.**

**345.** For the purposes of Chapter II of Part XV, any liability incurred under section 331 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in subsection 1(a) of section 338.

#### **Saving for recourse actions.**

**346.** Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability.

**Meaning of “the Liability Convention” and related expressions.**

**347.** (1) In this Chapter—

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;

“Liability Convention Country” means a country in respect of which the Liability Convention is in force; and

“Liability Convention State” means a State which is a party to the Convention.

(2) If Her Majesty by Order declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified, the Order shall, while in force, for the purposes of this Part, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

(3) References in this Chapter to the territory of any country includes the territorial sea of that country, and in the case of Saint Christopher and Nevis and any Liability Convention Country, the exclusive economic zone thereof established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea thereof and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law.

(4) During the period that the application of the 1969 Liability Convention remains extended to Saint Christopher and Nevis by virtue of the United Kingdom remaining a party to that Convention, references in sections 340 and 341 to the “Liability Convention” shall, in respect of ships registered in a State Party to the 1969 Liability Convention but not to the Liability Convention, be references to the 1969 Liability Convention.

(5) For the purpose of subsection (4) and its application to sections 340 and 341, “the 1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969, as amended by the Protocol signed in London in 1976.

## CHAPTER II

## INTERNATIONAL OIL POLLUTION COMPENSATION FUND

**Interpretation.**

**348.** (1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 340;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 349 and 350, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;
- (b) the cost of preventive measures; and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

- (i) any loss of profits; or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

- (a) after an incident has occurred; or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;

“ship” means any ship (within the meaning of Chapter I of this Part) to which section 330 applies.

(2) For the purposes of this Chapter—

- (a) reference to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Chapter to the territory of any country shall be construed in accordance with section 347(3) reading the reference to a Liability Convention Country as a reference to a Fund Convention Country.

### *Contributions to Fund*

#### **Contributions by importers of oil and others.**

**349.** (1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in Saint Christopher and Nevis otherwise than on a voyage only within its national waters.

(2) Subsection (1) applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in Saint Christopher and Nevis after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention Country.

(4) The person liable to pay contributions is—

- (a) in the case of oil which is being imported into Saint Christopher and Nevis, the importer; and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him or her in any year if the oil so imported or received in the year does not exceed 150,000 tons.

(6) For the purpose of subsection (5)—

- (a) all the members of a group of companies shall be treated as a single person; and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 subject to Article 36 of the Fund Convention and notified to that person by the Fund; and
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him or her,

and if any amount due from him or her remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Minister may, by regulations, impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Minister, or the Fund.

(9) Regulations made under subsection (8) may—

- (a) contain such supplemental or incidental provisions as appear to the Minister expedient; and
- (b) impose penalties for contravention of the regulations punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.

(10) In this section and in section 350, unless the context otherwise requires,

“company” means a body incorporated under the laws of Saint Christopher and Nevis or of any other country;

“group”, in relation to companies, means a holding company and its subsidiaries subject, in the case of a company incorporated outside Saint Christopher and Nevis, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation; and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil; and—

- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
  - (i) crude oils from which distillate fractions have been removed; and
  - (ii) crude oils to which distillate fractions have been added; and
- (b) “fuel oil” means heavy distillate or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396-96)”, or heavier;

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

**Power to obtain information.**

**350.** (1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 349 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Director may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 349 (6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 350, particulars contained in any list transmitted by the Director to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him or her under this section, or in connection with the execution of this section, then, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the execution of this section; or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(6) A person who—

- (a) refuses or wilfully neglects to comply with a notice under this section;
- or

- (b) in furnishing any information in compliance with a notice under this section, makes any statement which he or she knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) and not exceeding level 5 on the standard scale in the case of an offence under paragraph (b); and
- (ii) on conviction on indictment, to a fine not exceeding fifteen thousand dollars, or imprisonment for a term not exceeding twelve months, or both.

### *Compensation for Persons Suffering Pollution Damage*

#### **Liability of the Fund.**

**351.** (1) The Fund shall be liable for pollution damage in the territory of Saint Christopher and Nevis if the person suffering the damage has been unable to obtain full compensation under section 330—

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
  - (i) resulted from an exceptional, inevitable and irresistible phenomenon;
  - (ii) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
  - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,and because liability is accordingly wholly displaced by section 335;
- (b) because the owner or guarantor liable for the damage cannot meet his or her obligations in full; or
- (c) because the damage exceeds the liability under section 330 as limited by section 334.

(2) Subsection (1) shall apply with the substitution for the words “Saint Christopher and Nevis” for the words “a Fund Convention Country” where the incident has caused pollution damage in the territory of Saint Christopher and Nevis and of another Fund Convention Country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention Country or in Saint Christopher and Nevis.

(3) Where the incident has caused pollution damage in the territory of Saint Christopher and Nevis and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter I of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) For the purposes of this section, an owner or guarantor is to be treated as incapable of meeting his or her obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(5) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he or she shall be in the same position with respect to claims against the Fund under this section as if he or she had a claim in respect of liability under section 330.

(6) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage—

(i) resulted from an act of war, hostilities, civil war or insurrection;  
or

(ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service; or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him or her, or involving two or more ships one of which is identified by him or her.

(7) If the Fund proves that the pollution damage resulted wholly or partly—

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person,

the Fund may, subject to subsection (9), be exonerated wholly or partly from its obligations to pay compensation to that person.

(8) Where the liability under section 330 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall, subject to subsection (9), be exonerated to the same extent.

(9) Subsections (7) and (8) shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

#### **Limitation of Fund's liability under section 351.**

**352.** (1) The Fund's liability under section 351 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention which imposes an overall limit on the liabilities of the Fund, the text of which is set out in Part I of the Third Schedule, and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.

(2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 351 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention, the Court giving judgment against the Fund in proceedings under section 351 shall notify the Fund, and—

(a) no steps shall be taken to enforce the judgment unless and until the Court gives leave to enforce it;



- (b) that leave shall not be given unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) shall be steps to obtain payment in the currency of the United States dollars, and—
- (a) for the purpose of converting such an amount from special drawing rights into dollars, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund has fixed as being equivalent of one special drawing right—
    - (i) for the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident; or
    - (ii) if no sum has been fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
  - (b) a certificate given by or on behalf of the Minister stating—
    - (i) that a particular sum in dollars has been so fixed for the relevant day; or
    - (ii) that no sum has been so fixed for the relevant day and that a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,
- shall be conclusive evidence of those matters for the purposes of this Chapter.
- (5) The Minister may, by Order, make such amendments to this section and Part I of the Third Schedule as may be appropriate for the purpose of implementing any amendment in force of the provisions set out in that Schedule.
- (6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4) (b) shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.
- (7) An Order made under subsection (5) is subject to a negative resolution of the National Assembly.

### *Supplemental*

#### **Jurisdiction and effect of judgments.**

**353.** (1) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 330, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(2) Where a person incurs a liability under the law of a Fund Convention Country corresponding to Chapter 1 of this Part for damage which is partly in Saint

Christopher and Nevis, subsection (1) shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(3) Subject to subsection (4), any judgment given by a Court in a Fund Convention Country to enforce a claim in respect of liability incurred under any provision corresponding to section 351 shall be enforceable by the Court in Saint Christopher and Nevis.

(4) No steps shall be taken to enforce such a judgment unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part 1 of the Third Schedule) or that it is to be reduced to a specified amount; and in the latter case, the judgment shall be enforceable only for the reduced amount.

#### **Extinguishment of claims.**

**354.** (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by the Court in Saint Christopher and Nevis unless—

- (a) the action is commenced; or
- (b) a third party notice of an action to enforce a claim against the owner or his or her guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

(2) In subsection (1), “third party notice” means a notice of the kind described in section 353(1) and (2).

(3) No action to enforce a claim against the Fund under this Chapter shall be entertained by the Court in Saint Christopher and Nevis unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or, as the case may be, in the relevant threat of contamination, by reason of which the claim against the Fund arose.

#### **Subrogation.**

**355.** (1) In respect of any sum paid by the Fund as compensation for pollution damage, the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has, or, but for the payment would have, against any other person.

(2) In respect of any sum paid by a public authority in Saint Christopher and Nevis as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

#### **Supplementary provisions as to proceedings involving the Fund.**

**356.** (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund’s representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund, and any document purporting to be such a copy shall, in any proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

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

**357.** (1) In this Chapter—

“the Liability Convention” has the same meaning as in Chapter 1 of this Part;

“the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

“the Fund” means the International Fund established by the Fund Convention;

“Fund Convention Country” means a country in respect of which the Fund Convention is in force.

(2) If the Governor-General, by Order, declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall, while in force, for the purposes of this Part, be conclusive evidence that that State is a party to that Convention in respect of that country.

### CHAPTER III

#### TRANSITIONAL PROVISIONS

**Interpretation.**

**358.** In this Chapter, unless the context otherwise requires—

“the 1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969, as amended by the Protocol signed in London in 1976;

“the 1992 Liability Convention” has the same meaning as “the Liability Convention” in Chapter I of this Part;

“the 1971 Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December, 1971, as amended by the Protocol signed in London in 1976;

“the 1992 Fund Convention” has the same meaning as “the Fund Convention” in Chapter II of this Part.

**Re Art XII bis of 1992 Liability Convention.**

**359.** The following transitional provisions shall apply in reference to Article XII bis of the 1992 Liability Convention when at the time of an incident both the 1992 Liability Convention and the 1969 Liability Convention are applicable to Saint Christopher and Nevis, namely—

- (a) where an incident has caused pollution damage within the scope of sections 329 to 347 liability under sections 329 to 347 shall be deemed to be discharged if, and to the extent that, it also arises under sections 329 to 347 in the Second Schedule;
- (b) where an incident has caused pollution damage within the scope of sections 329 to 347 and both the 1992 Liability Convention and the 1971 Fund Convention are applicable to Saint Christopher and Nevis, liability remaining to be discharged after the application of paragraph

- (a) shall arise under sections 329 to 347 only to the extent that pollution damage remains uncompensated after application of sections 348 to 357 in the Second Schedule;
- (c) subsection (1)(a) and (b)(i) of section 333 refers to liability under section 330 or under section 330 in the Second Schedule, as appropriate and subsection (1)(a) and (b)(ii) of section 333 applies to the persons referred to in section 333(2) or section 333(3) in the Second Schedule, as appropriate;
- (d) in the application of section 335, the total sum of the Fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with paragraph (a) of this section.

**Re Article 36 bis of the 1992 Fund Convention.**

**360.** The following transitional provisions shall apply in reference to Article 36 bis of the 1992 Fund Convention until that Article ceases to have effect, namely—

- (a) in the application of section 351, the reference therein to “full compensation under section 333” shall be construed as including compensation payable under the 1969 Liability Convention as well as the 1971 Fund Convention;
- (b) where an incident has caused pollution damage within the scope of sections 348 to 357, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of sections 329 to 347, and sections 329 to 357 of the Second Schedule, provided that, in respect of a State which is a party to the 1992 Fund Convention but is not a party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention;
- (c) in the application of Part I of the Third Schedule, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under sections 329 to 347 of the Second Schedule, if any, and the amount of compensation actually paid or deemed to have been paid under sections 348 to 357 of the Second Schedule;
- (d) section 355(1) shall also apply to the rights enjoyed under sections 329 to 347 as set out in the Second Schedule.

**Application of provisions of the Second Schedule and Part II of the Third Schedule.**

**361.** The provisions of the Second Schedule and Part II of the Third Schedule shall have effect for the purposes of sections 359 and 360.

PART XV  
LIABILITY OF SHIP OWNERS AND OTHERS  
CHAPTER I  
CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

**Interpretation.**

**362.** (1) In this Chapter, unless the context otherwise requires—

“cabin luggage” means luggage which the passenger has in his or her cabin or is otherwise in his or her possession, custody or control, and includes, except for the purposes of subsection (2) and section 369, luggage which the passenger has in or on his or her vehicle;

“carriage” has the meaning assigned to it in subsection (2);

“carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or her or by a performing carrier;

“contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his or her luggage, as the case may be, but does not include a contract of carriage which is not for reward;

“Convention” means the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 as amended;

“international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different states, or in a single state if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another state;

“loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

“luggage” means any article or vehicle carried by the carrier under a contract of carriage, but does not include—

(a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods; and

(b) live animals;

“passenger” means any person carried in a ship—

(a) under a contract of carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by any contract for the carriage of goods;

“performing carrier” means a person, other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

“ship” means a sea-going vessel, but does not include an air-cushion vehicle.

(2) For the purposes of this Part, “carriage” covers the following periods—

- (a) with regard to the passenger and his or her cabin luggage, the period during which the passenger and his or her cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his or her cabin luggage are transported by water between land and ship, if the cost of such transportation is included in the fare or if the vessel used for the purpose of auxiliary transportation has been put at the disposal of the passenger by the carrier;
- (b) with regard to the passenger, the period referred to in paragraph (a) but not including the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation;
- (c) with regard to cabin luggage, the period referred to in paragraph (a) as well as the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his or her servant or agent and has not been re-delivered to the passenger; and
- (d) with regard to luggage, other than cabin luggage, the period from the time it is taken over by the carrier or his or her servant or agent ashore or on board until the time it is re-delivered by the carrier or his or her servant or agent.

#### **Application.**

**363.** (1) Subject to subsection (2), where a dispute concerning the carriage of passengers and their luggage by sea is brought before the Court, this Chapter shall apply to any international carriage if—

- (a) the ship is flying the flag of or is registered in a State party to the Convention;
- (b) the contract of carriage has been made in a State party to the Convention; or
- (c) the place of departure or destination according to the contract of carriage, is in a State party to the Convention.

(2) This Part shall not be applicable where the carriage is subject to the provisions of any other international convention concerning civil liability with respect to the carriage of passengers or luggage by another mode of transportation, in so far as those provisions have mandatory application to carriage by sea.

(3) For the purposes of subsection (2), provisions of such an international convention as is mentioned in that subsection which do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

#### **Liability of the carrier.**

**364.** (1) The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his or her servants or agents acting within the scope of their employment.

(2) Subject to subsections (3) and (4), the claimant shall carry the burden of proving—

- (a) that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of such loss or damage;
- (b) fault or neglect on the part of the carrier or of his or her servants or agents acting within the scope of their employment.

(3) Where the death of or personal injury to the passenger, or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship, there shall be a presumption of fault or neglect on the part of the carrier or his or her servants or agents acting within the scope of their employment, unless there is proof to the contrary.

(4) In respect of loss of or damage to luggage other than cabin luggage, there shall be a presumption of fault or neglect on the part of the carrier or his or her servants or agents acting within the scope of their employment, irrespective of the nature of the incident which caused the loss or damage, unless there is proof to the contrary.

#### **Performing carrier.**

**365.** Where the performance of the carriage or part thereof has been entrusted to a performing carrier, the following rules shall apply—

- (a) subject to paragraphs (b), (c), (d) and (e), the carrier shall be liable under this Chapter for the entire carriage, and in relation to the carriage performed by the performing carrier, shall be liable for the acts and omissions of the performing carrier and of his or her servants and agents acting within the scope of their employment;
- (b) subject to paragraphs (a), (c), (d) and (e), the performing carrier shall be subject and entitled to the provisions of this Chapter for the part of the carriage performed by him or her;
- (c) any special agreement, under which the carrier assumes obligations not imposed by this Chapter or any waiver of rights conferred by this Part, shall not affect the performing carrier unless the performing carrier so agrees expressly and in writing;
- (d) where, and to the extent that, both the carrier and the performing carrier are liable, their liability shall be joint and several; and
- (e) nothing in this section shall prejudice any right of recourse as between the carrier and the performing carrier.

#### **Valuables.**

**366.** The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping, in which case the carrier shall be liable up to the limit provided for in section 369.

#### **Contributory fault.**

**367.** Where the carrier proves that the death of or personal injury to a passenger, or the loss of or damage to his or her luggage was caused or contributed to by the fault or neglect of the passenger, the carrier may be exonerated wholly or partly from liability in accordance with the laws of Saint Christopher and Nevis.

**Limits of liability for death or personal injury.**

**368.** (1) With respect to limits of liability of the carrier for death or personal injury, the following rules shall apply—

- (a) subject to paragraphs (b), (c), and (d), liability for the death of or personal injury to a passenger shall not exceed 46,666 special drawing rights per carriage;
- (b) where damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the limit prescribed in paragraph (a);
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraphs (a) and (b); and
- (d) the carrier and the passenger may agree, expressly and in writing, to limits of liability higher than those prescribed in paragraphs (a) and (b).

(2) Notwithstanding subsection (1)(a), the Minister may, by Order, provide for a limit of liability higher than that provided for in subsection (1)(a) for a carrier whose principal place of business is in Saint Christopher and Nevis.

**Limits of liability for loss of or damage to luggage.**

**369.** With respect to limits of liability of the carrier for the loss of or damage to luggage, the following rules shall apply—

- (a) subject to paragraphs (b) and (c), the liability of the carrier shall not exceed the limits herein prescribed, that is to say—
  - (i) for the loss of or damage to cabin luggage, 833 special drawing rights per passenger, per carriage;
  - (ii) for the loss of or damage to vehicles including all luggage carried in or on the vehicle, 3,333 special drawing rights per vehicle, per carriage;
  - (iii) for the loss of or damage to luggage other than those mentioned in sub-paragraphs (i) and (ii), 1,200 special drawing rights per passenger, per carriage;
- (b) the carrier and the passenger may agree—
  - (i) that the liability of the carrier shall be subject to a deduction not exceeding 117 special drawing rights in the case of damage to a vehicle, and not exceeding 13 special drawing rights per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage;
  - (ii) expressly and in writing, to limits of liability higher than those prescribed in paragraph (a); and
- (c) interest on damages and legal costs shall not be included in the limits of liability prescribed in paragraph (a).

**Special drawing right and conversion.**

**370.** (1) For the purpose of converting from special drawing rights into dollars, the amounts mentioned in sections 368 and 369 in respect of which a judgment is given, one special drawing right shall be treated as equal to such a sum in dollars as the



International Monetary Fund has fixed as being the equivalent of one special drawing right for—

- (a) the day on which the judgment is given; or
  - (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Minister stating—
- (a) that a particular sum in dollars has been fixed as mentioned in subsection (1) for a particular day; or
  - (b) that no sum has been so fixed for that day and a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed the particular day,

shall be conclusive evidence of those matters for the purposes of sections 368 and 369 and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### **Defences and limits for carriers, servant.**

**371.** If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Part, such servant or agent, if he or she proves that he or she acted within the scope of his or her employment, shall be entitled to avail himself or herself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Chapter.

#### **Aggregation of claims.**

**372.** (1) Where the limits of liability prescribed in sections 368 and 369 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

(2) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Part, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him or her.

(3) In any case where a servant or agent of the carrier or of the performing carrier is entitled under section 371 to avail himself or herself of the limits of liability prescribed in sections 368 and 369, the aggregate of the amounts recoverable from the carrier, or the performing carrier, as the case may be, and from that servant or agent, shall not exceed those limits.

(4) For the avoidance of doubt, it is hereby declared that the limitation on liability mentioned in this section in respect of a passenger or his or her luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in Saint Christopher and Nevis or elsewhere.

#### **Loss of right to limit liability.**

**373.** (1) The carrier shall not be entitled to the benefit of the limits of liability prescribed in sections 368 and 369, if it is proved that the damage resulted from an

act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(2) The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

**Basis for claim.**

**374.** No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Chapter.

**Notice of loss of or damage to luggage.**

- 375.** (1) The passenger shall give written notice to the carrier or his or her agent—
- (a) in the case of apparent damage to luggage—
    - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
    - (ii) for all other luggage, before or at the time of its re-delivery;
  - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.

(2) If the passenger fails to comply with this section, he or she shall be presumed, unless the contrary is proved, to have received the luggage undamaged.

(3) The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

**Time-bar for actions.**

**376.** (1) Subject to subsections (2), (3) and (4), any action for damages arising out of the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be time-barred after a period of two years.

(2) The limitation period shall be calculated as follows—

- (a) in the case of personal injury, from the date of disembarkation of the passenger;
- (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation; and
- (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is latter.

(3) The Court may, at its discretion determine the suspension and interruption of limitation periods, but in no case shall an action under this Chapter be brought after the expiration of a period of three years from the date of disembarkation of the

passenger or from the date when disembarkation should have taken place, whichever is latter.

(4) Notwithstanding subsections (1), (2) and (3), the period of limitation may be extended by a declaration in writing of the carrier or by the agreement in writing of the parties after the cause of action has arisen.

#### **Competent jurisdiction.**

**377.** (1) Proceedings under this Chapter may be brought before the Court by a claimant if—

- (a) the permanent residence or principal place of business of the claimant or the defendant is situated in Saint Christopher and Nevis;
- (b) the place of departure or destination according to the contract of carriage is in Saint Christopher and Nevis; or
- (c) the contract of carriage was entered into in Saint Christopher and Nevis and the defendant has a place of business in, and is subject to, the jurisdiction of Saint Christopher and Nevis.

(2) After the occurrence of the incident causing the damage, subject to agreement by the parties, the claim for damages may be submitted to arbitration, and section 376 shall, in such case, apply to an arbitration as it applies to an action.

(3) The Court before which proceedings are brought in pursuance of subsection (1) to enforce a liability which is limited by virtue of section 372 may, at any stage of the proceedings, make such orders as appear to the Court to be just and equitable in view of the provisions of section 372 and of any other proceedings which have been or are likely to be begun in Saint Christopher and Nevis or elsewhere to enforce the liability in whole or in part.

(4) Without prejudice to the generality of the provisions of subsection (3), the Court shall, where the liability is or may be partly enforceable in other proceedings in Saint Christopher and Nevis or elsewhere, have jurisdiction to award an amount less than the Court would have awarded if the limitation applied solely to the proceedings before the Court or to make any part of its award conditional on the results of any other proceedings.

#### **Invalidity of contractual provisions.**

**378.** Any contractual provisions concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his or her luggage, purporting to relieve the carrier of his or her liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Chapter, except as provided in sub-paragraph (b)(i) of section 369, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the application of subsection (1) of section 377, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Chapter.

#### **Application of other limitation regimes.**

**379.** This Chapter shall not modify the rights or duties of the carrier, the performing carrier and their servants or agents provided for in international conventions applicable to Saint Christopher and Nevis or any other law of Saint Christopher and Nevis relating to the limitation of liability of owners of sea-going ships.

**Nuclear damage.**

**380.** No liability shall arise under this Chapter for damage caused by a nuclear incident if liability arises under an international convention relating to nuclear damage applicable to Saint Christopher and Nevis, or any other law of Saint Christopher and Nevis relating to nuclear damage.

**Commercial carriage by State-owned ships.**

**381.** This Chapter shall apply to commercial carriage undertaken by ships owned by the Government or a public authority under contracts of carriage within the meaning of section 362.

**States party to Convention.**

**382.** If the Governor-General, by Order, declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this section, be conclusive evidence for the purposes of this Chapter that the State is a party to the Convention in respect of that country.

**Carrier's obligation to give notice to passengers.**

**383.** The Minister may, by Order, make provision for—

- (a) requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the Order, notice of such of the provisions of this Chapter as are specified;
- (b) an offence by a person who fails to comply with a requirement imposed on him or her by the Order and for such person to be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale or not exceeding a lesser amount.

**Application of section 412(4).**

**384.** Nothing in this Chapter affects the operation of section 409(4) which limits a shipowner's liability in certain cases of loss of life, injury or damage.

**Limitation of section 410.**

**385.** Nothing in section 410 which, among other things, limits a shipowner's liability for the loss of or damage to goods in certain cases, shall relieve a person of any liability imposed on him or her by this chapter.

## CHAPTER II

## LIMITATION AND DIVISION OF LIABILITY FOR MARITIME CLAIMS

**Interpretation.**

**386.** In this Chapter, unless the context otherwise requires—

“Ports Authority” means the Saint Christopher Air and Sea Ports Authority, and the Nevis Air and Sea Ports Authority, as the case may be;

“ship” includes any structure (whether completed or in the course of completion) launched and intended for use in navigation as a ship or part of a ship;

“shipowner” includes charterer, manager or operator of a ship;

“salvage services” means services rendered in direct connection with salvage operations;

“salvor” means any person rendering salvage services;

“salvage operation” includes the operations referred to in paragraphs (d), (e) and (f) of section 388(1).

#### **Persons entitled to limit liability.**

**387.** (1) Shipowners and salvors may limit their liabilities in accordance with this Chapter.

(2) An insurer of liability for claims subject to limitation under this Chapter shall be entitled to the benefit of limitation to the same extent as the assured.

(3) A person for whose act, neglect or default the shipowner or salvor is responsible may limit his or her liability under this Chapter.

#### **Claims subject to limitation.**

**388.** (1) Subject to sections 389 and 390, the following claims shall be subject to limitation of liability regardless of the basis of liability—

- (a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the raising, removal, destruction or the rendering harmless of the cargo of the ship; and
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his or her liability in accordance with this Chapter, and further loss caused by such measures.

(2) The claims referred to in subsection (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, but the claims referred to in paragraphs (d), (e) and (f) of subsection (1) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

(3) Subsection (1)(d) shall not apply unless provision has been made by an Order of the Minister for the setting up and management of a fund to be used for the making to the Ports Authority of payments needed to compensate it for the reduction, in consequence of subsection (1)(d), of amounts recoverable by dues or levies

collected by the Ports Authority in respect of vessels in like manner as other sums raised by it.

(4) Any Order under subsection (3) may contain such incidental and supplemental provisions as appear to the Minister to be necessary or expedient.

**Invoking limitation not an admission of liability.**

**389.** For the purposes of this Chapter, the liability of a shipowner shall include liability in action against his or her ship, and the act of invoking limitation shall not constitute an admission of liability.

**Claims excepted from limitation.**

**390.** Limitation of liability under this Chapter shall not apply to the following claims—

- (a) claims for salvage under section 299 and corresponding claims under a contract;
- (b) claims for contribution in general average;
- (c) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his or her liability in respect of such claims, or if he or she is under such contract only permitted to limit his or her liability to an amount greater than that provided for in section 393;
- (d) claims for oil pollution damage in respect of any liability incurred under section 333;
- (e) claims subject to any law applicable in Saint Christopher and Nevis governing or prohibiting limitation of liability for nuclear damage; and
- (f) claims against the shipowner of a nuclear ship for nuclear damage.

**Conduct barring limitation.**

**391.** A person liable shall not be entitled to limit his or her liability if it is proved that the loss resulted from his or her personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

**Counterclaims.**

**392.** Where a person entitled to limitation of liability under this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any.

**Limitation calculations.**

**393.** The limits of liability for claims other than those provided for in section 401, arising on any distinct occasion, shall be calculated as follows—

- (a) in respect of claims for loss of life or personal injury—

- (i) 166,667 special drawing rights for a ship with a tonnage not exceeding 300 tons;
  - (ii) 333,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons; or
  - (iii) for a ship with a tonnage in excess of 500 tons, the following amount in addition to that mentioned in sub-paragraph (ii) —
    - (aa) for each ton from 501 to 3,000 tons, 500 special drawing rights;
    - (bb) or each ton from 3,001 to 30,000 tons, 333 special drawing rights;
    - (cc) for each ton from 30,001 to 70,000 tons, 250 special drawing rights; and
    - (dd) for each ton in excess of 70,000 tons, 167 special drawing rights;
- (b) in respect of any other claims—
- (i) 83,333 special drawing rights for a ship with a tonnage not exceeding 300 tons;
  - (ii) 167,000 special drawing rights for a ship with a tonnage from 301 tons to 500 tons;
  - (iii) for a ship with a tonnage in excess of 500 tons, the following amount in addition to that mentioned in sub-paragraph (ii)—
    - (aa) for each ton from 501 to 30,000 tons, 167 special drawing rights;
    - (bb) for each ton from 30,001 to 70,000 tons, 125 special drawing rights; and
    - (cc) for each ton in excess of 70,000 tons, 83 special drawing rights.

**Limits of liability for salvors.**

**394.** The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of, which he or she is rendering salvage services, shall be calculated according to a tonnage of 1,5000 tons.

**Limitation calculations for fixed claims.**

**395.** Where the amount calculated in accordance with paragraph (a) of section 393 is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph (b) of section 393 shall be available for payment of the unpaid balance of claims under paragraph (a) of section 393 and such unpaid balance shall rank rateably with claims mentioned under paragraph (b) of section 393.

**Measurement of ship's tonnage.**

**396.** For the purposes of this Chapter, a ship's tonnage shall be her gross tonnage calculated in accordance with the Tonnage Regulations made under section 48.

**Limitation of liability of dock owners and the Ports Authority.**

**397.** (1) This section applies in relation to the Ports Authority and the owners of any dock.

(2) The liability of the Ports Authority or any person to which this section applies for any loss or damage caused to any ship, or to any goods, merchandise or other things on board any ship shall be limited in accordance with subsection (5) by reference to the tonnage of the largest Saint Christopher and Nevis ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the Ports Authority or person discharges any functions.

(3) The limitation of liability under this section relates to the whole of any loss and damage which may arise on any one distinct occasion, although such loss and damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any enactment, and notwithstanding anything contained therein.

(4) This section does not exclude the liability of the Ports Authority or any person to which it applies for any loss or damage resulting from any such personal act or omission of the Ports Authority or person as is mentioned in section 391.

(5) The limit of liability shall be ascertained by applying to the ship by reference to which the liability is to be determined, the method of calculation specified in section 393(b) read with section 396.

(6) Sections 401 and 402 shall apply for the purposes of this section.

(7) For the purposes of subsection (2), a ship shall not be treated as having been within the area over which the Ports Authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mail or passengers within the area.

(8) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.

(9) In this section—

“dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, slips, quays, wharves, piers, stages, landing places and jetties; and

“owners of any dock” includes any authority or person having the control and management of any dock.

**Limits for passenger claims.**

**398.** (1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46,666 special drawing rights multiplied by the number of passengers which the ship is authorised to carry according to the ship’s certificate, but not exceeding 25,000,000 special drawing rights.

(2) For the purpose of this section, “claims for loss of life or personal injury to passengers of a ship” shall mean any such claims brought by or on behalf of any person carried in that ship—

(a) under a contract of passenger carriage; or



(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

(3) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by this Act, the ship's certificate mentioned in subsection (1) shall be that certificate.

#### **Conversion of special drawing rights.**

**399.** (1) For the purpose of converting the amounts mentioned in sections 393, 394, 395 and 398 from special drawing rights into dollars, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund has fixed as being the equivalent of one special drawing right for—

- (a) the date the limitation fund shall have been constituted, payment is made, or security is given under section 401; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Minister stating—

- (a) that a particular sum in dollars has been fixed as mentioned in subsection (1) for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in dollars has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those sections and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### **Aggregation of claims.**

**400.** (1) The limits of liability determined in accordance with sections 393, 394 and 395 shall apply to the aggregate of all claims which arise on any distinct occasion—

- (a) against the shipowner and any person for whose act, neglect or default he or she or they are responsible;
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or she or they are responsible; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or she or they are responsible.

(2) The limits of liability determined in accordance with section 398 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the shipowner in respect of the ship referred to in section 398 and any person for whose act, neglect or default he or she may be responsible.

#### **Constitution of limitation fund.**

**401.** (1) Any person alleged to be liable and seeking to limit his or her liability under this Part may constitute a fund by depositing with the Court an amount at least equivalent to the limit provided for in section 393 or section 398, as appropriate, or by producing a guarantee acceptable by the Court, together with interest thereon from

the date of the occurrence giving rise to the liability until the date of the constitution of the fund, and the fund so constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(2) A fund constituted by one of the persons mentioned in paragraph (a), (b) or (c) of section 400(1) or his or her insurer, or by a person or his or her insurer in respect of section 400(2), shall be deemed to have been constituted by all persons mentioned in paragraph (a), (b) or (c) of section 400(1), or all persons in respect of section 400(2), as the case may be.

(3) The Minister may determine the rate of interest to be applied for the purposes of subsection (1).

(4) Where a fund is constituted with the Court in accordance with this section for the payment of claims arising out of any occurrence, the Court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

#### **Distribution of fund.**

**402.** (1) Subject to sections 393, 395, and 398, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

(2) The Court may proceed in such manner as to the exclusion of any claimants who do not come in within a certain time and as to payment of costs, as the Court thinks just.

(3) No lien or other right in respect of any ship or property shall affect the proportions in which any amount is distributed among several claimants.

(4) All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Chapter and all costs incurred in relation thereto may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

(5) If, before the fund is distributed, the person liable, or his or her insurer, has settled the claim, such person shall, up to the amount he or she has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.

(6) In making any distribution in accordance with this section the Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims, subrogated or otherwise, that may be established later.

#### **Bar to other actions.**

**403.** (1) Where a limitation fund has been constituted in accordance with section 401, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

(2) Where a ship or other property is attached or arrested in connection with a claim which appears to the Court to be founded on liability to which limitation is applicable under this Chapter, and in respect of which a fund has been constituted or a security or guarantee has been deposited, the Court shall order the release of the ship or property if the limitation fund has been constituted in Saint Christopher and Nevis or at—

- (a) the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;
- (b) the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) the port of discharge in respect of damage to cargo,

but where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the Court to adjudicate on the claim for which the ship or property was arrested or attached.

(3) Subsections (1) and (2) shall apply only if the claimant brings a claim before the Court and the limitation fund is actually available and freely transferable in respect of that claim.

#### **Governing law.**

**404.** Where a limitation fund is constituted in Saint Christopher and Nevis, the rules relating to its constitution and distribution, and all rules of procedure in connection therewith, shall be governed by the law of Saint Christopher and Nevis.

#### **Apportionment of liability for damage or loss.**

**405.** (1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault.

(2) If, in any such case, having regard to all circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) This section applies to persons, other than the owners of a ship who are responsible for the fault of the ship, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.

(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

(5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he or she is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his or her liability in the manner provided by law.

(6) In this section, "freight" includes passage money and hire.

(7) In this section, references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

#### **Loss of life or personal injuries joint and several liability.**

**406.** (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.

(2) Subsection (3) of section 405 applies to this section.

(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he or she might have relied in an action brought against him or her by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his or her liability in the manner provided by law.

(4) Subsection (7) of section 405 applies for the interpretation of this section.

#### **Right of contribution for loss of life or personal injuries.**

**407.** (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively at fault.

(2) Subsection (3) of section 405 applies to this section.

(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

#### **Time limit for proceedings against owners or ship.**

**408.** (1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners—

- (a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or
- (b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.

(2) The extent of the fault is immaterial for the purposes of this section.

(3) Subject to subsections (5) and (6), no proceedings to which this section applies shall be brought after the period of two years from the date when—

- (a) the damage or loss was caused; or
- (b) the loss of life or injury was suffered.

(4) Subject to subsections (5) and (6), no proceedings under any of sections 405 to 407 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.

(5) The Court may, in accordance with the rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.

(6) The Court shall, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within—

- (a) the jurisdiction of the Court; or
- (b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his or her principal place of business,

extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

#### **Scope of application of Chapter.**

**409.** (1) Subject to subsection (3), this Chapter shall apply whenever any person referred to in section 387 seeks to limit his or her liability before the Court or seeks to procure the release of a ship or other property, or the discharge of any security given within the jurisdiction of Saint Christopher and Nevis.

(2) This Chapter shall apply in relation to Government ships as it applies in relation to other ships.

(3) In this section, "Government ships" mean—

- (a) ships of which the beneficial interest is vested in the Government;
- (b) ships which are registered as Government ships;
- (c) ships which are for the time being demised or sub-demised to or in the exclusive possession of the Government.

(4) This Chapter shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to, any property of a person who is on board the ship in question or employed in connection with that ship, or with the salvage operations in question, if he or she is so on board or employed under a contract of service governed by the laws of Saint Christopher and Nevis.

#### **Exclusion of liability.**

**410.** (1) Subject to subsection (3), the owner of a Saint Christopher and Nevis ship shall not be liable for any loss or damage in the following cases—

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by any person in his or her capacity as master or member of the crew or (otherwise than in that capacity) in the course of his or her employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he or she is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his or her as is mentioned in section 391.

(4) In this section, “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

## PART XVI

### ENFORCEMENT OFFICERS AND POWERS

#### *Enforcement Officers*

#### **Appointment of Director, surveyors and inspectors.**

- 411.** (1) There shall continue to be a Director of Maritime Affairs, who shall—
- (a) be an officer in the public service;
  - (b) be the principal adviser to the Minister in all matters relating to maritime affairs;
  - (c) have, subject to the directions of the Minister, the general superintendence of shipping belonging to, or present in, Saint Christopher and Nevis;
  - (d) have the responsibility for the enforcement and administration of the provisions of this Act and any rules made thereunder.
- (2) There shall be appointed such number of public officers, to be known as Deputy Directors of Maritime Affairs, as may from time to time be authorised by Parliament.
- (3) There shall be appointed such other officers as surveyors of ships in connection with surveys of ships and other matters connected thereto as may from time to time be authorised by Parliament.
- (4) Subject to such conditions as the Director may impose, surveys and inspections of ships under this Act may be carried out by any corporation or society for the survey and classification of ships authorised by the Director, and in such instances the terms “surveyor” and “surveyor of ships” shall be construed to include such corporation or society.
- (5) A surveyor of ships may be appointed as—
- (a) a nautical surveyor;
  - (b) a ship surveyor;
  - (c) an engineer surveyor; or
  - (d) any combination of (a), (b) and (c).
- (6) Surveyors of ships may be appointed either generally or for any particular case or purpose.
- (7) The Minister may, if he or she thinks fit, appoint any person as an inspector—
- (a) to report to the Director—
    - (i) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;

(ii) whether any requirements, restrictions or prohibitions imposed by or under this Act have been complied with or, as the case may be, contravened;

(iii) whether the hull and machinery of a ship are sufficient and in good condition;

(b) for the purposes of sections 416 and 421.

(8) A surveyor appointed under this section may act as an inspector.

(9) In this Act, “surveyor of ships” means a surveyor appointed under this section, and the reference to requirements, restrictions or prohibitions under this Act includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act.

### *Inspection, etc. Powers*

#### **Powers to require production of ship’s documents.**

**412.** (1) The powers conferred by this section are conferred in relation to Saint Christopher and Nevis ships and are available to—

- (a) the Director;
- (b) a surveyor of ships;
- (c) any British consular officer;
- (d) the Registrar;
- (e) any customs officer;
- (f) the Superintendent;
- (g) a commissioned naval officer,

whenever the officer has reason to suspect that this Act or any law for the time being in force relating to merchant seamen or navigation is not complied with.

(2) Those powers are—

- (a) to require the owner, master, or any member of the crew to produce any official log books or other documents relating to the crew or any member of the crew in their possession or control;
- (b) to require the master to produce a list of all persons on board his or her ship, and take copies of or extracts from official log books or other such documents;
- (c) to muster the crew; and
- (d) to require the master to appear and give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

(3) If any person, on being duly required by an officer under this section to produce a log book or any document, fails, without reasonable excuse, to produce the log book or document, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) If any person, on being duly required by any officer under this section—

- (a) to produce a log book or document, refuses to allow the log book or document to be inspected or copied;
- (b) to muster the crew, impedes the muster; or
- (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Power to inspect ships and their equipment.**

**413.** (1) For the purpose of ensuring that the provisions of this Act and of regulations made under this Act or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, a surveyor of ships may at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act, or regulations made under this Act.

(2) The powers conferred by subsection (1) are, if the ship is a Saint Christopher and Nevis ship, also exercisable outside Saint Christopher and Nevis and may be so exercised by a special agent as well as the persons mentioned in that subsection.

(3) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he or she considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) Where any such person as is mentioned in subsection (1) has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a Saint Christopher and Nevis ship which, if provided on the ship, would not be in accordance with safety regulations containing requirements as to provisions and water to be provided on ships, he or she may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with the regulations.

(5) If any person obstructs a person in the exercise of his or her powers under this section, or fails to comply with a requirement made under subsection (3), he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

#### **Powers of inspectors in relation to premises and ships.**

**414.** (1) The powers conferred by this section are conferred in relation to—

- (a) any premises in Saint Christopher and Nevis; or
- (b) any Saint Christopher and Nevis ship wherever it may be and any other ship which is present in Saint Christopher and Nevis or in Saint Christopher and Nevis waters,

and are available to any inspection appointed under section 411(6) or any surveyor acting as an inspector under section 411(7), for the purpose of performing his or her functions.

(2) Such an inspector may—

- (a) at any reasonable time or, in a situation which in his or her opinion is or may be dangerous, at any time—



- (i) enter any premises; or
  - (ii) board any ship,
- if he or she has reason to believe that it is necessary for him or her to do so;
- (b) on entering any premises by virtue of paragraph (a) or on boarding a ship by virtue of that paragraph, take with him or her any other person authorised for the purpose by the Director, and any equipment or materials he or she requires;
  - (c) make such examination and investigation as he or she considers necessary;
  - (d) give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed, whether generally or in particular respects, for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);
  - (e) take such measurements and photographs and make such recordings as he or she considers necessary for the purpose of any examination or investigation under paragraph (c);
  - (f) take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
  - (g) in the case of any article or substance which he or she finds in the premises or ship and which appears to him or her to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary;
  - (h) in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes—
    - (i) to examine it and do to it anything which he or she has power to do under that paragraph;
    - (ii) to ensure that it is not tampered with before his or her examination of it is completed;
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;
  - (i) require any person whom he or she has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c)—
    - (i) to attend at a place and time specified by the inspector;
    - (ii) to answer, in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed, such questions as the inspector thinks fit to ask; and
    - (iii) to sign a declaration of the truth of his or her answers;
  - (j) require the production of, and inspect and take copies of, or of any entry in—

- (i) any books or documents which by virtue of any provision of this Act are required to be kept; and
  - (ii) any other books or documents which he or she considers it necessary for him or her to see for the purposes of any examination or investigation under paragraph (c);
  - (k) require any person to afford him or her such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him or her to exercise any of the powers conferred on him or her by this subsection.
- (3) Nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.
- (4) The Minister may, by regulations, make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(f) and subsection (7) and as to the way in which samples that have been so taken are to be dealt with.
- (5) Where an inspector proposes to exercise the power conferred by subsection (2)(g) in the case of an article or substance found in any premises or ship, he or she shall, if so requested by a person who at the time is present in, and has responsibilities in relation to, the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.
- (6) Before exercising the power conferred by subsection (2)(g), an inspector shall consult such persons as appear to him or her appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he or she proposes to do under that power.
- (7) Where, under the power conferred by subsection (2)(h), an inspector takes possession of any article or substance found in any premises or ship, he or she shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he or she has taken possession of it under that power, and before taking possession of any such substance under that power an inspector shall, if it is practicable for him or her to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.
- (8) No answer given by a person in pursuance of a requirement imposed under subsection (2)(i) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of section 415 in respect of a statement in or a declaration relating to the answer, and a person nominated as mentioned in subsection (2)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him or her.

#### **Provisions supplementary to section 414.**

**415.** (1) A person who—

- (a) intentionally obstructs an inspector in the exercise of any power available to him or her under section 414;

- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 414 or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b) makes a statement or signs a declaration which he or she knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 414,

commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding ten thousand dollars; or
- (ii) on conviction on indictment, to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding one year, or both.

(2) Nothing in section 414 shall be taken to compel the production by any person of a document of which he or she would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the Court.

(3) A person who complies with a requirement imposed on him or her in pursuance of paragraph (i), (j) or (k) of subsection (2) of section 414 shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as may be prescribed.

(4) Any payments under subsection (3) shall be made out of monies provided by Parliament.

#### *Improvement Notices and Prohibition Notices*

#### **Improvement notices.**

**416.** (1) If an inspector appointed under section 411(6) or any surveyor acting as an inspector under section 411(7) is of the opinion that a person—

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

he or she may serve on that person a notice under this section, (referred to in the following sections of this Part as an “improvement notice”).

(2) An improvement notice shall—

- (a) state that the inspector is of the opinion referred to in subsection (1), and specify the provision or provisions as to which he or she is of that opinion, and give particulars of the reasons why he or she is of that opinion; and
- (b) require the person on whom the notice is served to remedy the contravention in question or, as the case may be, the matters occasioning it within such period as may be specified in the notice.

(3) The period specified in pursuance of subsection (2)(b) shall not expire before the end of the period within which a notice can be given under section 419 requiring questions relating to the improvement notice to be referred to arbitration.

(4) In this and the following sections of this Part, “the relevant statutory provisions” means—

- (a) the appropriate provisions of Parts VI to XI of this Act; and
- (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

#### **Prohibition notices.**

**417.** (1) If, as regards any relevant activities which are being or are likely to be carried out on board any ship by or under the control of any person, an inspector appointed under section 411(6) or any surveyor acting as an inspector under section 411(7), is of the opinion that, as so carried on or as likely to be carried on, the activities involve or, as the case may be, will involve the risk of serious personal injury to any person, whether on board the ship or not, the inspector may serve on the first-mentioned person a notice under this section (referred to in the following sections of this Part as a “prohibition notice”).

(2) In subsection (1), “relevant activities” means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.

(3) A prohibition notice shall—

- (a) state that the inspector is of the opinion referred to in subsection (1);
- (b) specify the matters which in his or her opinion give or, as the case may be, will give rise to the risk referred to in that subsection;
- (c) where in his or her opinion any of those matters involve or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he or she is of that opinion, specify the provision or provisions as to which he or she is of that opinion, and give particulars of the reasons why he or she is of that opinion; and

(d) direct—

- (i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served; or
- (ii) that the ship shall not go to sea,

(or both of those things), unless the matters specified in the notice in pursuance of paragraph (b), and any associated contravention of any provision so specified in pursuance of paragraph (c), have been remedied.

(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) shall take effect—

- (a) at the end of a period specified in the notice; or
- (b) if the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.

**Provisions supplementary to sections 416 and 417.**

**418.** (1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates, and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served—

- (a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 416(2)(b) or, as the case may be, section 417; and
- (b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 419.

**References of notices to arbitration.**

**419.** (1) Any question—

- (a) as to whether any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 416(2)(a) or 417(3)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion; or
- (b) as to whether directions included in the notice in pursuance of section 418(1) were reasonable,

shall, if the person on whom the notice was served so requires by a notice given to the inspector within twenty-one days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him or her.

(2) Where a notice is given by a person in accordance with subsection (1), then—

- (a) in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person;
- (b) in the case of a prohibition notice, the giving of the notice shall have the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs, and then only from the giving of the direction.

(3) Where, on a reference under this section, the arbitrator decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances—

- (a) the reason or matter did not constitute a valid basis for the inspector's opinion; or
- (b) the direction was unreasonable,

he or she shall either cancel the notice or affirm it with such modifications as he or she may in the circumstances think fit, and in any other case the arbitrator shall affirm the notice in its original form.

(4) A person shall not be qualified for appointment as an arbitrator under this section unless he or she is—

- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect with at least five years' post-qualification experience;
- (c) a person with at least ten years standing as a Barrister-at-Law or Solicitor in Saint Christopher and Nevis or in any other Commonwealth jurisdiction;
- (d) a person with special experience of shipping matters, or of activities carried on in ports.

(5) In connection with his or her functions under this section, an arbitrator shall have the powers conferred on an inspector by section 414.

**Compensation in connection with invalid prohibition notices.**

**420.** (1) If, on a reference under section 419 relating to a prohibition notice—

- (a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector's opinion; and
- (b) it appears to the arbitrator that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him or her in consequence of the service of the notice as the arbitrator thinks fit.

(2) If, on any such reference, the arbitrator decides that any direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him or her in consequence of the direction as the arbitrator thinks fit.

(3) An arbitrator shall not award any compensation under subsection (1) or (2) in the case of any prohibition notice unless—

- (a) it appears to him or her that the direction given in pursuance of section 417(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or
- (b) it appears to him or her that—
  - (i) the inspector was of the opinion that there would be such a risk of injury as is referred to in the notice if the ship went to sea; and
  - (ii) the effect of the direction given in pursuance of section 417(3)(d) was to prohibit the departure of the ship unless the matters, or, as the case may be, the matters and contraventions referred to in the direction were remedied.

(4) Any compensation awarded under this section shall be payable out of monies provided by Parliament.

**Offences.**

**421.** (1) Any person who contravenes any requirement imposed by an improvement notice commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine not exceeding fifteen thousand dollars.

(2) Any person who contravenes any prohibition imposed by a prohibition notice commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years, or both.

(3) It shall be a defence for a person charged with an offence under this section to prove that he or she exercised all due diligence to avoid a contravention of the requirement or prohibition in question.

(4) In this section, any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 419.

PART XVII

INQUIRIES AND INVESTIGATIONS INTO MARINE CASUALTIES

**Investigation of shipping casualties.**

**422.** (1) Where any of the following casualties occur, that is to say—

- (a) the loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship;
- (b) a loss of life or serious injury to any person, caused by fire on board, or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or
- (c) any damage caused by a ship,

and, at the time it occurs, the ship was a Saint Christopher and Nevis ship or the ship or ship's boat was in Saint Christopher and Nevis waters, the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Minister as an inspector of marine casualties who shall have the powers conferred on an inspector by section 414.

(2) Whether or not a preliminary inquiry into the casualty has been held under subsection (1), the Minister may cause a formal investigation to be held by a board appointed for that purpose.

**Formal investigation.**

**423.** (1) A board holding a formal investigation into a shipping casualty under section 422 shall consist of a judge of the Court or a Magistrate who shall be assisted

by one or more assessors appointed by the Minister, such assessors being persons with requisite skills and knowledge in maritime matters.

(2) Where, in any investigation, any question as to the cancellation or suspension of the certificate issued to an officer in pursuance of any regulations made under section 108 is likely to arise, there shall be not less than two assessors.

(3) If, as a result of the investigation, the board is satisfied, with respect to any officer, or any of the matters mentioned in paragraphs (a) to (c) of section 122(1) and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, the Director may cancel, or suspend any certificate issued to the officer under regulations made pursuant to section 108 or censure him or her, and if he or she cancels or suspends the certificate the officer shall deliver it forthwith to him or her.

(4) If a person fails to deliver a certificate as required under subsection (3) he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) Where a certificate has been cancelled or suspended under this section, the Director, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(6) The board may make such awards as it thinks just with regard to the costs or, as the case may be, expenses of the investigation, and with regard to the parties by whom those costs or expenses are to be paid, and any such award of the board may, on the application of any party named in it, be made an order of the Court.

(7) Subsections (2), (3) and (4) shall apply to endorsements of certificates in the same manner as they apply to certificates.

(8) The board shall make a report on the investigation to the Minister.

### **Rehearings and appeals.**

**424.** (1) Where a formal investigation has been held under section 423, the Minister may order the whole or part of the case to be reheard and shall do so if—

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

(2) An order made under subsection (1) may provide for the rehearing to be made by the board which held the investigation or by the Court.

(3) Any rehearing under this section shall be conducted in accordance with rules made under section 425, and section 423 shall apply in relation to a rehearing of an investigation by a board as it applies in relation to the holding of an investigation.

(4) Where the board holding the investigation has decided to cancel or suspend the certificate of any person issued pursuant to any regulations made under section 108, or has found any person at fault, then if no application for an order under subsection (1) has been made, or if such application has been refused, that person or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision or finding, may appeal to the Court.



**Rules relating to inquiries and investigations.**

**425.** (1) The Minister may make rules for the conduct of inquiries under section 422, for formal investigations under section 423, and for the conduct of any rehearing under section 424 which is not held by the Court.

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

(3) Rules of court made for the purpose of rehearings under section 424 which are held by the Court, or of appeals to the Court, may require the Court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a rehearing or hear such an appeal with the assistance of one or more assessors.

**Inquiries into and reports on deaths and injuries.**

**426.** (1) Subject to subsection (6), where—

- (a) any person dies in a Saint Christopher and Nevis ship or in a boat or life-raft from such a ship; or
- (b) the master of, or a seaman employed in, such a ship dies in a country outside Saint Christopher and Nevis,

an inquiry into the case of the death shall be held by the special agent at the next port where the ship calls after the death, or at such other places as the Director may direct.

(2) Subject to subsection (6), where it appears to the Director that—

- (a) in consequence of an injury sustained or a disease contracted by a person when he or she was the master of, or a seaman employed in, a Saint Christopher and Nevis ship, he or she ceased to be employed in the ship and subsequently died; and
- (b) the death occurred in a country outside Saint Christopher and Nevis during the period of one year beginning with the day on which he or she so ceased,

the Director may arrange for an inquiry into the cause of the death to be held by a special agent.

(3) Subject to subsection (6), where it appears to the Director that a person may—

- (a) have died in a Saint Christopher and Nevis ship or in a boat or life-raft from such a ship; or
- (b) have been lost from such a ship, boat or life-raft and have died in consequence of being so lost,

the Director may arrange for an inquiry to be held by a special agent into whether the person died as mentioned above and, if the special agent or proper officer finds that he or she did, into the cause of the death.

(4) The special agent holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 414.

(5) The person holding the inquiry shall make a report of his or her findings to the Director who shall make the report available—

- (a) if the person to whom the report relates was employed in the ship and a person was named as his or her next kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;
  - (b) in any case, to any person requesting it who appears to the Director to be interested.
- (6) No inquiry shall be held under this section where a coroner's inquest is to be held.

**Transmission of particulars of certain deaths on ships.**

**427.** Where—

- (a) an inquest is held into a death or a post mortem examination is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and
- (b) it appears to the coroner that the death in question is such as is mentioned in section 328(2),

it shall be the duty of the coroner to send to the Registrar, particulars in respect of the deceased of a kind prescribed by regulations made by the Minister.

PART XVIII

LEGAL PROCEEDINGS

*Prosecution of Offences*

**Time limit for summary offences.**

**428.** (1) Subject to subsections (2) and (3), no person shall be convicted of an offence under this Act in summary proceedings unless—

- (a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or
- (b) in a case where the accused happens, during that period, to be out of Saint Christopher and Nevis, the proceedings were commenced within two months after he or she first happens to arrive within Saint Christopher and Nevis and before the expiration of three years beginning with the date on which the offence was committed.

(2) Nothing in subsection (1) shall apply in relation to any indictable offence.

(3) Subsection (1) shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before—

- (a) the expiration of the period of six months beginning with the day when the evidence which the Attorney-General considers is sufficient to justify a prosecution for the offence came to his or her knowledge; or
- (b) the expiration of two months beginning with the day when the accused was first present in Saint Christopher and Nevis after the expiration of the period mentioned in paragraph (a), if throughout that period the accused was absent from Saint Christopher and Nevis.

- (4) For the purpose of subsection (3)—
- (a) a certificate of the Attorney-General stating that evidence came to his or her knowledge on a particular day shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of the Attorney-General and to be signed on his or her behalf shall be presumed to be such certificate unless the contrary is proved.

**Time limit for summary orders.**

**429.** No order for the payment of money shall be made under this Act in proceedings before a Magistrate's Court unless—

- (a) the proceedings were commenced within six months beginning with the date on which the matter or complaint arose; or
- (b) in a case where both or either of the parties to the proceedings happen, during that period, to be out of Saint Christopher and Nevis, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within Saint Christopher and Nevis.

**Offences by officers of bodies corporate.**

**430.** (1) Where a body corporate commits an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such a capacity, he or she as well as the body corporate commits that offence and shall be liable to be proceeded against and punished accordingly.

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

(3) Any document required or authorised, by virtue of any statutory provision, to be served on a company not registered in Saint Christopher and Nevis for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act alleged to have been committed by the company as the owner of a ship, shall be treated as duly served on that company if the document is served on the master of the ship, and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the ship in question.

*Jurisdiction*

**Jurisdiction in relation to offences.**

**431.** (1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in Saint Christopher and Nevis where the offender may be for the time being.

(2) For the same purpose, any matter or complaint under this Act shall be deemed to have arisen in any place in Saint Christopher and Nevis where the person complained against may be for the time being.

(3) The jurisdiction under subsections (1) and (2) shall be in addition to, and not in derogation of, any jurisdiction or power of the Court under any other enactment.

#### **Jurisdiction over ships lying off coasts.**

**432.** Where the area within which the Court has jurisdiction is situated on the coast of the sea or abuts on or projects into any bay, channel, or other navigable water, the Court shall have jurisdiction as respects offences under this Act over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, or navigable water and over all persons on board that vessel or for the time being belonging to it.

#### **Jurisdiction in case of offences on board ship.**

**433.** Where any person is charged with having committed any offence under this Act, the person—

- (a) if he or she is a Saint Christopher and Nevis citizen and is charged with having committed the offence—
  - (i) on board any Saint Christopher and Nevis ship on the high seas;
  - (ii) in any foreign port or harbour; or
  - (iii) on board any foreign ship to which he or she does not belong; or
- (b) if he or she is not a Saint Christopher and Nevis citizen and is charged with having committed it on board any Saint Christopher and Nevis ship on the high seas,

and he or she is found within the jurisdiction of the Court in Saint Christopher and Nevis which would have had jurisdiction in relation to the offence if it had been committed on board a Saint Christopher and Nevis ship within the limits of its ordinary jurisdiction to try the offence, the Court shall have jurisdiction to try the offence as if it had been so committed.

#### **Offences committed by Saint Christopher and Nevis seamen.**

**434.** (1) Any act in relation to property or person done in or at any place, ashore or afloat, outside Saint Christopher and Nevis by any master or seaman who at the time is employed in a Saint Christopher and Nevis ship, which, if done in any part of Saint Christopher and Nevis would be an offence under the law of any part of Saint Christopher and Nevis, shall—

- (a) be an offence under that law; and
- (b) be treated, for the purposes of jurisdiction and trials, as if it had been done within the jurisdiction of the Court.

(2) Subsection (1) also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

- (3) Subsections (1) and (2) apply to omissions as they apply to acts.

**Return of offenders.**

**435.** (1) The powers conferred on a British consular officer by subsection (2) are exercisable in the event of any complaint being made to him or her—

- (a) that any offence against property or persons has been committed at any place, ashore or afloat, outside Saint Christopher and Nevis by any master or seaman who at the time when the offence was committed, or within three months before that time, was employed in a Saint Christopher and Nevis ship;
- (b) that any offence on the high seas has been committed by any master or seaman belonging to any Saint Christopher and Nevis ship.

(2) Those powers are—

- (a) to inquire into the case upon oath; and
- (b) if the case so requires, to take any steps in his or her power for the purpose of placing the offender under the necessary restraint and sending him or her by a Saint Christopher and Nevis ship as soon as practicable in safe custody to Saint Christopher and Nevis for proceedings to be taken against him or her.

(3) The consular officer may, subject to subsections (4) and (5), order the master of any Saint Christopher and Nevis ship bound for Saint Christopher and Nevis to receive and carry the offender and the witnesses to Saint Christopher and Nevis, and the officer shall endorse upon the agreement of the ship such particulars with respect to them as the Director requires.

(4) A consular officer shall not exercise the power conferred by subsection (3) unless no more convenient means of transport is available or it is available only at disproportionate expense.

(5) No master of a ship may be required under subsection (3) to receive more than one offender for every 100 tons of his or her ship's gross tonnage, or more than one witness for every 50 tons of his or her ship's gross tonnage.

(6) The master of any ship to whose charge an offender has been committed under subsection (3) shall, on his or her ship's arrival in Saint Christopher and Nevis, deliver the offender into the custody of a police officer.

(7) If any master of a ship, when required under subsection (3), to receive and carry any offender or witness in his or her ship—

- (a) fails to do so; or
- (b) in the case of an offender, fails to deliver him or her as required by subsection (6),

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(8) The expense of imprisoning the offender and of carrying him or her and witnesses to Saint Christopher and Nevis otherwise than in the ship to which they respectively belong, shall be paid out of monies provided by Parliament.

(9) References in this section to carrying a person in a ship include affording him or her subsistence during the voyage.

*Detention of Ship and Distress on Ship***Enforcing detention of ship.**

**436.** (1) Where under this Act a ship is to be detained, any of the following officers may issue an order for detention and detain the ship—

- (a) the Director;
- (b) any surveyor of ships authorised by the Director for the purpose;
- (c) any customs officer;
- (d) any British consular officer;
- (e) any commissioned naval officer; and
- (f) any police officer,

and a copy of the order shall be provided to the proper customs officer at the port at which the ship seeks clearance.

(2) If a ship which has been detained or as respects which notice of detention or an order for detention has been served on the master proceeds to sea before it is released by a competent authority, the master of the ship commits an offence and is liable—

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

(3) The owner of a ship, and any person who sends to sea a ship, as respects which an offence is committed under subsection (2), if party or privy to the offence, also commits an offence under that subsection and is liable accordingly.

(4) Where a ship proceeding to sea in contravention of subsection (2) takes to sea any officer authorised by subsection (1) to detain the ship, who is on board the ship in the execution of his or her duty, the owner and master of the ship—

- (a) shall each be liable to pay all expenses of, and incidental to, the officer being so taken to sea; and
- (b) each commits an offence.

(5) A person who commits an offence under subsection (4) is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine not exceeding ten thousand dollars.

(6) Where under this Act a ship is to be detained, a customs officer shall, and where under this Act a ship may be detained, a customs officer may, refuse to clear the ship outwards.

(7) When any provision of this Act provides that a ship may be detained until any document is produced to a customs officer, the officer able to grant a clearance of the ship is, unless the context otherwise requires, that officer.

(8) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.

(9) Subject to subsection (12), where proceedings are to be instituted in respect of an alleged contravention of this Act, a person exercising the power of detention shall immediately release the ship if—

- (a) no proceedings for the offence in question are instituted within seven days beginning with the day on which the ship is detained;
- (b) such proceedings, having been instituted through exercise of the power conferred by subsection (1) within that period, are concluded without the master or owner being convicted;
- (c) either—
  - (i) the sum of one hundred thousand dollars is paid to the Accountant-General by way of security; or
  - (ii) security which, in the opinion of the Accountant-General, is satisfactory and is for an amount not less than one hundred thousand dollars is paid to the Accountant-General by or on behalf of the master or owner;
- (d) where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him or her, and any fine imposed on him or her, have been paid; or
- (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea, 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(10) The Minister shall cause to be repaid any sum paid in pursuance of subsection (9)(c), or have released, any security so given—

- (a) if no proceedings for the offence in question are instituted within seven days beginning with the day on which the sum is paid; or
- (b) if such proceedings having been instituted within that period, are concluded without the master or owner being convicted.

(11) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (9)(c) and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows—

- (a) first in payment of any costs or expenses ordered by the Court to be paid by the master or owner; and
- (b) next in payment of any fine imposed by the Court,

and the balance shall be repaid to the person paying the sum, or giving the security.

(12) Notwithstanding subsection (9), where a ship is detained under section 260, it shall not be released until the deficiency for which the ship was detained is rectified to the satisfaction of the Director or any person authorised by the Director.

(13) Where a ship detained under this Act is to be released, an order for release shall be issued by one of the persons referred to in subsection (1) as may be appropriate in the particular case, and such person shall provide a copy of the order to the proper customs officer of the port at which the ship is to be cleared outwards.

(14) Where the Director is satisfied that, by reason of any impending hurricane or other threatening signs of turbulent weather, it would be unsafe to allow any ship in a harbour to be put to sea, he or she may direct the owner or master not to put it to sea, and an owner or master who puts a ship to sea contrary to such direction commits an offence and is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

**Sums ordered to be leviable by distress on the ship.**

**437.** (1) Where the Court makes an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the Court which made the order may direct the amount remaining unpaid to be levied by distress.

(2) Where a fine imposed by a Court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any cost or expenses ordered to be paid by him or her are not paid at the time ordered by the Court, the Court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or arrestment and sale of the ship, her tackle, furniture and apparel.

(3) Where a person is convicted of an offence under this Act and the Court imposes a fine in respect of the offence, then if it appears to the Court that any person has incurred, or will incur, expenses in making good any damage which is attributable to the offence, the Court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

*Special Evidentiary Provisions*

**Depositions of persons abroad admissible.**

**438.** (1) If the evidence of any person is required in the course of any legal proceedings before a judge or magistrate in relation to the subject matter of the proceedings and it is proved that that person cannot be found in Saint Christopher and Nevis, any deposition that he or she may have previously made at a place outside Saint Christopher and Nevis in relation to the same subject matter shall, subject to subsection (2), be admissible in evidence in those proceedings.

(2) For a deposition to be admissible under subsection (1) in any proceedings, the deposition—

- (a) must have been taken on oath;
- (b) must have been taken before a Justice of the Peace or Magistrate in any British Colony or a British Consular Officer in any other place;
- (c) must be authenticated by the signature of the Justice of the Peace, Magistrate or officer taking it; and
- (d) must, if the proceedings are criminal proceedings, have been taken in the presence of the accused,

and, in a case falling within paragraph (d), the deposition shall be certified by the Justice of the Peace, Magistrate or officer taking it to have been in the presence of the accused.



(3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence of that fact.

(4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.

(5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of the Court.

**Admissibility in evidence and inspection of certain documents.**

**439.** (1) The following documents shall be admissible in evidence and, when in the custody of the Director, shall be open to public inspection—

- (a) documents purporting to be submissions to or decisions by the special agent under section 94;
- (b) the official log book of any ship kept under section 138 and, without prejudice to section 440(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
- (c) crew agreements, lists of crews made under section 139 and notices given under Part V of additions to or changes in crew agreements and list of crews;
- (d) returns or reports under section 328; and
- (e) documents transmitted to the Director under section 448.

(2) A certificate issued under regulations made pursuant to section 108 shall be admissible in evidence.

**Admissibility of documents in evidence.**

**440.** (1) Where a document is by this Act declared to be admissible in evidence, the document shall, on its production from proper custody—

- (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
- (b) subject to all just exceptions, be evidence of the matters stated in the document.

(2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3), also be admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from a document shall not be admissible by virtue of subsection (2), unless—

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Director may determine.

(4) A person shall, on payment of such reasonable price as the Director determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.

(5) If any officer having duties of certification under subsection (3) in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract, he or she commits an offence and is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale; or
- (b) on conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or both.

#### **Inspection and admissibility in evidence of copies of certain documents.**

**441.** (1) Where under any enactment a document is open to public inspection, when in custody of the Director—

- (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but
- (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.

(2) Where the Director destroys any document which has been sent to him or her under or by virtue of any enactment and keeps a copy or other reproduction of that document, then—

- (a) any enactment providing for that document to be admissible in evidence or open to public inspection; and
- (b) in the case of a document falling within subsection (1), that subsection,

shall apply to the copy or other reproduction as if it were the original.

(3) For the purposes of this section, and of 440(2) in its application to documents in the custody of the Director, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

#### **Proof, etc. of exemptions.**

**442.** (1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act—

- (a) it may be proved by the defendant; but
- (b) need not be specified or negated in any information or complaint,

and, if so specified or negated, shall not require to be proved by the informant or complainant.

(2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.

#### **Service of documents.**

**443.** (1) Any notice or document authorised or required to be served on any person may be served on that person—

- (a) by delivering it to him or her;

- (b) by leaving it at his or her proper address; or
- (c) by sending it by post to him or her at his or her proper address.

(2) Any such notice or document required to be served on the master of a ship may be served—

- (a) where there is a master, by leaving it for him or her on board the ship with the person appearing to be in command or charge of the ship; and
- (b) where there is no master, on—
  - (i) the managing owner of the ship;
  - (ii) if there is no managing owner, on any agent of the owner; or
  - (iii) where no such agent is known or can be found, by leaving a copy of the notice or document fixed to the mast of the ship.

(3) Subject to subsection (4), any notice or document authorised or required to be served on any person may—

- (a) in the case of a body corporate, be served on the secretary or clerk of that body; or
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) Any notice or document required or authorised by or under any enactment to be served on the registered owner of a Saint Christopher and Nevis ship shall, where there are two or more registered owners, be treated as duly served, if served on any one of the registered owners.

(5) Any notice or document authorised by section 416, 417, 418 or 419 to be given to an inspector may be given by delivering it to him or her or by leaving it at, or sending it by post to, his or her office.

(6) For the purposes of this section, the proper address of any person on whom any notice or document is to be served shall be his or her last known address, except that subject to subsection (7)—

- (a) in the case of a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of that body; or
- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership,

and for the purposes of this subsection, the principal office of a company registered outside Saint Christopher and Nevis shall be its principal office in Saint Christopher and Nevis.

(7) A letter containing—

- (a) a notice or document to be served on any person in pursuance of subsection (4); or
- (b) a notice or document required or authorised to be served under this Act on a representative person within the meaning of this Act,

shall be deemed to be properly addressed to that person at the address for the time being recorded in relation to him or her in the Register, and a letter containing any other notice or document to which subsection (1)(c) applies shall be deemed to be properly addressed if it is addressed to the last known address of the person to be

served, whether of his or her residence or of a place where he or she carries on business.

(8) Subject to subsection (7), if the person to be served with any notice has specified an address in Saint Christopher and Nevis other than his or her proper address within the meaning of subsection (6), as the one at which he or she or someone on his or her behalf will accept notices of the same description as that notice or document, that address shall also be treated for the purposes of this section as his or her proper address.

## PART XIX

### SUPPLEMENTAL

#### *Administration*

#### **General functions of Minister and Director.**

**444.** (1) The Minister shall have the general superintendence of all matters relating to merchant shipping and seamen and is authorised to carry into execution the provisions of this Act except as provided in subsection (2) and of all laws relating to merchant shipping and seamen for the time being in force, except where otherwise provided or so far as relating to revenue.

(2) The provisions in this Act—

- (a) concerning revenue and matters related thereto shall be administered by the Director; and
- (b) concerning the Ports Authority shall be administered by the Minister responsible for maritime affairs for the time being.

(3) The Director shall be the head of Saint Christopher and Nevis Shipping Registry and may act in the capacity of the Registrar, and in such other capacity as the Minister may direct.

#### **General power to dispense.**

**445.** (1) The Director may, and upon such conditions, if any, as the Director thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under, this Act, or dispense with the observance of any such requirement in the case of any ship, if he or she is satisfied, as respects that requirement, of the matters specified in subsection (2).

(2) Those matters are—

- (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and
- (b) that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

(3) The Minister shall annually lay before the National Assembly a special report stating—

- (a) the cases in which the Director has exercised his or her powers under this section during the preceding year; and

(b) the grounds upon which the Director has acted in each case.

#### **Registrar of Shipping and Seamen and Special Agents.**

**446.** (1) There shall be an officer known as the Registrar of Shipping and Seamen who shall be appointed in accordance with the public service regulations.

(2) There may be appointed an Assistant Registrar of Shipping who may, in the absence of the Registrar, act as the Registrar for the purposes of this Act.

(3) The Registrar shall exercise such functions as are conferred on him or her by this Act and keep such records and perform such other duties as the Director may direct.

(4) There shall be appointed by the Minister such number of special agents to exercise the functions conferred on them by this Act and to perform such other duties as the Director may determine.

(5) Notwithstanding subsections (1), (2) and (3) of this section, the Minister may, acting on the advice of Cabinet, enter into a contractual arrangement with any company or firm for the purpose of such company or firm carrying out the functions of Registrar.

#### **Nautical assessors.**

**447.** There shall be paid to any assessor appointed under this Act such remuneration, out of monies provided by Parliament, as the Minister may determine.

#### **Transmission of documents to Director.**

**448.** (1) The following duties are imposed on the special agents and all customs officers as respects all documents which are delivered or transmitted to or retained by them in pursuance of this Act.

(2) They shall take charge of the documents and keep them for such time, if any, as may be necessary for the purpose of settling any dispute arising at the place where the documents come into their hands, or for any other proper purpose.

(3) They shall, if required, produce them for any of those purposes, and shall then transmit them to the Director.

(4) The Director shall record and preserve all documents transmitted to him or her in pursuance of this section.

#### **Returns, etc., to Director.**

**449.** (1) The special agents shall make and send to the Director such returns or reports on any matter relating to Saint Christopher and Nevis seamen as he or she may require.

(2) The special agents shall, when required by the Director, produce to the Director or to his or her officers all official log-books and other documents which are delivered to him or her under this Act.

#### **Forms.**

**450.** (1) The Director may prepare and approve forms for any book, instrument or paper required under this Act and may alter such forms as he or she thinks fit.

(2) The Director shall cause every such form to be marked with the distinguishing mark of Saint Christopher and Nevis Shipping Registry and, before

finally issuing any form or making any alteration in a form, shall cause public notice thereof to be given in such manner as he or she thinks requisite in order to avoid inconvenience.

(3) The Director shall cause such forms to be supplied at offices of the customs and Saint Christopher and Nevis Shipping Registry, free of charge or at such reasonable prices as he or she may fix.

(4) Every such book, instrument or paper shall be made in the form, if any, approved by the Director, or as near as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(5) Every such book, instrument or paper, if made in a form purporting to be the proper form and to be marked in accordance with subsection (2) shall be deemed to be in the form required by this Act, unless the contrary is proved.

(6) The provisions of subsections (1) to (5) do not apply where special provision is made by this Act.

(7) If any person prints, sells or uses any document purporting to be a form approved by the Director knowing that the document is not the form approved for the time being or that the document has not been prepared or issued by the Director, that person commits an offence and is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

#### **Establishment of a Maritime Advisory Board.**

**451.** (1) There is established a body to be known as the Maritime Advisory Board.

(2) The constitution, functions and procedures of the Maritime Advisory Board shall be as provided in the Fourth Schedule.

#### *Financial Provisions*

#### **Fees and Fines.**

**452.** (1) The Minister may make regulations prescribing fees to be charged in respect of—

- (a) the issue or recording in pursuance of this Act of any certificate, licence or other document; or
- (b) the doing of any thing in pursuance of this Act.

(2) In the case of fees for the measurement of a ship's tonnage, the fees may be prescribed as maximum fees.

(3) All fees and fines paid under this Act shall be paid into the Consolidated Fund.

(4) The standard scale of fines shall be as provided in the Fifth Schedule.

(5) The Minister may, by Order, vary the standard scale of fines taking into account the rate of inflation in Saint Christopher and Nevis for the time being.

**Expenses of Customs.**

**453.** (1) All expenses incurred by the Customs in the conduct of proceedings or otherwise in carrying into effect the provisions of this Act shall be treated as expenses relating to the revenue of customs and shall be paid accordingly.

(2) The Minister may cause to be repaid all or any part of such of the expenses paid in accordance with subsection (1) as are chargeable under this Act on monies provided by Parliament.

**Expenses charged on monies provided by Parliament.**

**454.** The following expenses and other amounts shall be payable out of monies provided by Parliament—

- (a) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
- (b) such sums as the Minister may, in his or her discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
- (c) the expenses incurred in respect of the Receiver of Wreck and the performance of his or her duties;
- (d) such expenses as the Minister directs for—
  - (i) establishing and maintaining on the coasts of Saint Christopher and Nevis proper lifeboats with the necessary crews and equipment;
  - (ii) affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or
  - (iii) rewarding the preservation of life in such cases;
- (e) any other amounts which are by virtue of any provisions of this Act payable out of monies provided by the Parliament.

**Payments to be made into Consolidated Fund.**

**455.** (1) The following sums shall be paid into the Consolidated Fund—

- (a) all fees, charges and expenses payable in respect of the survey and measurement of ships;
- (b) any fees received by the Receiver of Wreck;
- (c) any sums which are, by any provision of this Act, required to be paid into the Consolidated Fund.

(2) All fees mentioned in this section shall be paid at such time and in such manner as the Minister directs.

*Subordinate Legislation***Regulations, etc.**

**456.** (1) Without prejudice to any other provision of this Act, the Minister may make regulations making such provisions as he or she considers appropriate for all or any of the following purposes—

- (a) for securing the safety of ships registered in Saint Christopher and Nevis or other ships plying Saint Christopher and Nevis waters and persons on them and for protecting the health of persons on Saint Christopher and Nevis ships or such other ships;
- (b) for adopting the provisions of any regional treaty, or any instrument made pursuant to such treaty, on the safety of ships or the protection of the marine environment;
- (c) for giving effect to any provisions of an international agreement adopted by Saint Christopher and Nevis so far as the agreement relates to the safety of other ships or persons on them, or to the protection of the health of persons on other ships;
- (d) for securing the safety of other ships and persons on them while they are within a port in Saint Christopher and Nevis;
- (e) for any other matters relating to load lines in addition to those referred to in section 221, including—
  - (i) the issue of Certificates and forms thereof;
  - (ii) the determination and assignment of load lines to Saint Christopher and Nevis ships to which the Load Line Convention does not apply; and
  - (iii) requirements with respect to the carriage of cargo in any uncovered space on the deck of a ship;
- (f) for prescribing anything that under this Act is to be prescribed;
- (g) generally for the purpose of giving effect to the provisions of this Act.

*(Inserted by Act 12 of 2005)*

(2) The power conferred by subsection (1) to make provision for giving effect to an agreement, includes power to provide for the provision to come into force although the agreement has not come into force.

(3) Regulations made under subsection (1) may—

- (a) make different provisions for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside Saint Christopher and Nevis;
- (d) contain such incidental and transitional provisions as the Minister considers appropriate.

(4) Any direction, notice, order or authorisation under this Act, given or made by the Minister or Director shall be in writing.

*Application of Act to Certain Description of Ships, etc.*

**Application of Act to non-Saint Christopher and Nevis ship.**

**457.** (1) The Minister may make regulations specifying any description of non-Saint Christopher and Nevis ships and directing that such of the provisions of this Act



and of instruments under this Act as may be specified in the regulations shall extend—

- (a) to non-Saint Christopher and Nevis ships of that description and to masters and seamen employed in them; or
- (b) in such circumstances as may be so specified, with such modifications, if any, as may be so specified.

(2) Regulations made under this section may contain such transitional, supplementary and consequential provisions as appear to the Minister to be expedient.

(3) In this section, “non-Saint Christopher and Nevis ships” means ships that are not registered in Saint Christopher and Nevis.

#### **Application of Act to Government ships.**

**458.** (1) Subject to any other provision of it, this Act shall not apply to ships belonging to the Government.

(2) The Minister may make an Order with respect to the manner in which Government ships may be registered as Saint Christopher and Nevis Ships under Part II, and this Act, subject to any exceptions and modifications which Cabinet may make, either generally or as respects any special class of Government ships, shall apply to Government ships registered in accordance with the Order as if they were registered in accordance with Part II.

(3) Any Order made under subsection (2) shall be laid before the National Assembly after being made.

#### **Application of Act to ships bareboat chartered to the Government.**

**459.** (1) This section applies to a ship if for the time being—

- (a) the ship is—
  - (i) registered in Saint Christopher and Nevis; and
  - (ii) in the services of the Government by reason of a bareboat charter to the Government; and
- (b) there is in force under section 458(2) any Order providing for the registration of Government ships.

(2) Where this section applies to any ship, the following statutory provisions, namely—

- (a) the provisions of the Order referred to in subsection (1)(b) (excluding those relating to registration under the Order); and
- (b) the provisions of this Act, (as they apply by virtue of section 458(2), and that Order,

shall, subject to subsections (3) and (4), have the same effect in relation to that ship as they have in relation to a Government ship, whether referred to as such or as such a ship registered in pursuance of that Order.

(3) Subject to subsection (4), Part II shall have effect in relation to a ship to which this section applies in like manner as if it were not, for the purpose of this Act, a ship belonging to the Government.

(4) The Minister may make an Order to provide that any statutory provision falling within subsection (2) or (3), and specified in the Order shall—

- (a) not have effect in accordance with that subsection in relation to a ship to which this section applies; or
- (b) have effect in relation to such a ship, but subject to such modifications as are specified in the Order.

(5) In the application of any provision of this Act, other than a provision of Part II, in relation to a ship to which this section applies, any reference to the owner of the ship shall be construed as a reference to the Government.

(6) An Order under this section may make such transitional, incidental or supplementary provisions as appears to the Minister to be necessary or expedient.

#### **Application of Act to certain structures, etc.**

**460.** (1) The Minister may, by Order, provide that a thing designed or adapted for use at sea and described in the Order is or is not to be treated as a ship for the purposes of any specified provision of this Act or of an instrument made thereunder.

(2) An Order made under this section may—

- (a) make different provisions in relation to different occasions;
- (b) if it provides that a thing is to be treated as a ship for the purposes of a specified provision, provide that the provision shall have effect in relation to the thing with such modifications as are specified.

(3) In this section “specified” means specified in the Order.

#### *Final Provisions*

#### **Monitoring of small vessels.**

**461.** The Minister may prescribe terms and conditions for the effective monitoring and control of vessels measuring under twenty-four metres including the following—

- (a) registration;
- (b) licensing;
- (c) training of crew;
- (d) certification of trained crew,

of these vessels.

*(Amended by Act 37 of 2009)*

#### **Applied Regulations.**

**462.** (1) The regulations, rules and orders specified in the Sixth Schedule to this Act, as may from time to time may be amended, shall be deemed to have been made under the relevant provisions of this Act and shall have full force and effect accordingly, and—

- (a) any reference in those regulations, rules and orders to British ships or to ships registered in the United Kingdom shall be construed as a reference to Saint Christopher and Nevis ships, and any reference to

ships in port in the United Kingdom shall be construed as reference to ships in port in Saint Christopher and Nevis;

- (b) any reference therein to the Board of Trade shall be construed as a reference to the Minister;
- (c) such regulations, rules and orders shall be otherwise construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act;
- (d) any certificate, form or code of instructions printed and officially published for use in compliance with those regulations, rules and orders shall apply in similar manner;
- (e) those regulations, rules and orders may be amended or replaced by regulations made under this Act.

(2) The Minister may, by notice in the *Gazette*, add to or amend the Sixth Schedule.

*(Amended by Act 25 of 2008)*

#### **Contravention of International Conventions.**

**463.** (1) Where, in respect of any Saint Christopher and Nevis ship, there is any contravention of a requirement of any of the International Conventions or Regulations set forth in the Seventh Schedule to this Act, a registrar or an inspector may suspend the certificate of registry of the ship until the contravention is rectified.

(2) The Minister may, by notice in the *Gazette*, amend or add to the Seventh Schedule to this Act.

*(Amended by Act 25 of 2008)*

---

**FIRST SCHEDULE****INSTRUMENTS AND DOCUMENTS FOR WHICH FORMS ARE TO BE  
PRESCRIBED***(Section 57)*

1. Certificate of survey.
2. Declaration of ownership by individual owner.
3. Declaration of ownership on behalf of a corporation as owner.
4. Certificate of registry.
5. Declaration of ownership by individual transferee.
6. Provisional certificate.
7. Declaration of owner taking by transmission.
8. Declaration of mortgagee taking by transmission.
9. Bill of Sale.
10. Mortgage to secure principal sum and interest.
11. Mortgage to secure account current, etc. (individuals or joint owners).
12. Transfer of mortgage by individual or joint owners.
13. Transfer of mortgage by body corporate.

**SECOND SCHEDULE****PREVENTION OF OIL POLLUTION: TRANSITORY PROVISIONS***(Sections 359, 360 and 361)***CHAPTER I****LIABILITY FOR OIL POLLUTION****Interpretation.****329.** (1) In this Chapter—

“damage” includes loss;

“owner”, in relation to a registered ship, means the person registered as its owner, except that in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 331.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil carried in a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrence resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) References in this Chapter to the territory of any country include the territorial sea of that country.

### *Liability*

#### **Liability for oil pollution in case of tankers.**

**330.** (1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by a ship (whether as part of the cargo or otherwise) is discharged or escapes from the ship, the owner of the ship shall be liable, (except as otherwise provided by this Chapter)—

- (a) for any damage caused in the territory of Saint Christopher and Nevis by contamination resulting from the discharge or escape;
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or reducing any such damage in the territory of Saint Christopher and Nevis; and
- (c) for any damage caused in the territory of Saint Christopher and Nevis by any measures so taken.

(2) Where a person incurs a liability under subsection (1), he or she shall also be liable for any damage or cost for which he or she would be liable under that subsection if the references therein to the territory of Saint Christopher and Nevis included the territory of any Liability Convention Country.

(3) Where persistent oil is discharged or escapes from two or more ships and—

- (a) a liability is incurred under this section by the owner of each of them; but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) For the purposes of this Chapter, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape.

#### **Liability for oil pollution in case of other ships.**

**331.** (1) Where, as a result of any occurrence, any persistent oil is discharged or escapes from a ship other than a ship to which section 330 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of Saint Christopher and Nevis by contamination resulting from the discharge or escape;
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimizing any damage so caused in the territory of Saint Christopher and Nevis by contamination resulting from the discharge or escape; and

- (c) for any damage so caused in the territory of Saint Christopher and Nevis by any measure so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 330 applies by the contamination which might result if there were a discharge or escape of persistent oil from a ship, then, (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of Saint Christopher and Nevis; and
- (b) for any damage caused outside the ship in the territory of Saint Christopher and Nevis by any measures so taken,

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) In this section, “ship” includes a vessel which is not sea-going.

#### **Exceptions from liability under sections 330 and 331.**

**332.** (1) The owner of a ship from which persistent oil has been discharged or has escaped shall not incur any liability under section 330 if he or she proves that the discharge or escape—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or left undone by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

(2) No liability shall be incurred by the owner of a ship under section 331 by reason of any discharge or escape of persistent oil from the ship, or by reason of any relevant threat of contamination, if he or she proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

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

**Restriction of liability for oil pollution.**

**333.** (1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship is discharged or escapes then, whether or not the owner incurs a liability under section 330—

- (a) he or she shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and
- (b) no servant or agent of the owner nor any person performing salvage operations with the agreement of the owner shall be liable for any such damage or cost.

(2) Where, as a result of any occurrence—

- (a) any persistent oil is discharged or escapes from a ship to which section 331 applies; or
- (b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 331—

- (i) he or she shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and
- (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him or her either with intent by him or her to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(3) Subsection (2)(ii) of this section applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 331;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e).

(4) The liability of the owner of a ship under section 331 for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits; and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

*Limitation of liability***Limitation of liability under section 330.**

**334.** (1) Where the owner of a ship incurs liability under section 330 by reason of a discharge or escape which has occurred without his or her actual fault or privity then—

- (a) he or she may limit that liability in accordance with the provisions of this Chapter; and
- (b) if he or she limits his or her liability under paragraph (a), his or her liability (that is to say, the aggregate of his or her liabilities under section 330 resulting from the discharge or escape) shall not exceed 133 special drawing rights for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) 14 million special drawing rights.

(2) For the purposes of this section, the tonnage of a ship shall be ascertained as follows—

- (a) where the registered tonnage of the ship has been or can be ascertained in accordance with the tonnage regulations, the ship's tonnage shall be the registered tonnage of the ship as so ascertained but without making any deduction required by those regulations of any tonnage allowance for propelling machinery space;
- (b) where the ship is of a description with respect to which no provision is for the time being made by the tonnage regulations, the tonnage of the ship shall be taken to be 40 per cent of the weight (expressed in tons of 2,240 lbs) of oil which the ship is capable of carrying;
- (c) where the tonnage of the ship cannot be ascertained in accordance with either paragraph (a) or paragraph (b), a surveyor of ships shall, if so directed by the Court, certify what, on the evidence specified in the direction, would in his or her opinion be the tonnage of the ship as ascertained in accordance with paragraph (a) or (as the case may be) paragraph (b) if the ship could be duly measured for the purpose, and the tonnage stated in his or her certificate shall be taken to be the tonnage of the ship.

**Limitation actions.**

**335.** (1) Where the owner of a ship has or is alleged to have incurred a liability under section 330, he or she may apply to the Court for the limitation of that liability to an amount determined in accordance with section 334.

(2) If on such an application the Court finds that the applicant has incurred such a liability and is entitled to limit it, the Court shall, after determining the limit of the liability and directing payment into the Court of the amount of that limit—

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into Court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to subsections (7) and (10).



## (3) Where—

(a) a distribution is made under subsection (2)(b) without the Court having found that the applicant is entitled to limit his or her liability; and

(b) the Court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(4) A payment into Court of the amount of a limit determined in pursuance of this section shall be made in the currency of the United States dollars in accordance with subsection (5).

(5) For the purpose of converting such an amount from special drawing rights into the currency of the United States dollars, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund has fixed as being the equivalent of one special drawing right—

(a) the day on which the determination is made; or

(b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

## (6) A certificate given by or on behalf of the Minister stating—

(a) that a particular sum in dollars has been fixed by the International Monetary Fund for the day on which the determination was made; or

(b) that no sum has been so fixed for that day and that a particular sum in dollars has been fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(7) A document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(8) No claim shall be admitted in proceedings under this section unless it is made within such time as the Court may direct or such further time as the Court may allow.

(9) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

(a) by the owner or the person referred to in section 342 as “the insurer”; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 330, for the damage or cost and who is entitled to limit his or her liability in connection with the ship by virtue of Chapter II of Part XV,

the person who paid the sum shall, to the extent of that sum, in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(10) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended, he or she shall be in

the same position with respect to any distribution made in proceedings under this section as if he or she had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(11) The Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court or any country outside Saint Christopher and Nevis.

**Restriction on enforcement after establishment of limitation fund.**

**336.** Where the Court has found that a person who has incurred a liability under section 330 is entitled to limit that liability to any amount and he or she has paid into Court a sum not less than that amount—

- (a) the Court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs,

if the sum paid into Court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him or her if the proper steps in the proceedings under section 335 had been taken.

**Concurrent liabilities of owners and others.**

**337.** Where, as a result of any discharge or escape of persistent oil from a ship, the owner of the ship incurs a liability under section 330 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) of that section, then, if—

- (a) the owner has been found, in proceedings under section 335, to be entitled to limit his or her liability to any amount and has been paid into Court a sum not less than that amount; and
- (b) the other person is entitled to limit his or her liability in connection with the ship by virtue of Chapter II of Part XV,

no proceedings shall be taken against the other person in respect of his or her liability, and if any such proceedings were commenced before the owner paid the sum into Court, no further steps shall be taken in the proceedings except in relation to cost.

**Establishment of limitation fund outside Saint Christopher and Nevis.**

**338.** Where the events resulting in the liability of any person under section 330 also resulted in a corresponding liability under the law of another Liability Convention Country, sections 336 and 347 shall apply as if the references to sections 330 and 335 included references to the corresponding provisions of that law and the references to sums paid into Court included references to any sums secured under those provisions in respect of the liability.

**Extinguishment of claims.**

**339.** No action to enforce a claim in respect of a liability incurred under section 330 or 331 shall be entertained by the Court unless the action is commenced no later than three years after the claim arose and no later than six years after the occurrence or

first of the occurrences resulting in the discharge or escape by reason of which the liability was incurred.

### *Compulsory Insurance*

#### **Compulsory insurance against liability for pollution.**

**340.** (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of persistent oil of a description specified in regulations made by the Minister.

(2) The ship shall not enter or leave a port in Saint Christopher and Nevis or arrive at or leave a terminal in the territorial sea of Saint Christopher and Nevis nor, if the ship is a Saint Christopher and Nevis ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability) and for the purposes of this subsection, the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article II of the Protocol dated 19th November, 1976 to the Liability Convention.

(3) The certificate shall be—

- (a) if the ship is a Saint Christopher and Nevis ship, a certificate issued by the Minister;
- (b) if the ship is registered in a Liability Convention Country other than Saint Christopher and Nevis, a certificate issued by or under the authority of the government of the other Liability Convention Country; and
- (c) if the ship is registered in a country which is not a Liability Convention Country, a certificate issued by the Minister or under the authority of the government of any Liability Convention Country other than Saint Christopher and Nevis.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer or to the Minister and, if the ship is a Saint Christopher and Nevis ship, to any proper officer.

(5) If a ship enters or leaves, or attempts to enter or leave a port, or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2), the master or owner commits an offence and is liable, on summary conviction, to a fine not exceeding fifty thousand dollars.

(6) If a ship fails to carry or the master of a ship, fails to produce, a certificate as required by subsection (4), the master commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If a ship attempts to leave a port in Saint Christopher and Nevis in contravention of this section, the ship may be detained.

#### **Issue of certificate by Director.**

**341.** (1) Subject to subsection (3), if the Minister is satisfied on an application for such a certificate as is mentioned in section 340 in respect of a Saint Christopher and

Nevis ship or a ship registered in any country which is not a Liability Convention Country, that there will be in force in respect of the ship, throughout the period, for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Minister shall issue such a certificate to the owner.

(2) For the purposes of subsection (1), the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article V as amended by Article II of the Protocol dated 19th November, 1976 to the Liability Convention.

(3) If the Minister is of the opinion that there is a doubt whether the person providing the insurance or other security will be able to meet its obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 330 in all circumstances, he or she may refuse the certificates.

(4) The Minister may make regulations providing for the cancellation and delivery of a certificate under this section in such circumstances as may be prescribed by the regulations.

(5) If a person required by regulations made under subsection (4) to deliver up a certificate fails to do so, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) The Minister shall send a copy of any certificate issued by him or her under this section in respect of a Saint Christopher and Nevis ship to the Director, and the Director shall make the copy available for public inspection.

#### **Rights of third parties against insurers.**

**342.** (1) Where it is alleged that the owner of a ship has incurred a liability under section 330 as a result of any discharge or escape of oil occurring while there was in force a contract of insurance or other security to which a certificate as is mentioned in section 340 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability) to prove that the discharge or escape was due to the wilful misconduct of the owner himself or herself.

(3) The insurer may limit his or her liability in respect of claims made against him or her by virtue of this section in like manner and to the same extent as the owner may limit his or her liability, but the insurer may do so whether or not the discharge or escape occurred without the owner's fault or privity.

(4) Where the owner and the insurer each apply to the Court for the limitation of his or her liability, any sum paid into Court in pursuance of either application shall be treated as paid also in pursuance of the other.

#### **Jurisdiction of Saint Christopher and Nevis Court and registration of foreign judgments.**

**343.** (1) Where any persistent oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of Saint Christopher and Nevis and no measures are reasonably taken to prevent or reduce such damage in that territory, no court in Saint Christopher and Nevis shall entertain an action (whether *in rem* or *in personam*) to enforce a claim arising from—

- (a) any damage caused in the territory of another Liability Convention Country by contamination resulting from the discharge or escape;
- (b) any cost incurred in taking measures to prevent or reduce such damage in the territory of another Liability Convention Country; or
- (c) any damage caused by any measures taken.

(2) Any judgment given by a court in a Liability Convention Country to enforce a claim in respect of a liability incurred under any provision corresponding to section 330 shall be enforced by a competent court in Saint Christopher and Nevis.

#### **Government ships.**

**344.** (1) Nothing in the preceding provision of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes, it shall be a sufficient compliance of section 340(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 of the Liability Convention will be met up to the limit prescribed by Article V of the Liability Convention as amended by Article II of the Protocol dated 19th November, 1976 to the Liability Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in Saint Christopher and Nevis to enforce a claim in respect of a liability incurred under section 330, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, against the property of any State.

#### **Limitation of liability under section 334.**

**345.** For the purposes of Chapter II of Part XV, any liability incurred under section 331 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in subsection (1)(a) of section 388.

#### **Saving for recourse actions.**

**346.** Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability.

#### **Meaning of “the Liability Convention” and related expression.**

**347.** (1) In this Chapter—

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969;

“Liability Convention Country” means a country in respect of which the Liability Convention is in force; and

“Liability Convention State” means a State which is a party to the Convention.

(2) If the Governor-General, by Order in Council, declares that any State specified in the Order is a party to the Liability Convention in respect of any country specified, the Order shall, while in force, for the purposes of this Part be conclusive

evidence that that State is a party to the Liability Convention in respect of that country.

## CHAPTER II

### INTERNATIONAL OIL POLLUTION COMPENSATION FUND

#### *Preliminary*

#### **Interpretation.**

**348.** (1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil carried by the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 340;

“oil”, except in section 344 and 350, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever the escape or discharge may occur, and includes the cost of preventive measures and further damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by any person after the occurrence to prevent or minimise pollution damage;

“ship” means any sea-going ship and any seaborne craft of any type whatsoever carrying oil in bulk as cargo.

(2) References in this Chapter to the territory of any country include the territorial sea of that country, and references to pollution damage in Saint Christopher and Nevis shall be construed accordingly.

(3) For the purposes of this Chapter, a ship’s tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage.

(4) If the ship cannot be measured in accordance with the normal rules, its tonnage shall be deemed to be 40 per cent of the weight in tons (of 2,240 lbs) of oil which the ship is capable of carrying.

(5) For the purposes of this Chapter, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

*Contributions to Fund*

**Contributions by importers of oil and others.**

**349.** (1) Contributions shall be payable to the Fund in respect of oil carried by sea ports or terminal installations in Saint Christopher and Nevis otherwise than on a voyage only within its national waters.

(2) Subsection (1) applies whether or not the oil is being imported and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the fund in respect of oil when first received in any installation in Saint Christopher and Nevis after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention Country.

(4) The person liable to pay contributions is—

- (a) in the case of oil which is being imported into Saint Christopher and Nevis, the importer; and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him or her in any year if the oil so imported or received in the year does not exceed 150,000 tons.

(6) For the purpose of subsection (5)—

- (a) all the members of a group of companies shall be treated as a single person; and
- (b) any two or more companies which have amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

- (a) be of such amount as may be determined by the Assembly of the Fund under Articles 11 and 12 of the Fund Convention (as amended by Article III of the Protocol dated 19th November, 1976 to that Convention) and notified to that person by the Fund; and
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him or her,

and if any amount due from him or her remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Minister may, by regulations, impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Accountant-General, or the Fund.

(9) Regulations made under subsection (8) may—

- (a) contain such supplemental or incidental provisions as appear to the Minister expedient; and
- (b) impose penalties for contravention of the regulations punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.

(10) In this section and in section 350, unless the context otherwise requires—

“company” means a body incorporated under the laws of Saint Christopher and Nevis, or of any other country;

“group”, in relation to companies, means a holding company and its subsidiaries subject, in the case of a company incorporated outside Saint Christopher and Nevis, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil, and—

- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
  - (i) crude oils from which distillate fractions have been removed; and
  - (ii) crude oils to which distillate fractions have been added;
- (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such material intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier;

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

#### **Power to obtain information.**

**350.** (1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 349 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Minister may, by notice, require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 349.

(3) A notice made under this section may specify the way in which, and any time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 349, particulars in any list transmitted by the Minister to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him or her under this section, or in connection with the execution of this section, then, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;



- (b) in connection with the execution of this section, or for the purposes of any legal proceedings arising out of this section or any report of such proceedings,

he or she commits an offence and is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(6) A person who—

- (a) refuses or intentionally neglects to comply with a notice under this section; or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which he or she knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) and not exceeding level 5 on the standard scale in the case of an offence under paragraph (b); and
- (ii) on conviction on indictment, to a fine not exceeding fifteen thousand dollars, or imprisonment for a term not exceeding twelve months, or both.

#### *Compensation for persons suffering pollution damage*

#### **Liability of the Fund.**

**351.** (1) The Fund shall be liable for pollution damage in the territory of Saint Christopher and Nevis if the person suffering the damage has been unable to obtain full compensation under section 330 because—

- (a) the discharge or escape causing the damage—
  - (i) resulted from an exceptional, inevitable and irresistible phenomenon;
  - (ii) was due wholly to anything done or left undone by another person (not being a servant or agent of the owner) with intent to do damage; or
  - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,(and because liability is accordingly wholly displaced by section 332);
- (b) the owner or guarantor liable for the damage cannot meet his or her obligations in full; or
- (c) the damage exceeds the liability under section 330 as limited by section 334.

(2) Subsection (1) shall apply with the substitution for the words “Saint Christopher and Nevis” of the words “a Fund Convention Country” where the incident has caused pollution damage in the territory of Saint Christopher and Nevis

and of another Fund Convention Country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention Country or in Saint Christopher and Nevis.

(3) Where the incident has caused pollution damage in the territory of Saint Christopher and Nevis and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter I shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) For the purposes of this section, an owner or guarantor is to be treated as incapable of meeting his or her obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(5) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he or she shall be in the same position with respect to claim against the Fund under this section as if he or she had a claim in respect of liability under section 330.

(6) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage—

(i) resulted from an act of war, hostilities, civil war or insurrection;  
or

(ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on government non-commercial service; or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him or her, or involving two or more ships one of which is identified by him or her.

(7) Subject to subsection (8), if the Fund proves that the pollution damage resulted wholly or partly from—

(a) an act or omission done with intent to cause damage by the person who suffered the damage; or

(b) the negligence of that person,

the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person.

(8) Subsection (7) does not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimise pollution damage.

(9) Where the liability under section 330 is limited to any extent by subsection (5) of that section, the Fund shall be exonerated to the same extent.

#### **Limitation of Fund's liability under section 351.**

**352.** (1) The Fund's liability under section 351 shall be subject to the limits imposed by paragraphs 4, 5 and 6 of Article 4 of the Fund Convention (as amended by Article III of the Protocol dated 19th November, 1976 to that Convention) which imposes an overall limit on the liabilities of the owner and of the Fund, and the text of which is set out in Part II of Schedule 3.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund, and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(3) For the purpose of giving effect to paragraphs 4, 5 and 6 of Article 4 of the Fund Convention, a court giving judgment against the Fund in proceedings under section 351 shall notify the Fund, and—

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it;
- (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount;
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) shall be steps to obtain payment in the currency of United States dollars, and for the purpose of converting such an amount from special drawing rights into dollars one special drawing right shall be treated as equal to such in dollars as the International Monetary Fund has fixed as being the equivalent of one special drawing right for—

- (a) the day on which the judgment is given; or
- (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

(5) A certificate given by or on behalf of the Minister stating—

- (a) that a particular sum in dollars has been so fixed for the day on which the judgment was given; or
- (b) that no sum has been fixed for that day and that a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the judgment was given,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(6) A document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

#### *Indemnification of shipowners*

#### **Indemnification where damage is caused by ship registered in Fund Convention Country.**

**352A.** (1) Where a liability is incurred under section 330 in respect of a ship registered in a Fund Convention Country, the Fund shall indemnify the owner and his or her guarantor for that portion of the aggregate amount of the liability which—

- (a) is in excess of an amount equivalent to 100 special drawing rights for each ton of the ship's tonnage or of an amount of 8,333,000 special drawing rights, whichever is the less; and
- (b) is not in excess of an amount equivalent to 133 special drawing rights for each ton of the said tonnage or an amount of 14 million special drawing rights, whichever is the less.

(2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention Country (but is a country in respect of which the Liability Convention is in force), and the incident has caused pollution damage in the territory of Saint Christopher and Nevis (as well as in the territory of that other country), subsection (1) shall apply with the omission of the words "under section 330".

(3) The Fund shall not incur an obligation under this section where the pollution damage results from the wilful misconduct of the owner.

(4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner—

- (a) the ship did not comply with such requirements as the Minister, has by Order, has prescribed for the purposes of this section; and
- (b) the occurrence or damage was caused wholly or partly by that non-compliance.

(5) The requirements referred to in subsection (4) are such requirements as appear to the Minister appropriate to implement the provisions of—

- (a) Article 5(3) of the Fund Convention (marine safety conventions); and
- (b) Article 5(4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).

(6) An Order made under subsection (4) may contain such transitional and other supplemental provisions as appear to the Minister to be expedient.

(7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise the pollution damage shall be treated as included in the owner's liability for the purposes of this section.

(8) For the purpose of converting into the currency of the United States dollars the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are mentioned in subsection (4), subsections (4) to (6) of section 352 shall have effect—

- (a) if the liability in question has been limited in pursuance of section 335, as if—
  - (i) for the reference in that subsection (4) to the amount there mentioned there were substituted a reference to the amount adjudged as aforesaid; and
  - (ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of section 335; and
- (b) if the liability in question has not been so limited, with the modification made by paragraph (a)(i) and as if for any reference to

the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged.

*Supplemental*

**Jurisdiction and effect of judgments.**

**353.** (1) Where, in accordance with rules of court made for the purposes of this subsection, the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 330, any judgments given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(2) Where a person incurs a liability under the law of a Fund Convention Country corresponding to Chapter I for damage which is partly in the territory of Saint Christopher and Nevis, subsection (1) shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(3) Subject to subsection (4), any judgment given by a court in a Fund Convention Country to enforce a claim in respect of liability incurred under any provision corresponding to section 351 or 352A shall be enforceable by a competent court in Saint Christopher and Nevis.

(4) No steps shall be taken to enforce such a judgment unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part II of Schedule 3) or that it is to be reduced to a specified amount, and in the latter case, the judgment shall be enforceable only for the reduced amount.

**Extinguishment of claims.**

**354.** (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in Saint Christopher and Nevis unless—

- (a) the action is commenced; or
- (b) a third party notice of an action to enforce a claim against the owner or his or her guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

(2) In this section, “third party notice” means a notice of the kind described in section 353(2) and (3).

(3) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in Saint Christopher and Nevis unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape by reason of which the claim against the Fund arose.

(4) Notwithstanding subsections (1) and (2), a person’s right to bring an action under section 352A shall not be extinguished before six months from the date when that person first acquired knowledge of the bringing of an action against him or her under Chapter I, or under the corresponding provisions of the law of any country outside Saint Christopher and Nevis giving effect to the Liability Convention.

**Supplementary provisions as to proceedings involving the Fund.**

**355.** (1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) The right of the Fund under subsection (1) is subject to any obligation of the Fund under section 352A to indemnify the owner or guarantor for any part of the liability on which he or she has defaulted.

(3) In respect of any sum paid by a public authority in Saint Christopher and Nevis as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

**Instituting legal proceedings against the Fund.**

**356.** (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund, and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

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

**357.** (1) In this Chapter—

- (a) “the Liability Convention” has the same meaning as in Chapter I;
- (b) “the Fund Convention” means the International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December, 1971;
- (c) “the Fund” means the International Fund established by the Fund Convention; and
- (d) “Fund Convention Country” means a country in respect of which the Fund Convention is in force.

(2) If the Governor-General declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified the Order shall, while in force, be, for the purposes of this Part, conclusive evidence that that State is a Party to that Convention in respect of that country.

---

**THIRD SCHEDULE****OVERALL LIMIT ON LIABILITY OF FUND***(Sections 360 and 361)***PART I****PERMANENT PROVISION*****Article 4 – paragraphs 4 and 5***

4.
  - (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall, in respect of any one incident, be limited so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.
  - (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.
  - (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such parties, during the preceding calendar year, equalled or exceeded 600 million tons.
  - (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
  - (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

## PART II

## TRANSITORY PROVISION

*Article 4 – paragraphs 4, 5 and 6*

4. (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall, in respect of any one incident, be limited so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of the Convention, shall not exceed 30 million special drawing rights.
- (b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 30 million special drawing rights.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention shall be the same for all claimants.
6. The Assembly of the Fund may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to the changes in the monetary values, decide that the amount of 30 million special drawing rights referred to in paragraph 4, sub-paragraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 60 million special drawing rights or be lower than 30 million special drawing rights. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

---

**FOURTH SCHEDULE***(Section 451)***PROVISIONS HAVING EFFECT AS TO THE CONSTITUTION, FUNCTIONS  
AND PROCEDURE OF THE MARITIME ADVISORY BOARD****Constitution of the Board.**

1. (1) The members of the Maritime Advisory Board (hereinafter referred to as “the Board”) shall comprise—
- (a) a Chairperson;
  - (b) the Director, and where two Directors are appointed under the Act, both Directors;
  - (c) the Registrar of Shipping and Seamen;
  - (d) the Managing Director of the Saint Christopher and Nevis Ports Authority;



- (e) the Chief Conservation and Fisheries Officer;
- (f) the Comptroller of Customs;
- (g) one representative of Saint Christopher and Nevis Chambers of Commerce and Hotel Association, nominated by that Association;
- (h) one representative of Saint Christopher and Nevis Bar Association, nominated by that Association;
- (i) one representative of the Association of Registered Agents, nominated by that Association; and
- (j) two persons with knowledge and experience in maritime matters.

(2) The persons referred to under sub-paragraph (1)(a) and (j) shall be appointed by the Minister.

(3) The members of the Board shall be appointed by instrument by the Minister.

(4) The Minister shall appoint a public officer from the Ministry of Finance or the Ministry of Communications and Works to be Secretary to the Board.

(5) The functions of the Secretary shall be such as the Board may determine.

#### **Functions of the Board.**

2. The functions of the Board are—

- (a) to advise the Minister on matters relating to the making or amendment of any regulations or rules made under this Act and any other matter relating to this Act as the Minister may request;
- (b) to advise the Minister on such matters relating to his or her duties under this Act as the Minister may request;
- (c) to perform such other tasks as the Minister may determine and report to the Minister at such times as the Minister requires.

#### **Meetings of the Board.**

3. (1) The Board shall meet at such place and time as the Chairperson may determine.

(2) At every meeting of the Board the Chairperson shall preside, and in his or her absence the members present shall elect one of their numbers to preside.

(3) The Chairperson may at any time, and shall, at the written request of at least five members, convene a special meeting of the Board.

(4) The quorum at every meeting of the Board shall be six.

(5) The Board shall take its decisions by a majority vote of the members present and where there is an equality of votes the Chairperson shall have a casting vote.

(6) In the conduct of its meetings, the Board shall adopt its own rules of procedure.

**Tenure of office.**

4. (1) Every member of the Board shall hold office for a period not exceeding two years from the date of his or her appointment and shall be eligible for reappointment.

(2) A member of the Board may, by writing under his or her hand addressed to the Minister, resign his or her office.

(3) A member ceases to be a member of the Board if—

- (a) he or she resigns;
- (b) he or she is adjudged a bankrupt and has not been discharged;
- (c) he or she is of unsound mind or is certified by a medical practitioner to be of such ill-health as not to be able to properly discharge his or her functions under this Act;
- (d) he or she, being a nominee of an association under paragraph 1(1) (g), (h) and (i), ceases to be a member of such Association; or
- (e) the Minister, for any good reason (to be stated in writing), removes such member.

(4) Where a member of the Board ceases to be a member under this section before the expiration of his or her term, the Minister may appoint another person to replace such member for the unexpired period of that member's tenure.

(5) Where the member of the Board who ceases to be a member is a nominee of an Association under paragraph 1(1) (g), (h), or (i), the Minister shall request the Association concerned to nominate another representative to be appointed by the Minister.

**Power of the Board to co-opt and delegate.**

5. (1) The Board may, in the performance of its functions—

- (a) co-opt any person in Saint Christopher and Nevis with a special skill to the Board for the purpose of that person assisting the Board in dealing with a specific subject; and
- (b) delegate any of its functions to a committee of the Board.

(2) A person co-opted under sub-paragraph (1)(a) shall not have a voting right or exercise any of the powers of a member of the Board.

(3) The delegation of functions under sub-paragraph (1)(b) shall not prevent the Board from performing those functions.

**Keeping of records by the Board etc.**

6. (1) The Board shall, in the performance of its functions, prepare and keep record of its proceedings.

(2) The Board shall, within three months of the end of each financial year, prepare and submit a report to the Minister on the performance of its functions for the preceding year and the Minister shall cause the report to be laid before the Legislative Council within three months after receipt of the report.

**Remuneration.**

7. The Minister shall—

- (a) determine the remuneration to be paid to the members of the Board; and
  - (b) at his or her discretion, approve payment to a person who is co-opted by the Board pursuant to paragraph 5(1)(a).
- 

## FIFTH SCHEDULE

*(Section 452(4))*

### STANDARD SCALE OF FINES

Level 1 –	\$2,700
Level 2 –	\$5,400
Level 3 –	\$8,100
Level 4 –	\$10,800
Level 5 –	\$13,500

---

## SIXTH SCHEDULE

*(Saved by section 462(2))*

### INTERNATIONAL CONVENTIONS

*(Previously First Schedule to Act 15 of 1965, saved by s. 462(2))*

- (a) The International Convention for the Safety of Life at Sea, 1960, as amended.
  - (b) The International Convention on Load Lines, 1966.
  - (c) The International Telecommunication Convention (Montreux), 1965, and the Radio Regulations, 1968.
  - (d) The Convention on Facilitation of International Maritime Traffic, 1965.
  - (e) The International Convention on Tonnage Measurement of Ships, 1969.
  - (f) The International Health Regulations (Geneva), 1969.
  - (g) The International Regulations for Preventing Collisions at Sea, 1972.
-

**SEVENTH SCHEDULE***(Saved by section 462)***APPLIED REGULATIONS ETC.**

## UNITED KINGDOM REGULATIONS, RULES AND ORDERS

<i>Publication</i>	<i>Title</i>	<i>Relevant Provision of Act</i>
<b>TONNAGE</b>		
SI 1967 No. 172	The Merchant Shipping (Tonnage) Regulations, 1967.	63
SI 1967 No. 1093	Amendment Regulations, 1967.	
SI 1972 No. 656	Amendment Regulations, 1972.	
SI 1975 No. 594	Amendment Regulations, 1975.	
<b>COMPETENCY</b>		
D.T. & I 1973	Regulations for the Examination of Masters and Mates.	69
D.T. & I 1972	Regulations for the Examination of Engineers.	69
SI 1970 No. 294	The Merchant Shipping (Certificate of Competency as A.B.) Regulations, 1970.	85
<b>CREW ETC.</b>		
SI 1972 No. 1871	The Merchant Shipping (Provisions and Water) Regulations, 1972.	81 and 291
SI 1965 No. 1145	The Merchant Shipping (Accepted Safety Convention Certificates) Rules, 1965.	175
SI 1970 No. 1453	The Anchors and Chain Rules, 1970.	175
SI 1975 No. 700	The Merchant Shipping (Carriage of Nautical Publications) Rules, 1975.	175
SI 1975 No. 750	The Merchant Shipping (Cargo Ship Construction and Survey) (Tankers and Combination Carriers) Rules, 1975.	175
SI 1975 No. 927	The Merchant Shipping (Cargo and Passenger Ship Construction) (Amendment) Rules, 1975.	175
SI 1976 No. 302	The Merchant Shipping (Radar) Rules, 1976.	175

**NAVIGATION**

SI 1965 No. 1051	The Merchant Shipping (Navigation Warnings) Rules, 1965.	188
SI 1965 No. 1525	The Collision Regulations (Ships and Seaplanes on the Water) and Signals of Distress (Ships) Order, 1965.	188
SI 1965 No. 1550	The Merchant Shipping (Signals of Distress) Rules, 1965.	188
SI 1972 No. 809	The Collision Regulations (Traffic Separation Schemes) Order, 1972.	188
SI 1972 No. 1267	Amendment Order, 1972.	
SI 1974 No. 1890	Amendment Order, 1974.	

**LOAD LINES AND CARGOES**

SI 1968 No. 1053	The Merchant Shipping (Load Lines) Rules, 1968.	192
SI 1970 No. 1003	Amendment Rules, 1970.	
SI 1975 No. 595	Amendment Rules, 1975.	
SI 1975 No. 1072	The Merchant Shipping (Load Lines) (Length of Ship) Regulations, 1968.	192
SI 1972 No. 1841	The Merchant Shipping (Load Lines) (Particulars of Depth of Loading) Regulations, 1972.	192

**SAFETY**

SI 1968 No. 1089	The Merchant Shipping (Load Lines) (Deck Cargo) Regulations, 1968.	204
SI 1953 No. 1036	The Merchant Shipping (Crew Accommodation) Regulations, 1953	120
SI 1954 No. 1660	Amendment Regulations, 1954.	
SI 1961 No. 393	Amendment Regulations, 1961.	
SI 1965 No. 1047	Amendment Regulations, 1965.	
SI 1974 No. 1193	The Merchant Shipping (Medical Scales) Regulations, 1974.	122
SI 1975 No. 1581	Amendment Regulations, 1975.	
SI 1972 No. 1874	The Merchant Shipping (Official Log Books) Regulation, 1972.	142

**SAFETY**

SI 1965 No. 1046	The Merchant Shipping (Pilot Ladders) Rules, 1965.	175
SI 1972 No. 531	Amendment Rules, 1972.	
SI 1965 No. 1103	The Merchant Shipping (Passenger Ship Construction) Rules, 1965.	175
SI 1965 No. 1104	The Merchant Shipping (Cargo Ship Construction and Survey) Rules, 1965.	175
SI 1965 No. 1105	The Merchant Shipping (Life Saving Appliances) Rules 1965.	175
SI 1966 No. 744	Amendment Rules, 1966.	
SI 1969 No. 409	Amendment Rules, 1969.	
SI 1965 No. 1106	The Merchant Shipping (Fire Appliances) Rules, 1965.	175
SI 1974 No. 2185	Amendment Rules, 1974.	
SI 1965 No. 1107	The Merchant Shipping (Radio) Rules, 1965.	175
SI 1969 No. 1315	Amendment Rules, 1969.	
SI 1965 No. 1112	The Merchant Shipping (Direction Finders) Rules, 1965.	175
SI 1965 No. 1113	The Merchant Shipping (Musters) Rules, 1965.	175
SI 1965 No. 1114	The Merchant Shipping (Closing of Openings in Hulls and in Watertight Bulkheads) Rules, 1965.	175
SI 1965 No. 1062	The Merchant Shipping (Grain) Rules, 1965.	205
SI 1965 No. 1067	The Merchant Shipping (Dangerous Goods) Rules, 1965	206
SI 1968 No. 332	Amendment Rules, 1968.	
SI 1972 No. 666	Amendment Rules, 1972	
SI 1968 No. 1116	The Merchant Shipping (Load Lines) (Exemption) Order, 1968.	214

---

**EIGHTH SCHEDULE**

*(Section 171(5))*

**MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY)  
REGULATIONS**

**Citation.**

1. These Regulations may be cited as the Merchant Shipping (Ship and Port Facility Security) Regulations.

**Interpretation.**

2. (1) In these Regulations—

“the Act” means the Merchant Shipping Act, Cap. 7.05;

“Administration” means the Department of Maritime Affairs of the State, other than Saint Christopher and Nevis, whose flag the ship is entitled to fly;

“authorized person” means a person authorized in writing by or on behalf of the Director or the Designated Authority for the purposes of these Regulations;

“bulk carrier” means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

“certificate” means an International Ship Security Certificate or an Interim International Ship Security Certificate issued in accordance with Part A of the Code;

“chemical tanker” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC Code;

“Coast Guard” means the department within the Government responsible for transport security, in particular port facility security and matters related thereto;

“Code” means the ISPS Code;

“Company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISPS Code;

“Company security officer” means the person designated by the Company to—

(a) ensure that a ship security assessment is carried out;

(b) ensure that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained; and

(c) act as a liaison between port facility security officers and the ship security officer;

“Contracting Government” means the government of a State which is party to the International Convention for the Safety of Life at Sea;

- “Declaration of Security” means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures that each party to the agreement shall implement;
- “Designated Authority” means the organization or the administration identified, as responsible for ensuring the implementation of the provisions of chapter XI-2 of the Safety Convention pertaining to port facility security and ship or port interface, from the point of view of the port facility;
- “Director” means the Director of the Department of Maritime Affairs;
- “gas carrier” means a cargo ship constructed or adapted for carriage in bulk of any liquefied gas or other liquid product in chapter 19 of the IGC Code;
- “Government” means the Government of Saint Christopher and Nevis;
- “high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding:  $3.7\sqrt{N}$  where  $N$  = displacement corresponding to the design waterline (m<sup>3</sup>);
- “IBC Code” means the International Code for Construction of Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by Resolution MEPC.19(22), as may be amended and adopted by resolution and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an annex;
- “IGC Code” means the International Code for the Construction of Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended;
- “ISPS Code” means the International Code for the Security of Ships and of Port Facilities, as adopted, on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and any amendments that may be in effect for Saint Christopher and Nevis;
- “mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration for or the exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt, not on location;
- “oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces;
- “port facility” means a location, as determined in Saint Christopher and Nevis by the Coast Guard or by the Designated Authority, or elsewhere by the relevant governmental authority, where the ship or port interface takes place;
- “port facility operator” means any person operating a port facility or such other person as may be designated for the purposes of these Regulations as port facility operator for one or more port facilities by the Coast Guard;
- “port facility security assessment” means an assessment of the security of a port facility carried out in accordance with section 15 of Part A of the ISPS Code;
- “port facility security officer” means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;
- “port facility security plan” means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo



transport units and ship's stores within the port facility from the risks of a security incident;

“recognised security organisation” means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorised to carry out an assessment, a verification, or an approval or a certification activity, required by this chapter or by Part A of the ISPS Code;

“Register” means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;

“Registrar” means the Registrar of Shipping and Seamen appointed under section 446 of the Act;

“restricted zone” means a zone to which access is restricted for security reasons pursuant to these Regulations;

“security incident” means any suspicious act or circumstance threatening the security of a ship, a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship or port interface or any ship to ship activity;

“security level” means the qualification of the degree of risk that a security incident will occur or is likely to occur;

“ship or port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

“ship to ship activity” means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

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

(2) The term “all ships”, when used in these Regulations, means any ship to which these Regulations apply.

(3) In these Regulations where any reference is made to Part A of the ISPS Code, the guidance in Part B of the Code in relation to that matter shall be taken into account in construing Part A.

(4) For the purposes of these Regulations, references in Part A of the Code to the Administration shall in relation to Saint Christopher and Nevis ships be interpreted as references to the Director.

(5) For the purposes of these Regulations a person is permitted to have access to a restricted zone of a port facility if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

### **Application.**

3. (1) Subject to sub-regulation (6), these Regulations shall apply to—
  - (a) the following types of ships engaged on international voyages—
    - (i) passenger ships, including high speed passenger craft;
    - (ii) cargo ships, including high speed craft, of 500 tons or more; and
    - (iii) mobile offshore drilling units; and
  - (b) port facilities serving such ships engaged on international voyages.

(2) These Regulations shall also apply to any port facility specified in a Notice issued by the Coast Guard which, although used primarily by ships not engaged on international voyages, is required, occasionally, to serve ships arriving or departing on international voyages.

(3) (a) A Notice referred to in sub-regulation (2) shall not be issued without a port facility security assessment for that port facility having been done in accordance with section 15 of Part A of the ISPS Code;

(b) The Notice referred to in paragraph (a) shall specify the extent of application of these Regulations and the relevant sections of Part A of the ISPS Code to the facility.

(4) Any Notice issued pursuant to sub-regulation (2) shall not compromise the level of security intended to be provided by these Regulations and Part A of the ISPS Code.

(5) These Regulations shall not apply to—

(a) warships;

(b) naval auxiliaries; or

(c) other ships owned or operated by parties to the Safety Convention and in use only on Government non-commercial service.

#### **Security measures: responsibilities of Director.**

4. (1) Without prejudice to any other duties under these Regulations, the Director shall—

(a) in accordance with section 4 of Part A of the ISPS Code set security levels and ensure the provision of security level information to Saint Christopher and Nevis ships;

(b) update, if required, the security level information when changes in the security level occur;

(c) indicate when a Declaration of Security is required for a Saint Christopher and Nevis ship;

(d) approve the ship security plan and relevant amendments to a previously approved plan.

(2) The Director may delegate his responsibilities under these Regulations to a recognised security organisation, except for the following responsibilities—

(a) setting of the applicable security level for ships;

(b) exercising control and compliance measures pursuant to regulations 21, 22 and 23;

(c) establishing the requirements for a Declaration of Security.

#### **Security measures: responsibilities of Coast Guard.**

5. (1) Without prejudice to any other duties under these Regulations the Coast Guard shall—

(a) set security levels, in accordance with section 4 of Part A of the ISPS Code, and ensure the provision of security level information to port facilities within Saint Christopher and Nevis, as well as to ships prior

to entering a port or whilst in a port within Saint Christopher and Nevis;

- (b) update security level information as the circumstances dictate when changes in security levels occur;
- (c) determine which of the port facility operators located within its territory would be required to designate a port facility security officer to be responsible for the preparation of the port facility security plan;
- (d) approve the port facility security plan and any subsequent amendments to a previously approved plan.

(2) The Coast Guard may delegate its duties to a recognised security organisation under these Regulations, except for the following duties—

- (a) setting of the applicable security level for port facilities or ship to ship interface in Saint Christopher and Nevis territorial waters;
- (b) approving a port facility security assessment and subsequent amendments to an approved assessment;
- (c) determining the port facilities which would be required to designate a port facility security officer;
- (d) approving a port facility security plan and subsequent amendments to an approved plan;
- (e) exercising control and compliance measures pursuant to regulations 21, 22 and 23; and
- (f) establishing the requirements for a Declaration of Security.

#### **Requirements for Companies.**

6. (1) Companies shall comply with the relevant requirements of these Regulations and of Part A of the ISPS Code. In particular, and without prejudice to any other duties under these Regulations the Company shall ensure that—

- (a) a Company security officer is appointed, and is properly trained and qualified in his duties and responsibilities;
- (b) a ship security officer is appointed for each of its ships and is properly trained and qualified in his or her duties and responsibilities;
- (c) each ship has a ship security plan;
- (d) the master has available on board, at all times, information through which officers duly authorised by any State can establish—
  - (i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
  - (ii) who is responsible for deciding the manner in which the ship is to be employed; and
  - (iii) in cases where the ship is employed under the terms of charter party or parties, who are the parties to such charter party or parties.

(2) Any Company that fails to comply with this regulation shall be guilty of an offence.

**Ship security plans.**

7. (1) (a) Every ship security plan or amendment thereto shall be submitted for approval to the Director, or to a recognised security organisation authorised by the Director to act on his behalf, in accordance with section 9 of Part A of the Code.

(b) A recognised security organisation which was involved in the preparation of the ship security plan or an amendment to that plan shall be excluded from participation under paragraph (a).

(2) (a) The amendments to an approved ship security plan or to any security equipment specified in an approved plan are not to be implemented unless the relevant amendments to the plan are approved by the Director.

(b) Any amendments made to the plan pursuant to paragraph (a) shall result in measures that are as effective or even more so than those measures prescribed in Chapter XI-2 and Part A of the Code.

(3) Any Company which does not comply with sub-regulation (1), or otherwise fails to comply with section 9 of Part A of the Code, is guilty of an offence.

**Company security officer.**

8. (1) The Company security officer shall perform the responsibilities and duties specified in these Regulations and Part A of the Code, in particular those listed in paragraph 11.2 of Part A.

(2) Any contravention of this regulation by the Company security officer shall be an offence.

**Ship security officer.**

9. (1) The ship security officer shall perform the responsibilities and duties specified in these Regulations and Part A of the Code, in particular those listed in paragraph 12.2 of Part A.

(2) Any contravention of this regulation by the ship security officer shall be an offence.

**Requirements for ships.**

10. (1) Ships shall comply with the relevant requirements of these Regulations and of Part A of the ISPS Code.

(2) Prior to entering a port or whilst in a port within the territory of any other State, a ship shall comply with the requirements for the security level set by that State, if such security level is higher than the security level set by the Director for that ship.

(3) Ships shall respond without undue delay to any change to a higher security level.

(4) Where a ship is not in compliance with the requirements of these Regulations or of Part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Director or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship or port interface or prior to entry into port, whichever occurs earlier.

(5) Where there is a breach of sub-regulations (1) to (4) in relation to a ship then the Company and the master shall each be guilty of an offence.

**Ship security alert system.**

**11.** (1) The following ships shall be provided with a ship security alert system, as follows—

- (a) ships constructed on or after 11 September 2004;
- (b) passenger ships, including high speed passenger craft, constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004;
- (c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 tons and upwards constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004; and
- (d) other cargo ships of 500 tons and upward and mobile offshore drilling units constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004.

(2) The ship security alert system, when activated, shall—

- (a) initiate and transmit a ship-to-shore security alert to a competent authority designated by the Director, which may include the Company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
- (b) not send the ship security alert to any other ships;
- (c) not raise any alarm on-board the ship; and
- (d) continue the ship security alert until deactivated or reset or both.

(3) The ship security alert system shall—

- (a) be capable of being activated from the navigation bridge and in at least one other location; and
- (b) conform to performance standards adopted by the Organisation.

(4) The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance within the requirements of the Telecommunications Act, Cap. 16.05, provided all requirements of this regulation are complied with.

(6) When the Director receives notification of a ship security alert he shall immediately notify the state or states in the vicinity of which the ship is operating at the time of the alert.

(7) When the Coast Guard receives notification of a ship security alert from a ship which is not entitled to fly its flag, it shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

(8) Any contravention of sub-regulations (1) to (4) shall be an offence by the Company and the master.

**Threats to ships.**

**12.** (1) The Coast Guard shall set security levels and ensure the provision of security level information to ships operating in the territorial sea of Saint Christopher and Nevis or ships that have communicated an intention to enter the territorial sea.

(2) The Coast Guard shall provide a point of contact through which the ships referred to in sub-regulation (1) can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(3) Where a risk of attack has been identified, the Coast Guard shall advise the ships concerned and their Administrations of—

- (a) the current security level;
- (b) any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of Part A of the ISPS Code; and
- (c) what security measures that the Coast Guard has put in place as may be appropriate.

**Master's discretion for ship safety and security.**

**13.** (1) (a) The master of a Saint Christopher and Nevis ship shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgment of the master, is necessary to maintain the safety and security of the ship;

- (b) In maintaining the safety and security of the ship, the master may—
- (i) deny access to persons or their effects (except those persons identified as duly authorised by a Contracting Government); and
  - (ii) refuse to load cargo, including containers or other closed cargo transport units.

(2) (a) Where, in the professional judgment of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship.

(b) If a conflict of the kind referred to in paragraph (a) arises, the master may implement temporary security measures and shall forthwith inform the Director and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter.

(c) Any such temporary security measures as referred to under paragraph (b) of this regulation shall, to the highest possible degree, be commensurate with the prevailing security level, and upon identification of such cases of conflict, the Director shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

**Verification for ships.**

**14.** (1) All Saint Christopher and Nevis ships to which these Regulations apply shall be subject to initial, renewal and intermediate verifications in accordance with paragraph 19.1.1 of Part A of the Code.

(2) The verification of ships shall be carried out by an officer authorised by the Director, or by a recognised security organisation if the officer entrusts the verification to that organisation.

(3) The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of paragraph 19.1 of Part A of the Code and of the approved ship security plan. After any verification under sub-regulation (1), no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Director.

(4) Any contravention of sub-regulation (1) or (3) shall be an offence by both the Company and master.

#### **Issue, endorsement, duration and validity of certificate.**

**15.** (1) When an initial or renewal verification is satisfactorily completed pursuant to regulation 13 the Director or a recognised security organisation acting on his behalf shall issue or, as the case may be, endorse an International Ship Security Certificate to that effect.

(2) The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the Appendix to Part A of the Code.

(3) The duration and validity of an International Ship Security Certificate shall be in accordance with section 19.3 of Part A of the Code.

#### **Issue and endorsement of certificates by another government.**

**16.** (1) The Director may request another Contracting Government to verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, to issue or authorise the issuance of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorise the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate issued pursuant to sub-regulation (1) shall contain a statement to the effect that it has been issued at the request of the Director and it shall have the same effect as if it had been issued by the Director.

#### **Certificate issued or endorsed on behalf of another government.**

**17.** (1) The Director may at the request of another Contracting Government verify a ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorise the issuance of an International Ship Security Certificate to the ship and, where appropriate, to endorse or authorise the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate issued pursuant to sub-regulation (1) shall contain a statement to the effect that it has been issued at the request of that Contracting Government and it shall have the same effect as if the Certificate was issued or endorsed by that Government and not by the Director.

#### **Interim certification.**

**18.** (1) After September 11, 2004, either the Director or a recognised security organisation, when so authorised, may cause an Interim International Ship Security Certificate to be issued, in the prescribed form set out in the Appendix to Part A of the Code for the purposes of—

- (a) ship without a Certificate, on delivery or prior to its entry or re-entry into service;
- (b) the transfer of a ship from the flag of another government to the Saint Christopher and Nevis Register; or
- (c) a Company assuming the responsibility for the operation of a ship not previously operated by that Company until the Certificate referred to in regulation 15(1), 16(1) or 17(1) is issued.

(2) An Interim International Ship Security Certificate shall only be issued if the Director or a recognised security organisation acting on his behalf, is satisfied that the conditions specified in section 19.4.2.1 to section 19.4.2.7 of Part A of the Code are met.

(3) An Interim International Ship Security Certificate may be issued by the Director or by a recognised security organisation authorised to act on his behalf.

(4) An Interim International Ship Security Certificate shall be valid for 6 months, or until the Certificate required by regulation 15(1), 16(1) or 17(1) is issued, whichever comes first, and may not be extended.

(5) No subsequent, consecutive Interim International Ship Security Certificate shall be issued to a ship if, in the judgment of the Director or the recognised security organisation, one of the objectives of the ship or a Company in requesting such certificate is to avoid full compliance with these Regulations beyond the period of the initial Interim Certificate as specified in sub-regulation (1).

(6) For the purposes of regulations 21, 22 and 23 the Coast Guard may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 of Part A of the ISPS Code have been met.

#### **Prohibition on proceeding to sea without an appropriate certificate.**

**19.** (1) Subject to regulation 18(1) no Saint Christopher and Nevis ship required to be verified under these Regulations shall proceed, or attempt to proceed to sea unless there is in force a valid International Ship Security Certificate or an Interim International Ship Security Certificate in respect of that ship.

(2) Where a ship proceeds, or attempts to proceed to sea in contravention of sub-regulation (1) the Company and the master shall be guilty of an offence.

#### **Responsibilities of the Registrar.**

**20.** The Registrar shall record details of the certificates issued pursuant to regulations 15, 16, 17 and 18, in the Register and shall liaise with any recognised security organisation concerning the issuance of an International Ship Security Certificate.

#### **Control of ships in port.**

**21.** (1) (a) For the purpose of these Regulations, every ship to which these Regulations apply is subject to control when in a port in Saint Christopher and Nevis by officers duly authorised by the Coast Guard, who may be officers appointed under section 411 of the Merchant Shipping Act, 2002.

- (b) Such control shall be limited to verifying that there is a valid Certificate on board, which shall be accepted, unless there are clear



grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code.

- (2) (a) When there are clear grounds as referred to in sub-regulation (1) paragraph (b), or where no valid Certificate is produced when required, the duly authorized officers shall impose any one or more control measures in relation to that ship as provided for in sub-regulation (3).
- (b) The control measures imposed pursuant to paragraph (a) shall be proportionate, taking into account the guidance given in Part B of the ISPS Code.
- (3) The applicable control measures are as follows—
  - (a) inspection of the ship;
  - (b) delaying the ship;
  - (c) detention of the ship;
  - (d) restriction of operations including movement within the port; or
  - (e) expulsion of the ship from port;
  - (f) other lesser administrative or corrective measures which may be applied additionally or alternatively to the measures taken under paragraphs (a) to (e).

**Ships intending to enter ports.**

**22.** (1) The Coast Guard may require that ships intending to enter ports in Saint Christopher and Nevis provide the following information to duly authorized officers to ensure compliance with these Regulations prior to entry into port with the aim of avoiding the need to impose control measures or steps—

- (a) that the ship possesses a valid Certificate and the name of its issuing authority;
- (b) the security level at which the ship is currently operating;
- (c) the security level at which the ship operated in any previous port where it has conducted a ship or port interface within the timeframe specified in sub-regulation (3);
- (d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship or port interface within the timeframe specified in sub-regulation (3);
- (e) that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in sub-regulation (3); or
- (f) other practical security related information, with the exception of the details of the ship security plan, taking into account the guidance given in Part B of the ISPS Code.

(2) Where a request is made by the Coast Guard, the ship or the Company shall provide confirmation, acceptable to the Coast Guard, of the information required pursuant to sub-regulation (1).

(3) Every Saint Christopher and Nevis ship to which these Regulations apply, and which intends to enter the port of another Contracting Government, shall provide

the information described in sub-regulation (1) on the request of the officers duly authorised by that Government but the master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

(4) The ship shall keep records of the information referred to in sub-regulation (2) for the last ten calls at port facilities.

(5) (a) Where, after receipt of the information described in sub-regulation (1), officers duly authorised by the Coast Guard have clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code, such officers shall attempt to establish communication with the ship and its Administration in order to rectify the non-compliance.

(b) Where the information referred to in paragraph (a) does not result in rectification, or if the officers have clear grounds otherwise for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code, such officers may take steps in relation to that ship as provided in sub-regulation (5). Any such steps taken must be proportionate, taking into account the guidance given in Part B of the ISPS Code.

(6) The steps referred to in paragraph (b) are as follows—

(a) a requirement for the rectification of the non-compliance;

(b) a requirement that the ship proceeds to a location specified in the territorial sea or internal waters of Saint Christopher and Nevis;

(c) inspection of the ship, if the ship is in the territorial sea of Saint Christopher and Nevis; or

(d) denial of entry into port.

(7) Prior to initiating the steps referred to in sub-regulation (5), the Coast Guard shall inform the ship of its intentions and upon receipt of that information the master may withdraw the intention to enter that port, thereby dispensing with the requirement for further compliance with this regulation.

#### **Additional control and compliance provisions.**

**23.** (1) In the event—

(a) of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in regulation 20 sub-regulation (3); or

(b) that any of the steps referred to in regulation 21 sub-regulation (5) are taken, an officer duly authorised by the Coast Guard shall forthwith inform the Administration in writing specifying which control measures have been imposed or steps taken and the rationale behind the particular decision.

(2) When any such control measures referred to in sub-regulation (1) have been imposed or steps taken, the officer shall also notify both the recognized security organisation which issued the Certificate relating to the ship concerned as well as the Organisation.

(3) (a) When entry into port is denied or the ship is expelled from a port in Saint Christopher and Nevis, the Coast Guard shall communicate the

appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account any guidelines developed by the Organization.

- (b) The Coast Guard shall ensure that in communicating facts pursuant to paragraph (a), that confidentiality and security of such notification is observed.

(4) Denial of entry into port, pursuant to regulation 22(4) and (5), or expulsion from port, pursuant to regulation 21(1) to (3), shall only be imposed where the duly authorised officers have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(5) The control measures referred to in regulation 21(1) and the steps referred to in regulation 21(5) shall only be imposed, pursuant to regulations 21 and 22, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Director, taking into account actions proposed by the ship or the Administration or the Director, if any.

(6) When control is exercised under regulation 21 or steps taken under regulation 22—

- (a) all possible efforts shall be made to avoid a ship being unduly detained or delayed and if a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
- (b) necessary access to the ship shall be permitted for emergency or humanitarian reasons and for security purposes.

**Port facilities: Coast Guard Responsibilities.**

24. (1) The Coast Guard shall ensure that—

- (a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of Part A of the ISPS Code; and
- (b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of Part A of the ISPS Code.

(2) The Coast Guard shall designate and communicate to the port facility operator and the port facility security officer the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

**Port facilities: duties of port facility operator.**

25. (1) The port facility operator shall ensure that port facilities comply with the relevant requirements of these Regulations and Part A of the ISPS Code.

- (2) (a) In particular the port facility operator shall appoint a suitably qualified port facility security officer, and ensure that he receives appropriate training, as specified in section 18.1 of Part A of the Code.
- (b) The port facility operator shall provide the port facility security officer with the resources, assistance and support necessary to enable him to carry out his duties.

(3) The port facility operator shall ensure that port facility personnel having specific security duties have appropriate knowledge and receive appropriate training as specified in section 18.2 of Part A of the Code.

(4) The port facility operator shall ensure that other port facility personnel have appropriate knowledge as specified in section 18.3 of Part A of the Code.

#### **Port facility security officers.**

**26.** A port facility security officer shall carry out the duties and responsibilities placed upon him by these Regulations and Part A of the Code, in particular those listed in section 17.2 of Part A of the Code.

#### **Drills and exercises.**

**27.** (1) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account all types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in Part B of the Code.

(2) The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of the Code.

(3) Any contravention of sub-regulation (1) shall be an offence by the port facility operator and the port facility security officer.

(4) Any contravention of sub-regulation (2) shall be an offence by the port facility security officer.

#### **Alternative security arrangements.**

**28.** (1) The Coast Guard may, when implementing these Regulations and Part A of the ISPS Code, conclude bilateral or multilateral agreements with other Contracting Governments.

(2) The agreements referred to in sub-regulation (1) shall be in respect of alternative security arrangements where a ship is travelling on—

(a) short international voyages; and

(b) fixed routes between port facilities located within territories of the Contracting Governments.

(3) Any agreement concluded under sub-regulation (1) shall not compromise the level of security of other ships or of port facilities not covered by the agreement.

(4) No ship covered by such an agreement shall conduct any ship to ship activities with any ship not covered by that agreement.

(5) The agreements made pursuant to sub-regulation (1) shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

#### **Equivalent security Arrangements.**

**29.** (1) The Director may allow a particular ship or group of Saint Christopher and Nevis ships to implement other security measures equivalent to those prescribed in this chapter or in Part A of the ISPS Code, provided such security measures are at

least as effective as those prescribed in this chapter or Part A of the Code. The Director, where he allows such security measures, shall communicate to the Organisation particulars thereof.

- (2) (a) When implementing these Regulations and Part A of the Code, the Coast Guard may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under regulation 28, to implement security measures equivalent to those prescribed in these Regulations or in Part A of the Code, on the condition that such security measures are at least as effective as those prescribed in these Regulations or Part A of the ISPS Code.
- (b) The Coast Guard, where it allows equivalent security measures, shall communicate to the Organisation the particulars of these measures.

#### **Communication of information.**

**30.** (1) The Government shall, not later than 11th September 2004 communicate to the Organisation and shall make available for the information of Companies and ships, the locations within Saint Christopher and Nevis covered by the approved port facility security plans as well as the names and contact details of the following—

- (a) its national authority or authorities responsible for ship and port facility security;
- (b) the person or organisation designated to be available to receive and act upon the ship-to-shore security alerts, referred to in regulation 12 sub-regulation (2);
- (c) the person or organisation designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures; and
- (d) the person or organisation designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in regulation 9(2),

and thereafter update such information as and when changes relating thereto occur.

(2) The Government shall, not later than the date referred to in sub-regulation (1), communicate to the Organization the names and contact details of any recognized security organisations authorised to act on its behalf together with details of the specific responsibility and conditions of authority delegated to such organizations. Such information shall be updated as and when changes relating thereto occur.

(3) The Coast Guard shall, not later than the date referred to in sub-regulation (1), communicate to the Organisation a list showing the approved port facility security plans for the port facilities located within its territory together with the location covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place—

- (a) changes in the location covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to be communicated shall indicate the changes in the location covered by the plan and the date when such changes are to be introduced or were implemented prior to notification;

- (b) an approved port facility security plan, previously included in the list submitted to the Organisation, is to be withdrawn or has been withdrawn. In such cases, the information to be communicated shall indicate the date on which the withdrawal will take effect or was implemented and the communication shall be made to the Organisation as soon as is practically possible; and
- (c) additions are to be made to the list of approved port facility security plans.

(4) In the event that any of the cases referred to in sub-regulation (3) occurs, the information to be communicated shall indicate the location covered by the plan and the date of approval.

(5) The Government shall, at five-year intervals after 11th September 2004, communicate to the Organisation certain information as follows—

- (a) a revised and updated list showing all the approved port facility security plans for the port facilities located within Saint Christopher and Nevis;
- (b) the location covered by each approved port facility security plan;
- (c) the date when each port facility security plan was approved;
- (d) if the plan is amended, the date of approval of the relevant amendment which shall supersede and replace all information communicated to the Organisation, pursuant to sub-regulation (3), during the preceding five years.

(6) The Coast Guard shall notify the Organisation that an agreement under regulation 27 has been concluded and the notification shall include the following details—

- (a) the names of the Governments which have concluded the agreement;
- (b) the port facilities and the fixed routes covered by the agreement;
- (c) the periodicity of review of the agreement;
- (d) the date of entry into force of the agreement; and
- (e) information on any consultations which have taken place with other Governments.

(7) Once the notification of the agreement referred to in sub-regulation (6) is made, if the agreement is subsequently amended or comes to an end then the Coast Guard shall notify the Organisation of the fact as soon as possible.

(8) If under the provisions of regulation 28, the Director permits any equivalent security arrangements to be made with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, he shall communicate to the Organisation particulars thereof.

#### **Requirement to provide information.**

**31.** (1) Without prejudice to regulation 22, but subject to sections 9.8 and 9.9 of Part A of the ISPS Code, the Coast Guard may, by notice in writing, require the following persons on which it is served, to provide the Coast Guard with specific information under these Regulations—

- (a) the owner, charterer, manager or master of any ship which is in, or appears to the Coast Guard to be likely to enter, a port facility;

- (b) a port facility operator;
- (c) any person who carries on operations in a port facility; and
- (d) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

(2) A notice under sub-regulation (1) shall specify a date before which the information required by notice is to be furnished to the Coast Guard.

(3) Any such notice may also require the person on whom it is served, after he has provided the Coast Guard with the information required by the notice, to inform the Coast Guard if at any time the information previously given to the Coast Guard, is rendered inaccurate by any change of circumstances.

(4) A reference to information that was previously given to the Coast Guard under sub-regulation (3) also includes information that was requested in the notice itself in accordance with sub-regulation (1).

(5) In so far as such a notice requires further information to be furnished to the Coast Guard in accordance with sub-regulation (3), it shall require that information to be given to it before the end of such period as is specified in the notice for the purposes of this sub-regulation.

(6) A notice served on a person under sub-regulation (1) may, at any time—

- (a) be revoked by a notice in writing served on him by the Coast Guard;  
or
- (b) be varied by a further notice under sub-regulation (1).

(7) The Director may in like manner require the owner, charterer, manager or master of any Saint Christopher and Nevis ship to provide him with information, and sub-regulations (1) to (5) shall apply as if references to the Coast Guard were references to the Director.

(8) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this regulation; or
- (b) in providing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence.

#### **Powers of inspection.**

**32.** (1) An authorized person shall have power, on production of his credentials, if required, to inspect any—

- (a) Saint Christopher and Nevis ship;
- (b) other ship while in a port facility;
- (c) part of a port facility; or
- (d) land outside a port facility which is occupied for the purposes of a business by a person who—
  - (i) carries on or appears to the authorised person to be about to carry on harbour operations in a port facility for the purposes of that business; or

(ii) is permitted or appears to the authorised person to be about to be permitted to have access to a restricted zone of a port facility for the purposes of the activities of that business.

(2) An authorised person inspecting a ship or any part of a port facility or any land outside a port facility under sub-regulation (1) above shall have power—

- (a) to subject any property found by him on the ship or, as the case may be, to subject that part of the port facility or any property found by him there or on that land, to certain tests;
- (b) to take such steps—
  - (i) to ascertain what practices or procedures are being followed in relation to security; or
  - (ii) to test the effectiveness of any practice or procedure relating to security; or
- (c) to require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to provide him with such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to sub-regulation (4), an authorised person, for the purpose of exercising any power conferred on him by sub-regulation (1) or (2) in relation to a ship, a port facility or any land outside a port facility, shall have power for the purpose of inspecting—

- (a) a ship, board it and to take all such steps as are necessary to ensure that it is not moved;
- (b) any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or
- (c) any land outside a port facility, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by sub-regulation (3) shall not include power for an authorised person to use force for the purpose of boarding any ship, entering any building or works or entering upon any land.

(5) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under sub-regulation (2)(c); or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence.

#### **False statements relating to baggage, cargo or stores.**

**33.** (1) Subject to sub-regulation (3), a person commits an offence if he makes a statement or recklessly makes a statement which he knows to be false in a material particular, as it relates to the following matters—

- (a) concerning any baggage, cargo or stores that is intended for carriage by sea—
  - (i) by a Saint Christopher and Nevis ship; or



- (ii) by any other ship bound for or departing from Saint Christopher and Nevis; and
- (b) a question that is put to him for purposes of these Regulations by—
  - (i) any of the persons mentioned in sub-regulation (2);
  - (ii) an employee or agent of such a person in his capacity as employee or agent; or
  - (iii) a constable.
- (2) The persons referred to in sub-regulation (1)(b) above are—
  - (a) a port facility operator;
  - (b) the owner, charterer or manager of any ship; and
  - (c) any person who—
    - (i) is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him; and
    - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.
- (3) In this section—

“cargo” includes mail;

“ship” does not include a ship used in naval, customs or police service; and

“stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

**False statements in connection with identity documents.**

- 34.** (1) Subject to sub-regulation (4), a person commits an offence if—
- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this sub-regulation applies; or
  - (b) in connection with the continued holding by him or another of any such document which has already been issued, he makes to any of the persons specified in sub-regulation (2), to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.
- (2) Sub-regulation (1) shall apply to any identity document which is to be or has been issued by any of the persons following for the purposes of a ship security plan or a port facility security plan—
- (a) a port facility operator;
  - (b) the owner, charterer or manager of any ship; and
  - (c) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

**Unauthorised presence in restricted zones.**

35. (1) A person shall not—

- (a) go onto or into any part of a restricted zone of a port facility whether driving, sailing or on foot, except with the permission of the port facility operator or a person acting on behalf of the port facility operator and in accordance with any conditions subject to which that permission is for the time being granted; or
- (b) remain in any part of such a restricted zone after being requested to leave by the port facility operator or a person acting on behalf of the port facility operator.

(2) Sub-regulation (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

(3) A person who contravenes sub-regulation (1) is guilty of an offence.

**Offences relating to authorised persons.**

36. A person who—

- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under these Regulations; or
- (b) falsely pretends to be an authorised person, commits an offence.

**Penalties, Defences.**

37. (1) A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction, to a fine not exceeding \$50,000;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) It shall be a defence for a person charged under sub-regulation (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of sub-regulation (2), by any person due to the act or default of some other person, that other person is guilty of an offence, and a person may be charged with and convicted of an offence by virtue of this sub-regulation whether or not proceedings are taken against the first mentioned person.

*(Inserted by S.R.O. 26/2004)*

---

**\*NINTH SCHEDULE**

*(Section 86 and 139)*

**MERCHANT SHIPPING (CREW AGREEMENT) REGULATIONS**

PART I

PRELIMINARY MATTERS

**Citation.**

1. These Regulations may be cited as the Merchant Shipping (Crew Agreement) Regulations.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“coastal voyage” means a voyage between places in Saint Christopher and Nevis or from and returning to such a place during which, in either case, no call is made at any place outside Saint Christopher and Nevis;

“manager” means the Company who has assumed the responsibility for operation of the ship from the owner of the ship and for those ships to which the International Safety Management (ISM) Code apply, who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISM Code;

“proper officer” means a proper officer for the place at which a crew agreement, or an agreement with any person added to those contained in a crew agreement, is or is to be made or an officer under section 412(1) of the Act or a Special Agent appointed according to section 446 (4) of the Act or the Director or the Registrar;

“seafarer” has the same meaning as “seaman” as defined within the Act.

PART II

CREW AGREEMENTS

**Exemptions from requirements of section 86 of the Act.**

3. (1) The requirements of section 86 of the Act relating to crew agreements shall not apply to the following descriptions of ships and voyages—

- (a) a government ship engaged on public non-commercial service;
- (b) a pleasure vessel, as defined under the Act;
- (c) a fishing vessel, as defined under the Act;

---

\* Original Ninth Schedule repealed by S.R.O. 18/2014.

- (d) any other ship, which may be exempted from time to time by the Director;
- (e) a coastal voyage by any ship solely for the purpose of trials of the ship, its machinery or equipment.

(2) The requirements of section 86 of the Act relating to crew agreements shall not apply to the following descriptions of seafarers—

- (a) a person employed in a ship solely in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
- (b) a member of the Coast Guard of Saint Christopher and Nevis.

(3) The requirements of section 86 of the Act relating to crew agreements shall not apply to a person who is not employed by the owner or the person employing the Master of the ship and is not engaged in the navigation of the ship in the deck, engine room, radio, medical or catering department of that ship and that person is employed solely in work directly related to—

- (a) the exploration of the seabed or sub-soil or the exploitation of their natural resources;
- (b) the storage of gas in or under the seabed or the recovery of gas so stored;
- (c) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine telegraph cable;
- (d) pipeline works, including the assembling, inspection, testing, maintaining, adjusting, repairing, altering, renewing, changing the position of, or dismantling a pipe-line or length of pipe-line; or
- (e) the provision of goods, personal services or entertainment on board the ship,

and that person has been given a written statement by his employer specifying the nature of the employment, the remuneration, the intervals at which the remuneration is to be paid and the length of notice which he is required to give and entitled to receive to determine his employment; and any terms or conditions of his employment relating to sick pay, hours of work (including any terms and conditions relating to normal working hours), pensions and entitlement to holidays.

#### **Carrying of copy of agreement in ships.**

4. (1) A ship required under section 86 of the Act to carry a crew agreement may, in the case of an agreement which relates to both that and to other ships and which is kept at an address ashore in Saint Christopher and Nevis, comply with that requirement by carrying a copy of the agreement certified in the manner provided by sub-regulation (2).

(2) A copy of a crew agreement carried in a ship in accordance with sub-regulation (1) shall bear a certificate signed by the Master certifying that it is a true copy of the crew agreement and specifying the address in Saint Christopher and Nevis at which the crew agreement is kept and the name of the person by whom it is so kept.

(3) A crew agreement, referred to in sub-regulations (1) and (2), shall be in the form set out in Schedule 1.

**Crew agreement in English.**

5. The crew agreement should be in the English language and annexed to the Crew List held on board and if the language used in the agreement is not English a translation to the English language shall be attached to or otherwise made a part of it.

**Display of crew agreement.**

6. The Master of a ship shall cause—
- (a) a copy of any crew agreement relating to the ship; or
  - (b) an extract containing the terms of that agreement applicable—
    - (i) to all seafarers employed under it; and
    - (ii) to each description of seafarers so employed,

to be posted in some conspicuous place on board the ship where it can be read by the persons employed under the crew agreement and he shall cause it to be kept so posted and legible so long as any seafarer is employed in the ship under the crew agreement.

**Supply and production of copy documents.**

7. Upon a seafarer making a demand for the crew agreement of his employer or of the Master, the employer or the Master, as the case may be, shall, within a reasonable time—
- (a) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and
  - (b) cause to be made available to him a copy of any document referred to in the agreement.

**Production of documents to officials of Government.**

8. The Master shall, on demand by the Director, the Registrar, a Special Agent or by any proper officer, produce to him—
- (a) any crew agreement, or the copy of any crew agreement carried in the ship in pursuance of regulation 4; and
  - (b) any certificate evidencing an exemption granted by the Director from the requirements of section 86 of the Act with respect to the ship or to any person in it.

**Offences under Part II.**

9. A Master or other person who fails to comply with an obligation imposed on him by or under Part II of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding Level 2 of the standard scale of fines as set out under section 452(4) and the Fifth Schedule of the Act.

PART III  
LISTS OF THE CREW

**Interpretation for Part III.**

**10.** (1) In this Part—

“employment discharge” includes termination of engagement;

“endorsement” in relation to a certificate of competency or of service means an endorsement in respect of a trading area, type of ship or dangerous cargo;

“seafarer” includes the Master of a ship.

**Exemptions from the requirements of section 139 of the Act.**

**11.** The duty imposed by section 139 of the Act to make and maintain a list of the crew shall not apply in relation to a vessel described in regulation 3(1).

**List of the crew contained in crew agreement.**

**12.** A list of the crew may be contained in the same document as a crew agreement relating to one ship only and any particulars entered in the crew agreement shall be treated as forming part of the particulars entered in the list.

**Form of list of the crew to be used.**

**13.** Masters and owners shall use the standard form of list of the crew produced by the International Maritime Organisation, the current form of which is contained in Schedule 2 to these Regulations.

**Copies of list of the crew.**

**14.** (1) A copy of every list of the crew (including all changes in it notified to the owner) shall be maintained by the owner of the ship at their place of business or the place of business of their manager.

(2) The Master shall, as soon as practicable and in any event within 3 days of any change being made in the list of the crew, notify the change to the owner and manager of the ship.

**Production of list of the crew to proper officer.**

**15.** The Master, owner or manager or other person having in his possession a list of the crew or copy thereof shall produce it on demand to a proper officer.

**Delivery of list of the crew to Registrar of Shipping and Seamen.**

**16.** The owner of the ship shall, on demand, deliver to the Registrar of Shipping and Seamen a list of the crew on board the ship within 28 days of such demand being made at a date specified by the Registrar of Shipping and Seamen.

**Duration of list of the crew.**

**17.** Except in the case where a crew agreement for the ship covers an indefinite period a list of the crew shall remain in force—

- (a) where any person is employed in the ship under a crew agreement, until all the persons employed under that agreement in that ship have been discharged;

- (b) in the case of a ship engaged on coastal voyages for port authorities, whose crew are returned to shore within each period of 24 hours, for 12 months after the first entry relating to a seafarer is made on the list;
- (c) in any other case, until the ship first calls at a port more than 6 months after the first entry relating to a seafarer is made in the list.

### **Offences under Part III.**

**18.** A Master, owner, manager or other person who fails to comply with an obligation imposed on him by or under Part III of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding Level 1 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act.

## PART IV

### DISCHARGE OF SEAFARERS

#### **Notice of Discharge.**

**19.** (1) In the event of any dispute about a seafarer's wages, and that dispute is at the time of discharge to be submitted to a proper officer under section 94 of the Act then subject to regulation 19 the Master of a ship shall, not less than 48 hours before the seafarer is discharged from the ship give a notice of discharge in writing to a proper officer for the place where the seafarer is to be discharged.

(2) Where it is not practicable to give the notice, referred to in sub-regulation (1) within the period provided in the sub-regulation, it shall be given as soon as practicable thereafter.

(3) A notice of discharge shall contain the following particulars—

- (a) the name of the ship, its port of registry and official number;
- (b) the place, date and time of the seafarer's discharge;
- (c) the capacity in which the seafarer is employed on the ship.

(4) Where a notice of discharge relates to more than one seafarer, it shall state, in addition to the particulars specified in sub-regulation (2), the number of seafarers being discharged.

#### **Discharge.**

**20.** A notice of discharge is not required in respect of a seafarer discharged—

- (a) where the seafarer is to be discharged from a ship exempted from the requirements of section 86 of the Act by regulation 3(1); or
- (b) where the seafarer is exempted from the requirements of section 86 of the Act by regulation 3(2) or 3(3).

#### **Procedure on discharge.**

**21.** (1) Where a seafarer is present when he is discharged—

- (a) the Master, or one of the ship's officers authorised by him in that behalf, shall, before the seafarer is discharged—

- (i) where the seafarer produces his discharge book to him, record in it the name of the ship, its port of registry, gross or net tonnage and official number, the description of the voyage, the capacity in which the seafarer has been employed in the ship, the date on which he began to be so employed and the date and place of his discharge; or
  - (ii) where the seafarer does not produce his discharge book to him, give to the seafarer a Certificate of Discharge containing the like particulars;
- (b) the Master shall ensure that the seafarer is discharged in the presence of—
- (i) the Master himself; or
  - (ii) the seafarer's employer; or
  - (iii) a person authorised in that behalf by the Master or employer;
- (c) the person mentioned in paragraph (b) in whose presence the seafarer is being discharged shall—
- (i) make and sign an entry in the official log book recording the place, date and time of the seafarer's discharge; and
  - (ii) make and sign an entry in the crew agreement or, if there is a list of the crew separate from a crew agreement, in the list of the crew, recording the place and date of, and the reason for, the seafarer's discharge; and
- (d) the seafarer shall sign the entry in the crew agreement and list of the crew referred to in paragraph (1)(c)(ii).

(2) Where a seafarer is not present when he is discharged, the Master, or a person authorised in that behalf by the Master, shall make the entries referred to in sub-regulation (1)(c).

(3) All entries in the official log book required under the preceding sub-regulations of this regulation shall, in addition to being signed by the person making the entry, be signed also by a member of the crew.

(4) Where a seafarer so requests, within a period of 6 months from the date of his discharge from or his leaving the ship, the Master, owner or manager shall give to the seafarer a certificate (which shall be separate from any other document) either as to the quality of his work or indicating whether he has fully discharged his obligations under his contract of employment.

#### **Offences under Part IV.**

**22.** Any Master or other person who fails to comply with an obligation imposed on him by or under Part IV of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding Level 1 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act.

#### **Form of Seafarer Certificate of Service.**

**23.** The form of a St. Kitts and Nevis International Ship Registry Seafarer Certificate of Service is set out in Schedule 3.



**SCHEDULE 1 TO THE REGULATIONS**

*(Regulation 4)*

**ST. KITTS & NEVIS**

**INTERNATIONAL SHIP REGISTRY**

**ARTICLES OF AGREEMENT (Crew Agreement) BETWEEN  
THE MASTER AND SEAFARERS SERVING ONBOARD A  
VESSEL REGISTERED IN ST. KITTS & NEVIS**

*The Saint Christopher & Nevis Merchant Shipping Act Cap. 7.05*

*Department of Maritime Affairs, Ministry of International Transport*

Name of Vessel		Port of Registry	
IMO or CaribShip Number	Official Number	Gross Tonnage	Main Engine Power

(See Notes at end of text to assist completion)

IT IS AGREED between the Master and the undersigned seafarer of the St. Kitts & Nevis ship

(a) \_\_\_\_\_  
of which (b) \_\_\_\_\_ is at  
present Master, or whoever shall become Master, now bound from the port of (c) \_\_\_\_\_  
to (d) \_\_\_\_\_  
and such other ports and places the world as the Master may direct, for a term (of)  
(not exceeding)\* (e) \_\_\_\_\_ (f) calendar months, that:

1. Seafarers shall conduct themselves in an orderly, faithful, honest and sober manner, and shall at all times be diligent in their respective duties and obedient to the lawful commands of the Master, or of any person who shall lawfully succeed him or her, and their superior officers, in everything relating to the vessel, its stores and cargo, whether on-board, in boats or on shore. In consideration of this service, to be duly performed, the Master agrees to pay the undersigned seafarer the wages expressed herein and/or set forth in supplemental provisions and/or contract of employment.
2. Wages shall commence no later than on the day specified and agreed to in these Articles or at a time of presence on-board for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge or as otherwise specified in the supplemental provisions and/or contracts of employment.
3. Seafarers are entitled to receive on request, in local currency, from the Master up to one half of the balance of basic wages actually earned and payable at every intermediate port where the vessel shall load or discharge cargo before the end of the voyage, but not more than once in any ten-day period.
4. If the Master and a seafarer agree, a portion of such seafarer's earnings may be allotted to such seafarer's spouse, children, grandchildren, parents,

- grandparents, brothers or sisters, or to a bank account in the name of the seafarer.
5. Any seafarer who is put ashore at a port other than the one where he or she signed on these Articles and who is put ashore for reasons for which he or she is not responsible, shall be returned as a seafarer or otherwise, but without expense to him or her; (a) at the Shipowner's option, to the port or place in which he or she was engaged or where the voyage commenced or to a port or place in the seafarer's own country; or (b) to another port or place agreed upon between the seafarer and the Shipowner or Master. However, in the event such seafarer's period of service specified in his contract of employment has not expired, the Shipowner shall have the right to transfer him or her to another of the Shipowner's vessels, to serve thereon for the balance of the unexpired period of service.
  6. Any seafarer whose period of employment is terminated by reason of completion of the voyage for which he or she was engaged or of expiration of his or her contract period of employment, shall be entitled to repatriation at no expense to him or her to the port or place at which he or she was engaged or to such other port or place as may be agreed upon, unless otherwise specified in the supplemental provisions.
  7. If a seafarer enters himself or herself as qualified for duty which he or she is incompetent to perform, his or her rank or rating may be reduced in accordance with his or her competence or he or she may be discharged.
  8. Any seafarer may request his or her immediate discharge on grounds of injury or illness, and such discharge may be granted in the Master's reasonable discretion at the next appropriate port.
  9. The Master shall give to a seafarer discharged from his or her vessel either on his or her discharge or on payment of his or her wages, a Certificate of Service in the format approved by St. Kitts & Nevis International Ship Registry (SKANReg).
  10. Every Master in service on board a vessel registered in St. Kitts & Nevis shall ensure that watchkeeping arrangements are adequate for maintaining a safe continuous watch or watches, taking into account the prevailing circumstances and conditions and that, under the Master's general directions all watchkeeping personnel shall observe the principles and guidance set out in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarer, 1978, as amended, and any regulations enacted by St. Kitts & Nevis—
    - (a) all persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of ten (10) hours of rest in every 24-hour period;
    - (b) the hours of rest may be divided into no more than two periods, one of which shall be at least six (6) hours in length;
    - (c) the requirement for rest periods set forth in paragraphs (a) and (b), above, need not be maintained in case of an emergency or drill or in other overriding operational conditions – i.e., essential shipboard work which could not reasonably have been anticipated at the commencement of the voyage;
    - (d) notwithstanding the provisions of paragraphs (a) and (b), above, the minimum period of ten (10) hours may be reduced to not less than six (6)

- consecutive hours provided that any such reduction shall not extend beyond two days and not less than seventy (70) hours of rest are provided each seven (7) day period;
- (e) watch schedules shall be posted where they are easily accessible on-board the vessel;
  - (f) the Master shall maintain a record of the hours of work and/or rest periods of each seafarer, and such record shall be available for inspection by any authorised representative of SKANReg or an official who is authorised to act for and on behalf of a Port State Control Authority.
11. An order to be alert and maintain proper fitness for the performance of watchkeeping duties, watchkeeping personnel shall have no more than 0.08% blood alcohol level (BAC) during watchkeeping duties; and watchkeeping personnel shall not consume alcohol within four (4) hours prior to serving as a member of a watch.
  12. Eight hours per day shall constitute a working day while in port and at sea.
  13. Work performed over and above an eight hour period shall be considered overtime and be compensated for at overtime rates. However, such work performed in excess of eight hours per day shall not be compensated for when necessary for the safety of the vessel, its passengers, officers, crew, cargo or for the saving of other vessels, lives or cargo, or for the performance of fire, lifeboat or other emergency drills.
  14. Seafarers shall keep their respective quarters clean and in order.
  15. No dangerous weapons, narcotics or contraband articles, and alcoholic beverages except as provided by the Shipowner as part of the vessel's provisions, shall be brought onboard the vessel nor allowed in the possession of seafarer, and any seafarer bringing the same on-board or having the same in his or her possession on-board, shall be subject to discharge and/or shall be liable for such fines as the Master may direct and all such articles shall be confiscated. The amount of any fine levied against the vessel by the proper authority of the port wherein the vessel is then located, for possession of narcotics and/or contraband cargo, shall be made good to the Shipowner out of the wages of the seafarer or seafarer guilty of such possession.
  16. No seafarer shall go ashore in any foreign port except by permission of the Master. However, the Master shall not refuse the reasonable request of any seafarer for shore leave for the purpose of presenting a complaint against the vessel or Master to a Special Agent for Shipping & Maritime Affairs, a Consul or other Official of St. Kitts & Nevis.
  17. The Shipowner and Master may issue such rules and regulations as may be necessary for the safe and proper operation of the vessel providing nothing contained therein shall be contrary to law.
  18. If any seafarer considers himself or herself aggrieved by any breach of these Articles, he or she shall represent the same to the Master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such corrective action as the case may require.
  19. The complete crew agreement comprises Part 1 (text) & Part 2 (tabulated).
  20. All rights and obligations of the parties to these Articles shall be subject to the Merchant Shipping Act No. 24 of 2002, as amended and any other applicable legislation of St. Kitts & Nevis.

**IT IS ALSO AGREED THAT:**

(additional provisions may be included or referenced herein or attached hereto)

**IN WITNESS THEREFORE** the said seafarers have subscribed their names herein on the days mentioned against their respective signatures.

Agreement opened at \_\_\_\_\_ on \_\_\_\_\_

Signature of Master

Ship Stamp

**NOTES:**

- 1) Preamble
  - (a) - Enter name of vessel.
  - (b) - Enter full name of Master.
  - (c) - Enter name of first port of departure.
  - (d) - Enter here a description of the voyage and the names of the places at which the ship is to call, or if that cannot be done, the general nature and the probable length of the voyage and the port or country at which the voyage is to terminate. For ships engaged in world-wide trading without definite itineraries or schedules, insert “unrestricted world-wide trade”.
  - (e) - Strike out word or words not applicable.
  - (f) - It is recommended that, for the sake of avoiding accumulation of excessive records, Articles should be closed no later than 24 months from the date when they were opened.
- 2) This Agreement should be in the English language and annexed to the Official Crew List held onboard. Where necessary a foreign language version made be attached to or otherwise made a part of it.
- 3) An Agreement comprising Parts 1 & 2 satisfies the requirements of section 86 of the Merchant Shipping Act No. 24 of 2002.
- 4) This Agreement is prepared for printing on A4 size paper.

This form of Articles may be downloaded from our website [www.StKittsNevisRegistry.net](http://www.StKittsNevisRegistry.net)







**SCHEDULE 3 TO THE REGULATIONS**

*(Regulation 23)*



ST KITTS & NEVIS  
INTERNATIONAL SHIP REGISTRY



**SEAFARER CERTIFICATE OF SERVICE**

*The Saint Christopher & Nevis Merchant Shipping Act Cap. 7.05  
Department of Maritime Affairs, Ministry of International Transport*

Name of Vessel		Port of Registry	
IMO or CaribShip Number	Official Number	Gross Tonnage	Main Engine Power

1 Name of Seaman	
2 Nationality	
3 Rank or Rating	
4 SKN Seafarers Number	
5 Place of Engagement	
6 Date of Engagement	
7 Place of Discharge	
8 Date of Discharge	
9 Total service (months and days)	
10 Nature of Voyage	
11 Quality of Work	
12 Conduct of Work	

I hereby certify that all entries herein were made by me and to the best of my knowledge, are correct. In witness whereof I have, this day affixed my signature and stamp of the vessel.

Date/Place .....

.....  
Signature of Master

Ships Stamp

*(Substituted by S.R.O. 14/2012)*

\_\_\_\_\_



**TENTH SCHEDULE***(Section 171(5))***APPLIED REGULATIONS ETC.****PART I****PRELIMINARY****Citation.**

1. These Regulations may be cited as the Merchant Shipping (Tonnage) Regulations.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“Administration” means the Department of Maritime Affairs of the State whose flag the ship is entitled to fly;

“amidships” means the midpoint of the length of the ship;

“breadth” means the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material;

“break” means the space bounded longitudinally by a side to side upward step in the lowest line of the upper deck and another such step or the end of the ship, transversely by the sides of the ship and vertically by the higher part of the deck and the lowest line of the upper deck continued parallel thereto;

“cargo spaces” means enclosed spaces which are included in the computation of gross tonnage and are appropriated for the transport of cargo to be discharged from the ship and which are permanently marked with the letters “CC” which mean cargo compartment, such letters being not less than one hundred millimetres in height and so positioned as to be readily visible;

“Certifying Authority” means the Director of the Department of Maritime Affairs or any other person authorised by the Director of Maritime Affairs for the purposes of these Regulations;

“Contracting Government” means the Government of a country which has accepted the International Convention on Tonnage Measurement of Ships, 1969;

“Convention” means the International Convention on Tonnage Measurements of Ships, 1969;

“depth” means the vertical distance measured from the top of the keel of a metal ship, or, in wood and composite ships from the lower edge of the keel rabbet, to the underside of the upper deck at side, or, in the case of a ship which is not fully decked, to the top of the upper strake or gunwale, save that—

- (a) where the form at the lower part of the midship section is of a hollow character, or where thick garboards are fitted, the distance is measured

from the point where the line of the flat of the bottom continued inwards cuts the side of the keel;

- (b) in the case of a glass reinforced plastic ship where no keel member is fitted and the keel is of open trough construction, the distance is measured from the top of the keel filling, if any, or the level at which the inside breadth of the trough is 100 millimetres, whichever gives the lesser depth;
- (c) in ships having rounded gunwales, the depth measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwales were of angular design; and
- (d) where the upper deck is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, the depth measured to a line of reference extending from the lower part of the deck along a line parallel to the raised part;

“enclosed spaces” means all those spaces, other than excluded spaces, which are bounded by the ship’s hull, by fixed or portable partitions or bulkheads, or by decks or coverings other than permanent or moveable awnings and without limiting the generality of the foregoing, no break in a deck, nor any opening in the ship’s hull, a deck, a covering of a space, or the partitions or bulkheads of a space, nor the absence of a partition or bulkhead, precludes a space from being included in the enclosed spaces and notwithstanding the definition of “excluded spaces”, any such space which fulfils at least one of the following conditions shall be treated as an enclosed space—

- (a) a space fitted with shelves or other means for securing cargo or stores;
- (b) a space fitted with any means of closing the openings therein;
- (c) a space constructed in such a way that there exists any possibility of an opening, mentioned in paragraph (b), being closed;

“excluded spaces” means—

- (a) that part of an enclosed space within an erection opposite an end opening and extending from the opening to an athwart ship line at a fore and aft distance from the opening equal to half the breadth of the deck of the line of the opening, such end opening having a breadth equal to or greater than ninety per cent of the breadth of the deck at the line of the opening and extending from deck to deck or to a curtain plate of a depth not exceeding by more than twenty-five millimetres the depth of the adjacent deck beams, as specified in figure 1 of the First Schedule, save that—
  - (i) where at any point the width of the enclosed space because of any arrangement except convergence of the outside plating, as specified in figure 3 of the First Schedule, becomes less than ninety per cent of the breadth of the deck at the line of the opening, the excluded space extends only to an athwart ship line intersecting that point, as specified in figures 2 and 4 of the First Schedule;
  - (ii) where the opposite ends of two enclosed spaces are separated by a gap, which is completely open except for bulwarks or open rails and of fore and aft length less than half the least breadth of the deck at the gap, then no part of the enclosed spaces are excluded, as specified in figures 5 and 6 of the First Schedule;

- (b) a space under an overhead deck covering open to the sea and the weather and having no other connection on the exposed sides with the body of the ship than the stanchions necessary for its support, however, in such a space, open rails or a bulwark and curtain plate may be fitted or stanchions fitted at the ship's side, save that the distance between the top of the rails or the bulwark and the curtain plate is not less than 0.75 metres or one-third of the height of the space, whichever is the greater, as specified in figure 7 of the First Schedule;
- (c) a space in a side-to-side erection between opposite side openings not less in height than 0.75 metres or one-third of the height of the erection, whichever is the greater, save that where the opening in such an erection is provided on one side only, the space to be excluded from the volume of enclosed spaces is limited inboard from the opening to a maximum of one-half of the breadth of the deck in way of the opening, as specified in figure 8 of the First Schedule;
- (d) a space in an erection immediately below an uncovered opening in the deck overhead, save that such an opening is exposed to the weather and the space excluded from enclosed spaces is limited to the area of the opening, as specified in figure 9 of the First Schedule;
- (e) a recess in the boundary bulkhead of an erection which is exposed to the weather and the opening of which extends from deck to deck without means of closing, save that the interior width is not greater than the width at the entrance and its extension into the erection is not greater than twice the width of its entrance, as specified in figure 10 of the First Schedule;

“fixed permanent structure” includes any portion of the hull which is capable of being detached, but which must be fixed in place during the normal operation of the vessel. It does not include functional arrangements such as safety rails, bowsprits, pulpits, stemhead fittings, rudders, steering gear, outdrives, outboard motors, propulsion machinery, diving platforms, boarding platforms, rubbing strips and fenders;

“International Tonnage Certificate” or “ITC” means the International Tonnage Certificate issued under the Convention;

“length” means the greater of the following distances—

- (a) the distance between the foreside of the stem and the axis of the rudder stock; or
- (b) ninety-six per cent of the distance between the foreside of the stem and the aft side of the stern,

the said points and measurements being taken respectively at and along a waterline at eighty-five per cent of the least moulded depth of the ship, the waterline, being taken to be parallel to the designed waterline in the case of a ship having a rake of keel;

“length overall” means the distance between the foreside of the foremost fixed permanent structure and the aft side of the aftermost permanent structure;

“Load Line Regulations” means the Merchant Shipping (Load Line) Regulations made under the Act and includes in relation to any ship not registered in Saint Christopher and Nevis any corresponding regulations of the country in which the ship is registered;

“moulded depth” has the same meaning as depth;

“moulded draught” means—

- (a) for ships assigned load lines, the draught corresponding to the summer load line, other than timber load lines;
- (b) for passenger ships, the draught corresponding to the deepest subdivision load line assigned in accordance with whatever Passenger Ship Construction Regulations are applicable to the ship in question at the time the draught is assigned;
- (c) for ships to which no load line has been assigned but the draught of which is restricted by the Minister, the maximum permitted draught;
- (d) for other ships, seventy-five per cent of the moulded depth amidships;

“oil tanker” means a ship constructed or adapted to carry oil in bulk in its cargo spaces and includes combination carriers;

“Register” means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;

“Shipping (Passenger Ship Construction) Regulations” means the Shipping (Passenger Ship Construction) Regulations made under the Act;

“similar stage of construction” means the stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material whichever is the less;

“SOLAS” means the International Convention for the Safety of Life at Sea;

“surveyor” means a surveyor appointed pursuant to section 411 (3) of the Act.

## PART II

### ASCERTAINMENT OF TONNAGE AND CERTIFICATION FOR SAINT CHRISTOPHER AND NEVIS SHIPS OF 24 METRES IN LENGTH AND OVER

#### **Application of PART II.**

**3.** This Part applies to ships of 24 metres in length or over registered or to be registered in Saint Christopher and Nevis.

#### **Method of Measurement.**

**4.** (1) A ship shall be measured by a surveyor.

(2) The gross and net tonnages shall be determined in accordance with regulations 6 and 7 provided that in the case of novel types of craft with constructional features which render the application of the provisions of these Regulations unreasonable or impracticable, the gross and net tonnages shall be determined as provided by the Minister.

(3) All measurements used in the calculation of volumes shall be taken and expressed in metres to the nearest one hundredth of a metre.

(4) Gross and net tonnages shall be expressed as whole numbers, decimals being rounded off downwards.

**Calculation of Volumes.**

5. (1) All volumes included in the calculation of gross and net tonnages shall be measured, irrespective of the fitting of insulation or the like, to the inner side of the shell or structural boundary plating in ships constructed of metal, and to the outer surface of the shell or to the inner side of the structural boundary surfaces in ships constructed of any other material.

(2) Volumes of appendages shall be included in the total volume.

(3) Volumes of spaces open to the sea shall be excluded from the total volume.

(4) The method and accuracy of the calculations shall be sufficiently detailed to facilitate checking.

**Gross Tonnage.**

6. The gross tonnage (GT) of a ship shall be determined by the formula—

$$GT = K_1 V$$

Where—

(a) V represents total volume of all enclosed spaces of the ship in cubic metres;

(b) K<sub>1</sub> represents 0.2+0.02 log<sub>10</sub> V, as specified in the Second Schedule.

**Net Tonnage.**

7. (1) The net tonnage (NT) of a ship shall be determined by the formula—

$$NT = K_2 V_c \left(\frac{4d}{3D}\right)^2 + K_3 \left(N_1 + \frac{N_2}{10}\right)$$

Where—

(a) V<sub>c</sub> represents total volume of cargo spaces in cubic metres;

(b) K<sub>2</sub> represents 0.2+0.02 log<sub>10</sub> V<sub>c</sub> as specified in the Second Schedule;

(c)  $K_3 = 1.25 + \frac{GT+10,000}{10,000}$

(d) GT represents gross tonnage calculated in accordance with regulation 6;

(e) D represents moulded depth amidships in metres;

(f) d represents moulded draught amidships in metres;

(g) N<sub>1</sub> represents number of passengers in cabins with not more than 8 berths; and

(h) N<sub>2</sub> represents number of other passengers who may be accommodated on the ship.

(2) However—

(a) the factor  $\left(\frac{4d}{3D}\right)^2$  shall not be taken as greater than unity;

(b) the term  $K_2 V_c \left(\frac{4d}{3D}\right)^2$  shall not be taken as less than 0.25 GT;

- (c) N1 and N2 shall be taken as zero when  $N1 + N2$  is less than 13;
- (d) NT shall not be taken as less than 0.30 GT.

#### **Segregated Ballast Oil Tanker.**

**8.** (1) Where segregated ballast tanks complying with regulation 13 of Annex 1 of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, are provided in oil tankers, an entry may be made on the International Tonnage Certificate (1969) indicating the total tonnage of these tanks.

(2) The tonnage of such segregated ballast tanks shall be calculated according to the formula—

$$K1 \times Vb$$

Where—

- (a) K1 represents  $0.2 + 0.02 \log_{10} V$  or as specified in the Second Schedule;
- (b) Vb represents the total volume of all enclosed spaces of the ship in cubic metres measured in accordance with regulation 5.

#### **Issue of Certificates.**

**9.** Where it is in order to do so, the Certifying Authority shall, issue to the owner an International Tonnage Certificate in the form set out in the Convention, certifying the tonnages of the ship and containing the particulars shown thereon and the official number of the ship shall be included as a distinctive number.

#### **Cancellation of Certificates.**

**10.** (1) Where alterations are made in the arrangement, construction, capacity, use of spaces, total number of passengers the ship is permitted to carry under the terms of the ship's passenger certificate, assigned load line, or permitted draught of the ship such as would cause an increase in the gross or net tonnage, the existing International Tonnage Certificate shall cease to be valid and shall be delivered up to and cancelled by the Certifying Authority.

(2) When a ship is transferred from the Saint Christopher and Nevis Register the International Tonnage Certificate shall cease to be valid except when the transfer is to the Administration of a State which is a Contracting Government in which case the certificate may remain in force for a period not exceeding three months or until the new Administration issues another International Tonnage Certificate whichever is the earlier.

(3) The Certifying Authority shall transmit to the Administration of a Contracting Government, referred to in sub-regulation (2) as soon as possible after the transfer has taken place, a copy of the certificate carried by the ship at the time of transfer and a copy of the relevant tonnage calculations.

#### **Change of Net Tonnage Necessitating Issue of Certificate.**

**11.** (1) When alterations in the values of V, Vc, d, N1 or N2 as defined in regulations 6 and 7 result in an increase in the net tonnage a new International Tonnage Certificate (1969) incorporating the increase net tonnage shall be issued.

(2) In the case of a passenger ship assigned subdivision load lines in accordance with any Merchant Shipping (Passenger Ship Construction) Regulations made under the Act and load lines in accordance with the Merchant Shipping (Load Lines) Regulations made under the Act, only one net tonnage shall be applied and where the draught corresponding to the Summer load line differs from that corresponding to the deepest subdivision load line the net tonnage shall, subject to sub-regulation (3) be determined in accordance with regulation 7 by applying the draught corresponding to the appropriate assigned loadline for the trade in which the ship is engaged.

(3) Subject to sub-regulation (4) where alterations in the values of V, Vc, d, N1 or N2, as defined in regulations 6 and 7, or changes in the position of the load lines result in a decrease in the net tonnage, a new International Tonnage Certificate (1969) incorporating the decreased net tonnage shall not be issued until twelve months have elapsed from the date on which the current certificate was issued.

(4) A new International Tonnage Certificate (1969) may be issued when—

- (a) a ship which was registered outside Saint Christopher and Nevis is registered in Saint Christopher and Nevis; or
- (b) a ship undergoes alterations or modifications of a major character, such as the removal of a superstructure, which requires an alteration of the assigned load line; or
- (c) the ship is a passenger ship employed in special trades for carriage of large numbers of special trade passengers, such as the pilgrim trade.

#### **Use of Gross Tonnages Ascertained Under Previous Regulations.**

**12.** (1) The Minister may permit the continuing use of a gross tonnage ascertained in accordance with the provisions of the Merchant Shipping Act No. 15 of 1985 by the following ships—

- (a) a ship the keel of which was laid or which was at a similar stage of construction before 18th July 1982;
- (b) a ship the keel of which was laid or which was at a similar stage of construction not later than 31st December, 1985, not being a ship referred to in paragraph (a);
- (c) a ship which is a cargo ship of less than 1600 tons gross tonnage, determined in accordance with the Regulations in force prior to the coming into force of the Convention, the keel of which was laid or was at a similar stage of construction not later than 18th July, 1994, not being a ship referred to in paragraph (a).

(2) Ships specified in sub-regulation (1) may use the tonnages so ascertained for the application of the provisions of the Regulations implementing the International Convention for the Safety of Life at Sea 1974 the International Convention for the Prevention of Pollution from Ships, 1973 and of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.

(3) An International Tonnage Certificate (1969) may be annotated, under “Remarks”, by the Certifying Authority—

- (a) in the case of a ship to which sub-regulation (1)(a) refers, with the duly completed and signed entry as follows;

“The ship is remeasured according to article 3(2)(d) of the 1969 Tonnage Convention. The GROSS TONNAGE according to the measurement system previously in force to the measurement system of the International Convention on Tonnage Measurement of Ships, 1969, is: .....RT, according to the regulations.....”.

- (b) in the case of a ship to which sub-regulation (1)(b) or (c) refers, with the duly completed and signed entry as follows;

“The ship is additionally measured according to resolution A.494(XII), A.540(13), or A.541.(13).

The GROSS TONNAGE according to the measurement system previously in force to the measurement system of the International Convention on Tonnage Measurement of Ships, 1996, is: ..... RT, according to the Regulations .....”.

(4) Where such an entry has been made on an International Tonnage Certificate (1969) and the ship undergoes alterations or modification which affect its tonnage the old tonnage referred to in sub-regulation (1) shall be deleted.

(5) Where a gross tonnage has been ascertained and is to be used in accordance with sub regulation (1), then any certificate issued for the purposes of the conventions and protocols referred to shall record only that gross tonnage together with the following appropriate footnote—

- (a) “The above gross tonnage has been determined by a Certifying Authority of Saint Christopher and Nevis in accordance with the national tonnage rules which were in force prior to the coming into force of the International Convention on Tonnage Measurement of Ships, 1969”; or
- (b) “See REMARKS column of the valid International Tonnage Certificate (1969)”.

### PART III

#### ASCERTAINMENT OF TONNAGE AND CERTIFICATION FOR SAINT CHRISTOPHER AND NEVIS SHIPS OF LESS THAN 24 METRES IN LENGTH

##### **Application of PART III.**

**13.** This Part applies to ships, being ships of less than 24 metres in length and not being fishing vessels registered or to be registered under Part II of the Act and for which the ascertainment of tonnage is required under Regulations made under section 10 of the Act.

##### **Measurement and Certification.**

**14.** (1) A ship shall be measured by a surveyor or by a measurer appointed by the Director of Maritime Affairs.

(2) The tonnage of a ship shall be the sum of—

- (a) the product of multiplying together its length overall, extreme breadth over the outside hull and depth in metres and multiplying the resultant figure by 0.16;



- (b) the tonnage of any break or breaks, calculated for each break by multiplying together its mean length, mean breadth and mean height in metres and multiplying the resultant figure by 0.35.
- (3) For the purpose of this Part—
  - (a) the breadth of a ship shall be its extreme breadth over the outside plating, planking or hull, no account being taken of rubbers or fenders even if they are moulded so as to be integral with the hull;
  - (b) the depth of a ship shall be measured vertically at the midpoint of the length overall—
    - (i) the upper terminal point for depth shall be—
      - (aa) in the case of a decked ship, the underside of the deck on the middle line or, if there is no deck on the middle line at the point of measurement, the underside of the deck at the side plus the full deck camber
      - (bb) in the case of an open ship, the top of the upper strake or gunwale.
    - (ii) the lower terminal point of depth shall be—
      - (aa) in the case of a wooden ship, the upper side plank at the side of the keel or hog;
      - (bb) in the case of a metal ship, the top of the plating at the side of the keel;
      - (cc) in the case of a glass reinforced plastic ship, the inside of the hull. Where no keel member is fitted and the keel is open trough construction, the lower terminal point for depth shall be the top of the keel filling, if fitted, or the level at which the inside breadth of the trough is 10 centimetres, whichever gives the greater depth.
    - (iii) where a break exists in way of the point of measurement for depth, the height of the break shall not be included in the measurement of depth.
- (4) The tonnage determined in accordance with sub-regulation (2) shall be the gross tonnage and the net tonnage.
- (5) In the case of multi-hull ships the tonnage of each hull shall be measured separately and the sum of such tonnages shall be used in computing the tonnage referred to in sub-regulation (2). For multi-hull ships having a structure connecting the hull which has a buoyant volume such buoyant volume shall be treated as a break and added to the computation. Buoyant volume will be average length multiplied by breadth multiplied by depth below main deck multiplied by 0.35 of the joining structure.
- (6) All measurements used in the calculation of volumes shall be taken and expressed in metres to the nearest one hundredth of a metre.
- (7) Tonnage shall be expressed to two decimal places, the second decimal place being increased by one if the third decimal place is 5 or more.
- (8) Where alterations are made in the arrangement, construction, capacity, use of spaces, total number of passengers the ship is permitted to carry under the terms of the ship's passenger certificate, assigned load line, or permitted draught of the ship

such as would cause an increase in the tonnage, the existing measurement shall cease to be valid, any certificate shall be delivered up to and cancelled by the issuer and the owner of the ship shall make an application for it to be remeasured in accordance with sub-regulation (1).

(9) Notwithstanding sub-regulation (2) nothing in this Part shall be taken to require any ship the tonnage of which was validly determined under the law in force immediately before the coming into force of these Regulations to have its tonnage re-determined.

#### **Issue of Certificates.**

**15.** (1) A Tonnage Certificate shall be issued to every vessel for which International Convention on Tonnage Measurement 1969 is not applicable and the Gross and Net Tonnages of which have been determined in accordance with this Part.

(2) Such Certificates shall be issued by the Administration of Saint Christopher and Nevis or organization duly authorised by it in a form approved by Administration of Saint Christopher and Nevis.

#### **Cancellation of Certificates.**

**16.** Where alterations are made in the arrangement, construction, use of spaces of the ship such as would cause an increase in the tonnage, the existing measurement shall cease to be valid, any certificate shall be cancelled by the issuer and the owner of the ship shall make an application for it to be remeasured.

### PART IV

#### FOREIGN SHIPS

#### **Ascertainment of Tonnage and Certification.**

**17.** (1) The Certifying Authority may, at the request of the Administration of a Contracting Government ascertain the gross and net tonnages of a foreign ship in accordance with Part II and issue to the owner an International Tonnage Certificate (1969). In such cases the certificate shall be endorsed to the effect that it has been issued at the request of the Government of the State whose flag the ship is or will be flying, and a copy of the certificate and the calculations of the tonnages shall be transmitted to the requesting Government as soon as possible.

(2) The Certifying Authority may, at the request of an owner of a foreign ship flying the flag of a State whose Government is not a Contracting Government, ascertain the gross and net tonnages of the ship in accordance with Part II and issue a Certificate of Saint Christopher and Nevis Tonnage Measurement. In such cases the certificate shall bear the endorsement "for use only whilst within Saint Christopher and Nevis or the waters thereof".

(3) Where a ship is not measured in accordance with the provisions of these Regulations or in accordance with the Convention, the ship may be measured by the method given in IMO or MSC Circular 264 and the tonnage so determined may be used in the calculation of port and other dues.

PART V

SCHEME FOR COMPLIANCE WITH THE SPECIAL MEASURES TO ENHANCE MARITIME  
SECURITY BY CARGO SHIPS USING A GROSS TONNAGE AS CALCULATED ACCORDING TO  
SECTION 12 OF THE ACT

**Definitions in this Part.**

**18.** (1) For the purpose of this Part—

“Gross tonnage” means the gross tonnage of the ship as determined under the provisions of the International Convention on the Tonnage Measurement of Ships, 1969 and shown on the International Tonnage Certificate (1969) of the ship;

“Requirements” means the requirements of SOLAS chapter XI-2 and part A of the ISPS Code, taking into account the provisions of part B of the ISPS Code; and

“Cargo ship” means a cargo ship, irrespective of the date on which the keel of the ship was laid, of 500 gross tonnage and upwards engaged on International voyage, which has not been required by Saint Christopher and Nevis to comply with the Requirements on the grounds the tonnage being ascertained according to the provisions of Section 12 of the Act.

(2) Terms not otherwise defined in this Part shall have the same meaning as the meaning attributed to them in SOLAS chapters I and XI-2 or the ISPS Code.

**Date of Application.**

**19.** (1) Cargo ships and companies operating such ships which have not been required to comply with the Requirements shall comply with the Requirements not later than 1 July 2008.

(2) Any vessel of 500 GT (ITC 69 Tonnage) and upward on international waters, irrespective of the date the keel was laid, will be required to comply with SOLAS Chapter XI-2 and Part A of the ISPS Code no later than 1 July 2008.

PART VI

OFFENCES

**Failure to Deliver Certificate for Cancellation.**

**20.** Any owner or master who fails, without reasonable cause, to deliver up a certificate for cancellation as required by regulations 10(1) or 18 commits an offence and is liable to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452(4) of the Act.

---

**SCHEDULE 1 TO THE REGULATIONS**

*Regulation 2*

EXCLUDED SPACES IN REGULATION 2

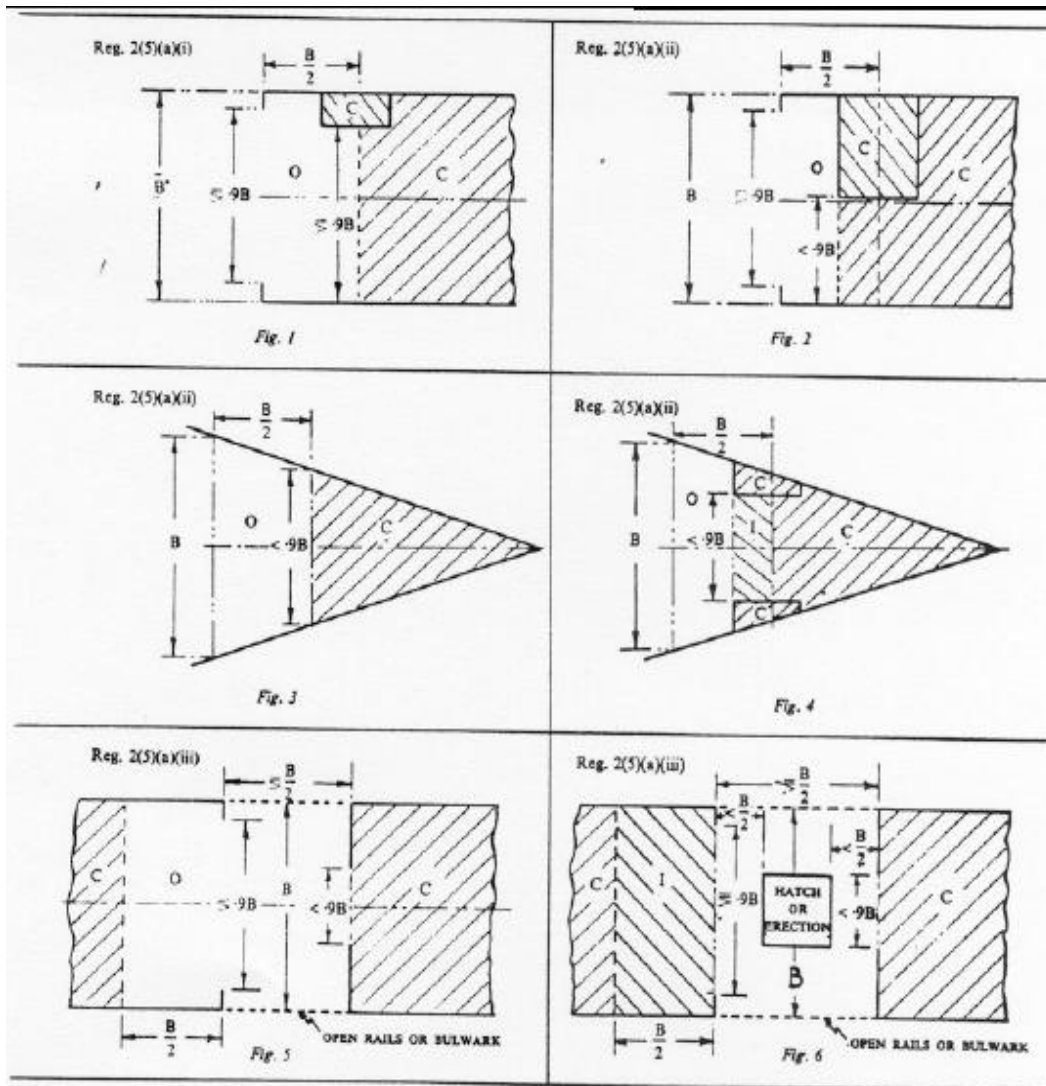
Key:

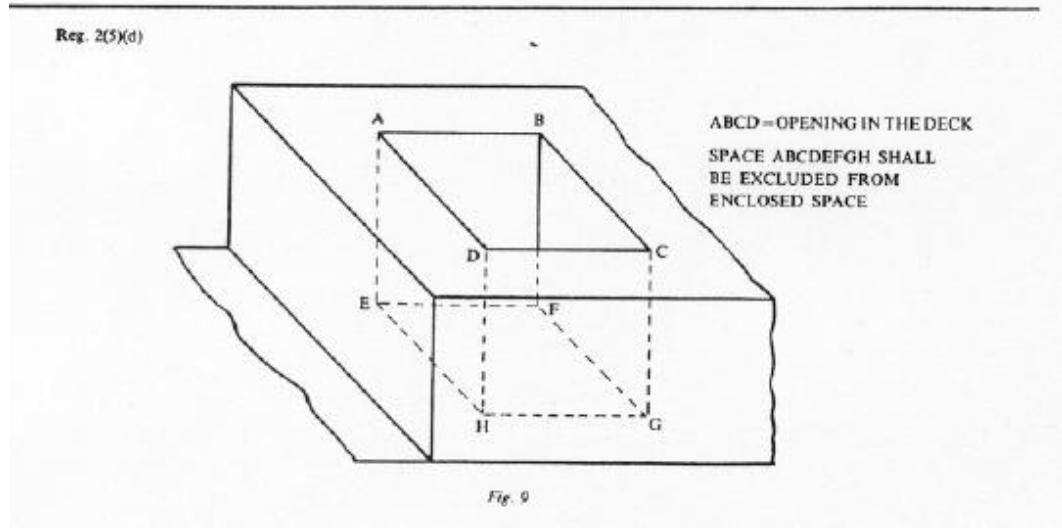
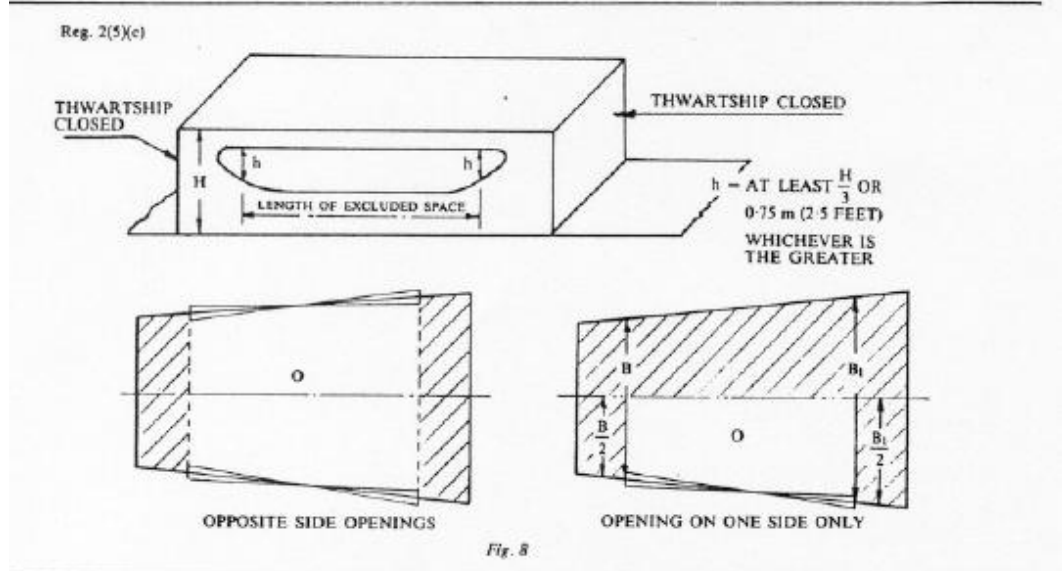
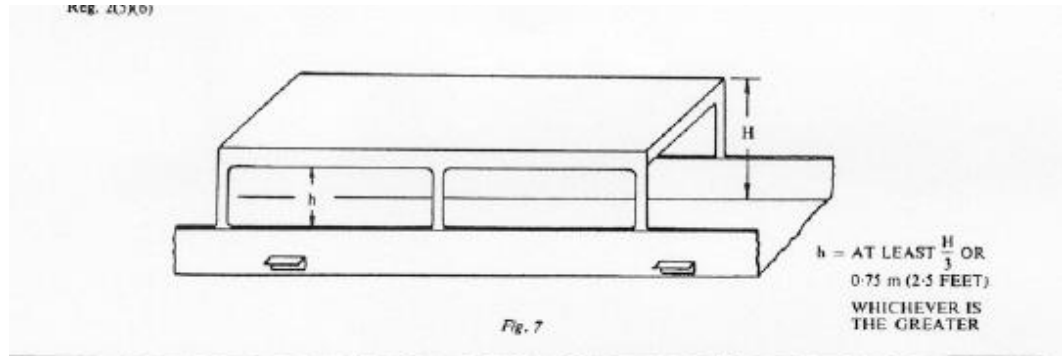
“O” represents excluded space;

“C” represents enclosed space;

“I” represents space to be considered as an enclosed space. (Hatched- in parts to be included as enclosed spaces);

“B” represents breadth of the deck in way of the opening. (In ships with rounded gunwales the breadth is measured as indicated in Figure 11).





Reg. 2(5)(e)

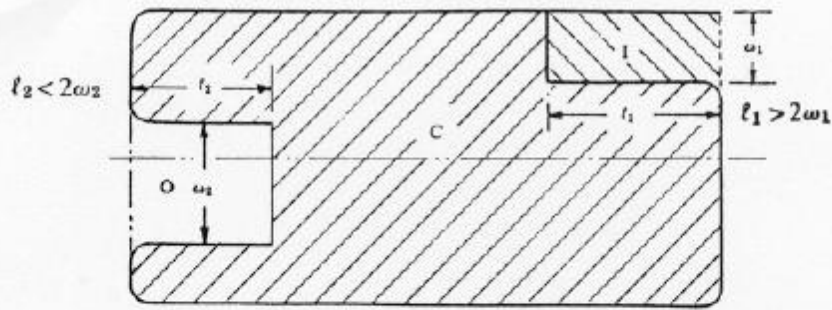


Fig. 10

SHIPS WITH ROUNDED GUNWALES

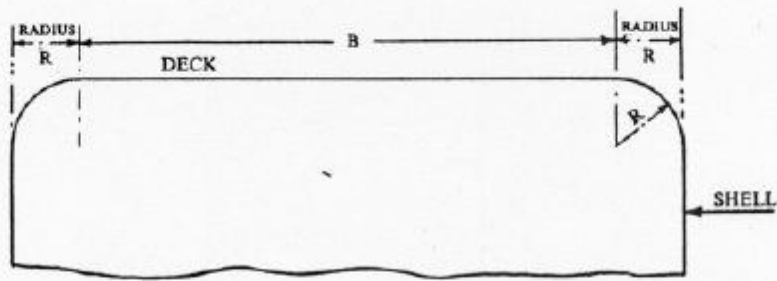


Fig. 11

**SCHEDULE 2 TO THE REGULATIONS***Regulations 6, 7 and 8*

## COEFFICIENTS K1 AND K2 REFERRED TO IN REGULATIONS 6, 7 AND 8

Key:

“V” or “Vc” means Volume in cubic metres;

Coefficients K1 or K2 at intermediate values of V or Vc shall be obtained by linear interpolation.

V or V <sub>c</sub>	K <sub>1</sub> or K <sub>2</sub>	V or V <sub>c</sub>	K <sub>1</sub> or K <sub>2</sub>	V or V <sub>c</sub>	K <sub>1</sub> or K <sub>2</sub>	V or V <sub>c</sub>	K <sub>1</sub> or K <sub>2</sub>
10	0.2200	45 000	0.2931	330 000	0.3104	670 000	0.3165
20	0.2260	50 000	0.2940	340 000	0.3106	680 000	0.3166
30	0.2295	55 000	0.2948	350 000	0.3109	690 000	0.3168
40	0.2320	60 000	0.2956	360 000	0.3111	700 000	0.3169
50	0.2340	65 000	0.2963	370 000	0.3114	710 000	0.3170
60	0.2356	70 000	0.2969	380 000	0.3116	720 000	0.3171
70	0.2369	75 000	0.2975	390 000	0.3118	730 000	0.3173
80	0.2381	80 000	0.2981	400 000	0.3120	740 000	0.3174
90	0.2391	85 000	0.2986	410 000	0.3123	750 000	0.3175
100	0.2400	90 000	0.2991	420 000	0.3125	760 000	0.3176
200	0.2460	95 000	0.2996	430 000	0.3127	770 000	0.3177
300	0.2495	100 000	0.3000	440 000	0.3129	780 000	0.3178
400	0.2520	110 000	0.3008	450 000	0.3131	790 000	0.3180
500	0.2540	120 000	0.3016	460 000	0.3133	800 000	0.3181
600	0.2556	130 000	0.3023	470 000	0.3134	810 000	0.3182
700	0.2569	140 000	0.3029	480 000	0.3136	820 000	0.3183
800	0.2581	150 000	0.3035	490 000	0.3138	830 000	0.3184
900	0.2591	160 000	0.3041	500 000	0.3140	840 000	0.3185
1 000	0.2600	170 000	0.3046	510 000	0.3142	850 000	0.3186
2 000	0.2660	180 000	0.3051	520 000	0.3143	860 000	0.3187
3 000	0.2695	190 000	0.3056	530 000	0.3145	870 000	0.3188
4 000	0.2720	200 000	0.3060	540 000	0.3146	880 000	0.3189
5 000	0.2740	210 000	0.3064	550 000	0.3148	890 000	0.3190
6 000	0.2756	220 000	0.3068	560 000	0.3150	900 000	0.3191
7 000	0.2769	230 000	0.3072	570 000	0.3151	910 000	0.3192
8 000	0.2781	240 000	0.3076	580 000	0.3153	920 000	0.3193
9 000	0.2791	250 000	0.3080	590 000	0.3154	930 000	0.3194
10 000	0.2800	260 000	0.3083	600 000	0.3156	940 000	0.3195
15 000	0.2835	270 000	0.3086	610 000	0.3157	950 000	0.3196
20 000	0.2860	280 000	0.3089	620 000	0.3158	960 000	0.3196
25 000	0.2880	290 000	0.3092	630 000	0.3160	970 000	0.3197
30 000	0.2895	300 000	0.3095	640 000	0.3161	980 000	0.3198
35 000	0.2909	310 000	0.3098	650 000	0.3163	990 000	0.3199
40 000	0.2920	320 000	0.3101	660 000	0.3164	1 000 000	0.3200

**ELEVENTH SCHEDULE***(Section 456)***APPLIED REGULATIONS ETC.****Citation.**

1. These Regulations may be cited as the Merchant Shipping (Pleasure Vessel) Regulations.

**Interpretation.**

2. In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“approved” means approved by—

- (a) the Government of Saint Christopher and Nevis;
- (b) administrators which are members of IMO and which have equivalent or National provisions for the approval of types of equipment for pleasure vessels;
- (c) recognized Organisations of Saint Christopher and Nevis;

“authorised person” means a person authorised in writing by or on behalf of the Director or the Designated Authority for the purposes of these Regulations;

“Director” means the Director of Maritime Affairs;

“Government” means the Government of Saint Christopher and Nevis;

“length” means the greater of the distance between the foreside of the stem and the axis of the rudderstock;

“length overall” means the distance from end to end over the deck, excluding sheer, measured in a straight line from the foremost part to the aftermost part of a vessel. Bowsprits, bumpkins, rudders, out-board motor brackets and similar fittings or attachments are not to be included in the measurement;

“Minister” means the Minister responsible for Maritime Affairs;

“motorboat” means any vessel propelled by machinery and which is 24 metres (or 78.75 feet) in length or less;

“motor vessel” means any vessel propelled by machinery and which is over 24 metres (or 78.75 feet) in length;

“operator” means the person who operates or is in charge of the navigation of a pleasure vessel, who may or may not be the owner;

“recognized Organization” means any corporation or society authorised by the Director for the survey and classification of ships as promulgated in section 411(4) of the Act;

“Register” means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;

“sailboat” means a vessel, whether or not equipped with an auxiliary engine, which is intended to be propelled by the wind effect on the sail and which may also



have an outboard engine or any other type of motor or mechanical device capable of propelling it;

“sailing vessel” has the same meaning as “sailboat”;

“Tonnage Certificate” is the certificate issued as applicable to the vessel;

“vessel” in these regulations has the same meaning as pleasure vessel in the Act.

#### **Application.**

**3.** These Regulations apply to Saint Christopher and Nevis pleasure vessels wherever they may be and to other pleasure vessels while they are in Saint Christopher and Nevis waters, except—

- (a) those of less than 6 metres in overall length;
- (b) motorboats used exclusively for towing skiers;
- (c) jet skis.

#### **Objective.**

**4.** The purpose of these Regulations is to ensure that all pleasure vessels of Saint Christopher and Nevis, are so constructed, equipped and inspected as to attain the highest standards of safety of life at sea.

#### **Surveys, Inspections and Certification.**

**5.** (1) Every ship shall, before registration, be surveyed to ascertain its compliance with the applicable provisions of the Act and these Regulations.

(2) Thereafter, the survey of a Saint Christopher and Nevis pleasure vessel shall be carried out annually.

(3) The survey shall be such as to ensure that the requirements for the construction of the vessel as applicable in the Act, as well as these Regulations, are complied with.

(4) The survey may be carried out without the removal of the vessel from the water, the underwater parts being inspected by an approved diver, and the inspection being as directed by the surveyor.

(5) Subject to a satisfactory survey, a Pleasure Vessel Certificate of Compliance may be issued on completion of the survey.

#### **Marking.**

**6.** A vessel is to be marked as follows—

- (a) the official number, any other identifying numbers or letters assigned to the vessel by the Registrar and gross tonnage are—
  - (i) to be marked on the main beam or, if there is no main beam, on a readily accessible visible permanent part of the structure of the ship either by cutting in, centre punching or raised lettering; or
  - (ii) to be engraved on plates of metal, wood or plastic, secured to the main beam or, if there is no main beam, to a readily accessible visible permanent part of the structure with rivets, through bolts with the ends clenched, or screws with the slots removed;

- (b) the name and port of registry, are to be marked on a conspicuous and permanent part of the stern on a dark ground in white or yellow letters, or on a light ground in black letters, the letters being not less than 5 centimetres high and of proportionate breadth, or, where this is not possible by the alternative methods given below—
- (i) by engraving on plates of metal or of plastic or by cutting in on a shaped wooden chock;
  - (ii) notwithstanding paragraph (i) where a shaped wooden chock is used it should be secured to the hull through bolts, the ends being clenched; or
  - (iii) by individual glass reinforced plastic letters and numbers approximately 2mm in thickness;
  - (iv) glass reinforced plastic letters and numbers are to be fixed to the hull with epoxy adhesive, and painted with suitable paint and coated with translucent epoxy resin;
  - (v) where metal or plastic plates have been used these must be fixed by the use of epoxy adhesives;
  - (vi) metal or plastic plates secured by adhesives should be coated with translucent epoxy resin after they have been fixed in position.

#### **Documents.**

7. (1) There shall be carried on board every vessel to which these regulations apply, the following documents—

- (a) Certificate of Registry as a Saint Christopher and Nevis Pleasure Vessel;
- (b) Tonnage Certificate;
- (c) Radio Station Licence;
- (d) Pleasure Vessel Certificate of Compliance issued in accordance with these regulations;
- (e) other certificates or documents as may be required by the Registrar from time to time.

(2) These documents should at all times be available for inspection as requested.

#### **Manning.**

8. The number of officers and crew on board shall be in accordance with the Training, Certification, Safe Manning, Hours of Work and Watchkeeping Regulations as applied to the type and size of vessel.

#### **Construction.**

9. (1) All vessels shall be of accepted sound marine design and construction.

(2) Hull arrangements, materials used, scantlings of structure, bulkheads, main and auxiliary machinery, electrical installations, propulsion and steering system are to be of approved type.

(3) All vessels shall be of accepted sound marine design and construction so as to have at all times sufficient stability, whether under power or sail propulsion.

(4) An efficient bilge pumping system is to be fitted to all vessels, having suction and means of drainage so arranged that any water that may enter any compartment, can be pumped overboard—

- (a) sailboats and motorboats are to be equipped with efficient bilge pumping system of manual or electric type;
- (b) motor vessels must have at least one independent bilge pump of sufficient capacity.

(5) Exposed hatches and doors, are to be of approved construction and be efficiently connected to the adjoined structure.

(6) Portlights, windows and other openings, are to be of approved type for pleasure vessels.

(7) A sufficient number of freeing ports or scuppers are to be provided to free the weather decks of water.

(8) Anchoring and mooring equipment for motor vessels is to be sufficient, depending on the type and size of vessel, as per these Regulations.

(9) The anchors and anchor size of chain cable ropes, hawsers and warps must be of approved type.

(10) The minimum weight of anchors used in motor boats and sail boats is to be in accordance with Tables 1 and 2 of Schedule 1.

(11) All vessels must have bulwarks or guard rails on weather decks that are accessible to passengers and crew.

(12) The masts, the standing and running rigging and sail arrangements of sailing vessels are left to the judgment of the owner, builders and designers and do not constitute part of these rules.

#### **Life Saving Appliances.**

**10.** (1) Every vessel to which these rules apply, shall carry—

- (a) one lifejacket of an approved type for every person on board is to be carried;
- (b) lifejackets are to be suitable for the size of persons onboard;
- (c) if children are to be carried, a lifejacket for each child is to be carried, in addition to adult lifejackets;
- (d) lifejackets are to be stored in a dry storage box or compartment, away from engine heat and in a location where they are readily accessible in the case of an emergency that requires their use.

(2) Any vessel proceeding more than 30 miles from shore is to carry a life raft of sufficient capacity for those onboard and—

- (a) vessels more than 24 meters but below 50 meters in length must carry at least one life raft of approved type, of sufficient aggregate capacity to accommodate the total number of persons on board;
- (b) pleasure vessels over 50 meters in length, shall carry at least two of such life rafts;

- (c) life rafts may be substituted by rescue boats of approved type provided they can accommodate all persons onboard;
  - (d) inflatable life rafts should be serviced on an annual basis and carry a valid test or service certificate;
  - (e) all pleasure vessels of any size are to have a means of boarding from sea for man overboard situations.
- (3) Vessels must carry lifebuoys as follows—
- (a) vessels up to 10 metres in length must carry at least one (1) lifebuoy;
  - (b) vessels over 10 metres in length but less than 20 metres must carry at least two (2) lifebuoys;
  - (c) vessels over 20 metres in length must carry at least four (4) lifebuoys;
  - (d) lifebuoys should be of the approved type, suitable for yachts and could be circular or horseshoe type;
  - (e) at least one of the lifebuoys required by the above paragraphs must have a 25 meter buoyant line and a self-igniting light.
- (4) Vessels must carry as a minimum the following number of flares and distress signals of approved type suitable for yachts as follows—
- (a) motor vessels must carry as a minimum of 4 parachute signals, 6 hand flares, 2 orange smoke signals;
  - (b) motorboats and sailboats must carry as a minimum of 4 parachute signals, 4 red hand flares, 4 white hand flares, 2 orange smoke signals;
  - (c) all distress signals should be kept in a dry waterproof container and be stowed away from engine heat and not in a locker with sharp or heavy objects.

### **Fire Protection and Extinguishing.**

11. (1) Every vessel to which these rules apply shall carry—
- (a) fire buckets and motorboats or sailboats should have onboard, 2 buckets with suitable length lanyards attached, exclusively for the use as fire buckets;
  - (b) fire pumps—
    - (i) motor vessels are to be equipped with at least one fire pump either independently driven or driven by the propelling machinery;
    - (ii) bilge, ballast or general service pumps, are accepted as fire pumps, provided that they are not used for pumping oil;
    - (iii) the pump must be of adequate capacity for fire fighting purposes and not less than 65% of the capacity of the bilge pump suitably sized to deliver at least one jet of water to any part of the vessel;
    - (iv) the pump should be situated outside the machinery space or a second manually operated pump must also be provided;
  - (c) hydrants, hoses and nozzles—
    - (i) motor vessels are to have hydrants, hoses and nozzles of sufficient number and so located that any part of the vessel may be reached with an effective stream of water;

- (ii) the hydrants, hoses and nozzles are to be of approved design and constructed of suitable material;
- (d) fire extinguishers—
  - (i) in machinery spaces of motor vessels there shall be one (1) fire extinguisher of suitable type, for every 1,000 HP of main propulsion and machinery used for auxiliary purposes, but not less than two;
  - (ii) the size of extinguishers should be not less than 5 lbs of CO<sub>2</sub> or 2.5 lbs of dry chemical;
  - (iii) other spaces of motor vessels are to be provided with a sufficient number of fire extinguishers of suitable type, depending on the space concerned in accordance with Table 3 of Schedule 1;
  - (iv) where fixed CO<sub>2</sub> fire-extinguishing method is used, the number of lbs of CO<sub>2</sub> shall be based on the gross volume in cubic feet of the space divided by the appropriate factor in accordance with Table 4 of the First Schedule;
- (e) where bilges are open or communicating, the total number of such open or communicating bilges, shall be added to the volume of the space being protected;
- (f) motorboats and sailboats should have onboard portable fire extinguishers of sufficient numbers in accordance with Table 5 of Schedule 1;
- (g) all extinguishers shall be of approved design and construction and should be checked annually.

### **Safety of Navigation.**

**12.** (1) All vessels must be equipped with navigation lights, sound signals, daylight shapes and distress signals.

(2) Owners, operators or masters, are responsible for compliance with the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs).

(3) Every vessel must be equipped with up-to-date charts and other relevant publications for its sailing/trading area as to assist in safe and prudent navigation.

- (4) Every vessel, to which these rules apply, shall be equipped with—
- (a) a magnetic compass;
  - (b) a hand-bearing compass;
  - (c) an echo-sounding device or leadline;
  - (d) one pair of dividers for distance measuring on the chart;
  - (e) one pair of binoculars;
  - (f) parallel rulers;
  - (g) a table of life-saving signals;
  - (h) signalling-lamp suitable for Morse code signalling;
  - (i) a Saint Christopher and Nevis flag;

- (j) illustrated table of life-saving signals;
- (k) radar reflector.

(5) In addition to the nautical instruments and equipment listed in subsection (4), vessels that are sailing more than 30 miles from the nearest shore, shall be equipped with the following approved type of instruments—

- (a) GPS or Satnav;
- (b) A suitable type of radar.

(6) All vessels shall have onboard and exhibit navigation lights, shapes and sound-signalling devices consistent with the vessel's length, type and operational circumstances.

(7) Navigation lights shall be fitted and used if the vessel is to operate in the hours of darkness.

### **Radio Installations.**

**13.** (1) All pleasure vessels shall have radio communication equipment, for the sea area they will be operating in, manufactured as suitable for marine use in accordance with Table 6 of Schedule 1.

(2) Such equipment must be equipped with a Call Sign as assigned by the Registrar.

(3) The above equipment is the minimum that is to be fitted to a pleasure vessel sailing within the distance from shore indicated in Table 6 of Schedule 1.

(4) EPIRB and SART shall comply with the following and shall be—

- (a) the Emergency Position Indicating Radio Beacon (EPIRB), is to be installed to automatically float free and activate if the vessel sinks;
- (b) installed in an easily accessible position;
- (c) ready to be manually released and capable of being carried by one person into a survival craft;
- (d) capable of floating free if the ship sinks and of being automatically activated when afloat;
- (e) capable of being activated manually; and
- (f) to be registered with the National Database of 406 EPIRB's.

(5) The Search and Rescue Radar Transponder (SART) is to be so stowed that it can be easily utilized.

(6) Additional or equivalent radio and telecommunication equipment installations—

- (a) owners may install radio equipment above these minimum requirements or telecommunication equipment in addition to these requirements;
- (b) the use of mobile telephone equipment including satellite telephone equipment may be allowed on application, provided such equipment is demonstrated to the satisfaction of the attending surveyor be a means of communication to shore authorities, equivalent or superior to the radio telecommunication equipment listed in Table 6 of Schedule 1;

- (c) additional or equivalent installations referred to in paragraph (6) shall be fitted in accordance with the instructions of the manufacturer and comply with the requirements of the Act, where necessary.

(7) Notwithstanding the sea area in which they will operate, pleasure vessels over 300GT must comply with the appropriate provisions of the Safety of Life at Sea Convention (SOLAS) for compliance with the requirements of the Global Marine Distress and Safety System (GMDSS).

#### **General Equipment.**

14. All vessels must have the following general equipment—

- (a) a first-aid kit, which should contain items as instructed by current medical authorities;
- (b) an engine tool kit that should include essential spares and tools;
- (c) one boat hook;
- (d) a fog horn or other means of making sound;
- (e) two lines of the buoyant type;
- (f) one jack knife;
- (g) suitable number of hull wood plugs;
- (h) one bucket with a minimum capacity of 1 litre.

#### **Tonnage Measurement.**

15. (1) All vessels must possess a Tonnage Certificate in accordance with the Tonnage Regulations of Saint Christopher and Nevis issued by a Recognised Organisation, surveyor of ships or the Administrator.

(2) A Certificate of Measurement or previous National Tonnage Certificate issued by an Administration may be accepted, on first registration, as equivalent to that for a Saint Christopher and Nevis vessel pending issuance of a National Tonnage Certificate by Saint Christopher and Nevis.

#### **Requirements for the Prevention of Pollution by Oil.**

16. (1) All Motor Vessels over 400 gross tons (GT) must comply with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

(2) An International Oil Pollution Prevention Certificate must be retained onboard.

#### **Requirements for the Prevention of Pollution by Garbage.**

17. All pleasure vessels are to comply with the International Convention for the Prevention of Pollution from Ships, 1973, MARPOL Annex V, Prevention of Pollution by garbage from ships.

#### **Accidents and Casualties.**

18. (1) In the case of a collision, fire or other casualty, it is the owner's responsibility to report all facts of the case to the Director immediately.

(2) A report from the operator will be taken as being made by the owner unless the owner states otherwise.

**Insurance.**

19. All vessels shall carry insurance cover against risk of loss or damage to third parties according to the relevant provisions of the Act.

**Exemptions.**

20. The Director may issue exemptions in accordance with his powers within the Act from any of the provisions of these Regulations, on terms and conditions as are appropriate.

**SCHEDULE 1 TO THE REGULATIONS**

TABLE 1

ANCHORAGE

(Regulation 9)

Length of Vessel (Metres/Feet)		Weight Kg/Lbs
6/12	10/33	14/30
10/33	12/39	18/40
12/39	14/46	23/50
14/46	16/52	25/55
16/52	18/59	27/60
18/59	20/66	34/75
20/66	And over	43/95

TABLE 2

MOORING EQUIPMENT

(Regulation 9)

Length of Vessel (M)	Length of rope (M)	Size of Rope (mm)	Length of Chain (M)	Size of Chain (mm)
6.0-8.0	40	13	5	6.5
8.0-10.0	50	13	5	8.0
10.0-12.0	60	15	6	10.0
12.0-14.0	70	16	7	11.0
over 14.0		18	7	13.0



TABLE 3  
SUITABLE NUMBER OF FIRE EXTINGUISHERS  
(Regulation 11)

Space/Room	Minimum Number of Extinguishers
Gallery	1
Radio Room Navigation	1
Bridge Steering Gear	1
Accommodation Spaces	1

TABLE 4  
LBS OF CO<sub>2</sub> IN FIRE-EXTINGUISHER  
(Regulation 11)

Over (ft3)	Not Over (ft3)	Factor
	500	15
500	1.600	16
1.600	4.500	18
4.500	50.000	20
50.000		22

TABLE 5  
NUMBER OF FIRE EXTINGUISHERS ON MOTOR BOATS AND SAIL BOATS  
(Regulation 11)

Type of Boat	No. of Extinguishers
Outboard (open)	1
Outboard Motor Boats	2
Motor Boats under 10m	2
Motor Boats over 10m length but not over 15m	3
Motor Boats 15m in length and over	4
Sailboats under 10m length	1
Sailboats 10m length and over but not over 15m	2
Sailboats 15m length and over	3

TABLE 6  
PLEASURE CRAFT MINIMUM REQUIREMENTS FOR RADIO INSTALLATIONS  
(Regulation 13)

Distance from shore	Up to 5 nautical miles	Up to 30 nautical miles	Up to 60 nautical miles	Up to 150 nautical miles	Global
Equipment					
Portable VHF	√	√	√	√	√
VHF Base + DSC	X	√	√	√	√
406 EPIRB	X	√	√	√	√
MF Base + DSC	X	X	X	√	√
Satcom System (GMDSS Compliant)	X	X	X	X	√
Navtex	X	X	X	√	√
SART	X	X	√	√	√

In table 6:

- (a) √ means the equipment is required;  
(b) X means the equipment is not required.

## SCHEDULE 2 TO THE REGULATIONS

### CONVERSION CHART

For the purpose of these Regulations, the following is to be used in the case of conversions between measurement units. Imperial Units are referred to here below

<b>Inches</b>		<b>Millimetres</b>	<b>Feet</b>	<b>Metres</b>	
0.039	1	25.40	3.281	1	0.305
0.079	2	50.80	6.562	2	0.610
0.118	3	76.20	9.843	3	0.914
0.157	4	101.60	13.123	4	1.219
0.197	5	127.00	16.404	5	1.524
<b>Yards</b>		<b>Metres</b>	<b>Miles</b>	<b>Kilometres</b>	
1.094	1	0.914	0.621	1	1.609
2.187	2	1.829	1.243	2	3.219
3.281	3	2.743	1.864	3	4.828
4.375	4	3.658	2.485	4	6.437
5.468	5	4.572	3.107	5	8.047

<b>Sq. Feet</b>		<b>Sq. Metres</b>	<b>Sq. Yards</b>		<b>Sq. Metres</b>
10.764	1	0.093	1.196	1	0.836
21.528	2	0.186	2.392	2	1.672
32.292	3	0.279	3.588	3	2.508
43.056	4	0.372	4.784	4	3.345
43.819	5	0.465	5.980	5	4.181
<b>Cu. Feet</b>		<b>Cu. Metres</b>	<b>Cu. Yards</b>		<b>Cu. Metres</b>
35.315	1	0.028	1.308	1	0.765
70.629	2	0.057	2.616	2	1.529
105.943	3	0.085	3.924	3	2.294
141.258	4	0.113	5.232	4	3.058
176.572	5	0.142	6.540	5	3.823
<b>Pints</b>		<b>Litres</b>	<b>Gallons</b>		<b>Litres</b>
1.761	1	0.568	0.220	1	0.454
3.521	2	1.136	0.440	2	9.092
5.282	3	1.704	0.660	3	13.638
7.043	4	2.272	0.880	4	18.184
8.804	5	2.840	0.101	5	22.730
<b>Ounces</b>		<b>Grams</b>	<b>Pounds</b>		<b>Kilograms</b>
0.035	1	28.350	2.205	1	0.454
0.071	2	56.699	4.409	2	0.907
0.106	3	85.049	6.614	3	1.361
0.141	4	113.398	8.819	4	1.814
0.176	5	141.748	11.023	5	2.268

(Inserted by S.R.O. 37/2007)

---

**TWELFTH SCHEDULE***(Section 171(5))***APPLIED REGULATIONS ETC.****Citation.**

1. These Regulations may be cited as the Merchant Shipping (International Safety Management (ISM) Code) Regulations.

**Interpretation.**

2. (1) In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“audit” means a systematic and independent examination to determine whether the safety management system is suitable to meet the objectives set out in section 1 of the ISM Code, and, so far as the system has been operated, that the system has been implemented effectively. Such audits shall take into account the Guidelines on the Implementation of the ISM Code by Administrations, adopted by IMO pursuant to Assembly Resolution A. 788 (19);

“authorised person” means a person authorised in writing by or on behalf of the Director for the purpose of these Regulations;

“bulk carrier” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“cargo ship” means a cargo ship within the meaning of section 168 of the Act;

“chemical tanker” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“company” has the meanings given by Regulation 1 of Chapter IX of the Safety Convention;

“Director” means the Director of Maritime Affairs;

“Document of Compliance” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“gas carrier” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“high speed craft” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“IMO” means the International Maritime Organisation;

“ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18);

“mobile offshore drilling unit” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“oil tanker” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“passenger ship” means a ship carrying more than twelve passengers;

“Register” means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;

“Safety Convention” has the meaning given in section 168 of the Act;

“Safety Management Certificate” means the Safety Management Certificate referred to in Regulation 4 of Chapter IX of the Safety Convention;

“safety management system” means a structured and documented system enabling company personnel to effectively implement the company safety and environmental protection policy;

“Saint Christopher and Nevis ship” has the meaning given in section 3 of the Act;

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

(2) In interpreting the ISM Code, references to the Administration shall, in relation to Saint Christopher and Nevis ships, be references to the Minister.

#### **Application.**

3. (1) Subject to sub-regulations (2) and (3), these Regulations apply to—
- (a) Saint Christopher and Nevis ships wherever they may be; and
  - (b) other ships while they are within Saint Christopher and Nevis waters.
- (2) These Regulations apply to—
- (a) passenger ships;
  - (b) oil tankers, chemical tankers, gas carriers, bulk carriers, and cargo high-speed craft, of 500 tons or more, which engage in international voyages; and
  - (c) other cargo ships and mobile offshore drilling units of 500 tons or more which engage in international voyages.
- (3) These Regulations apply to every company operating a ship to which these Regulations apply.

#### **Duty to comply with the ISM Code.**

4. Every company shall comply with the requirements of the ISM Code as it applies to that company and to any ship owned by it or for which it has responsibility.

#### **Duty to hold Certificates.**

5. (1) A company shall not operate a ship, to which these Regulations apply, unless that company holds a valid Document of Compliance.
- (2) A company shall not operate a ship to which these Regulations apply unless there is in force in respect of that ship a valid Safety Management Certificate.
- (3) A Saint Christopher and Nevis ship to which these Regulations apply shall not be operated unless—
- (a) the company holds a Document of Compliance issued by or accepted on behalf of the Director; and
  - (b) there is in force in relation to the ship a Safety Management Certificate issued by or accepted on behalf of the Director.

(4) For the purposes of this regulation a Document of Compliance or Safety Management Certificate is not valid if it has not been endorsed, in the circumstances required by the ISM Code, showing, in the case of a Document of Compliance satisfactory annual audits, or in the case of a Safety Management Certificate, a satisfactory intermediate audit.

**Duty to carry Certificates.**

6. It shall be the duty of every company to ensure that a valid Safety Management Certificate and a copy of the Document of Compliance is carried on board each ship to which these Regulations apply.

**Duty of Master.**

7. The master of every ship shall operate his ship in accordance with the safety management system on the basis of which the Safety Management Certificate was issued.

**Designated Person.**

8. (1) A company shall designate a person who shall be responsible for monitoring the safe and efficient operation of each ship with particular regard to the safety and pollution prevention aspects.

(2) In particular, the designated person shall—

- (a) take such steps as are necessary to ensure compliance with the company safety management system on the basis of which the Document of Compliance was issued; and
- (b) ensure that proper provision is made for each ship to be so manned, equipped and maintained that it is fit to operate in accordance with the safety management system and with statutory requirements.

(3) A company shall ensure that the designated person—

- (a) is provided with sufficient authority and resources; and
- (b) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port,

to enable him to comply with sub-regulations (1) and (2).

**Issue of document of compliance and Safety Management Certificate.**

9. (1) Where the Director is satisfied that a company operating Saint Christopher and Nevis ships complies with the requirements of the ISM Code he may issue a Document of Compliance valid for a period not exceeding five years.

(2) Where the Director is satisfied that a ship is operated by a company to which he has issued a Document of Compliance and that the company and its shipboard management operate in accordance with the safety management system he has approved, he shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

(3) Where a company operating ships which are registered in more than one country, but at least one of which is registered in Saint Christopher and Nevis, complies with the requirements of the ISM Code the Director may accept a Document of Compliance issued by the government of one of those countries to

which the Safety Convention applies if prior to the issue of that document he has agreed to accept it.

(4) Conditions for acceptance, under sub-regulation (3), may include completion of a satisfactory audit of the company by an authorised person.

(5) Where a company newly Registers a ship in Saint Christopher and Nevis, the Director may accept a Document of Compliance issued by the government of a country to which the Safety Convention applies in which ships operated by the company are registered.

(6) Conditions for acceptance, under sub-regulation (5), may include completion of a satisfactory audit by an authorised person.

(7) Where the Director is satisfied that a Saint Christopher and Nevis ship is operated by a company which has a Document of Compliance accepted by the Director under sub-regulation (3) or (4) and that its shipboard management operates in accordance with a safety management system which complies with the ISM Code he shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

#### **Interim Document of Compliance.**

**10.** (1) Where a company is newly established, or the company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the company already holds, an interim Document of Compliance may be issued to facilitate implementation of the ISM Code.

(2) An interim Document of Compliance may be issued to a company following a demonstration that the company has a safety management system that meets the objectives of section 1.2.3 of the ISM Code.

(3) The interim Document of Compliance shall be valid for a maximum period of one year.

(4) The company shall demonstrate plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the interim Document of Compliance.

#### **Interim Safety Management Certificate.**

**11.** (1) The Director may issue an interim Safety Management Certificate in respect of a new ship, when a company takes on the responsibility for the management of a ship which is new to the company or when a ship is transferred between flag states.

(2) The interim Safety Management Certificate shall be valid for a maximum period of six months.

(3) The Director may, as he considers appropriate, extend the validity of the interim Safety Management Certificate for a further six months.

(4) An interim Safety Management Certificate shall only be issued when the Director is satisfied that—

- (a) the Document of Compliance, or the interim Document of Compliance, is relevant to that ship type;
- (b) the safety management system provided by the company for the ship includes all key elements of the ISM Code and has been assessed

during the audit for issuance of the Document of Compliance or issuance of the interim Document of Compliance;

- (c) the master and relevant senior officers are familiar with the safety management system and the planned arrangements for its implementation;
- (d) instructions which have been identified as essential to be provided prior to sailing have been given;
- (e) plans for audit, by the company of the ship within three months, exist; and
- (f) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

#### **Issue and Endorsement of Safety Management Certificate by another Government.**

**12.** (1) The Director may request, through a proper officer or otherwise, the government of a country to which the Safety Convention applies—

- (a) to conduct an audit of the safety management system operated onboard a Saint Christopher and Nevis ship; and
- (b) where satisfied that the requirements of the ISM Code are complied with, to issue to the ship a Safety Management Certificate or authorise such issue or, where appropriate endorse such certificates in accordance with the requirements of the Safety Convention after intermediate audit.

(2) A certificate issued in accordance with paragraph (1)(b) shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Director.

#### **Issue of Certificates on behalf of other Governments.**

**13.** (1) The Director may, at the request of a government of a country to which the Safety Convention applies audit the safety management systems of companies and ships registered in that country and if satisfied that the requirements of the ISM Code are complied with and that the audit has been satisfactorily completed in accordance with these Regulations, issue to the company a Document of Compliance or in respect of the ship a Safety Management Certificate or, where appropriate, endorse such certificates in accordance with the requirements of the Safety Convention after annual or intermediate audits.

(2) A certificate issued in accordance with sub-regulation (1) shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Director.

#### **Annual audit of Document of Compliance.**

**14.** The Director shall carry out an annual audit of the safety management system of every company to which he has issued a Document of Compliance, within three months of the anniversary date of the Document of Compliance.

#### **Intermediate audit of Safety Management Certificate.**

**15.** The Director shall carry out an intermediate audit of each ship to ensure that the conditions for the continued validity of the Safety Management Certificate are



being met between the second and third anniversaries of the Safety Management Certificate issued by him and at other appropriate times.

#### **Renewal of Certificates.**

**16.** Before the renewal of a certificate the Director shall carry out a renewal audit of the company or ship during the six-month period preceding the expiry date of the Document of Compliance or Safety Management Certificate as the case may be to ensure that compliance with the requirements of the ISM Code is maintained.

#### **Powers of Audit and Inspection.**

**17.** (1) An authorised person may audit the safety management system of a company.

(2) An authorised person may inspect any ship, and any such inspection may include an audit of its safety management system.

#### **Powers of Suspension of Services and Detention.**

**18.** (1) Where an authorised person considers that a company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of—

- (a) serious danger to safety of life; or
- (b) serious damage to property; or
- (c) serious harm to the environment,

or that the company does not hold a Document of Compliance, he may suspend the operation of ships by that company until such time as any such risk is removed or a valid Document of Compliance is held.

(2) Where a service is to be suspended pursuant to sub-regulation (1) the authorised person shall serve on the company a notice stating that the operation of the service specified in the notice shall be suspended.

(3) Where an authorised person is satisfied on inspecting a ship that there is a failure to comply in relation to that ship with the requirements of regulation 4 or 5 he may detain the ship.

(4) In any case where a ship is liable to be detained, section 260 of the Act shall have effect in relation to the ship.

(5) Where a ship is detained in relation to a failure to comply with a requirement of these Regulations—

- (a) sections 419 and 420 of the Act shall apply to the notice of detention as they apply to a detention notice under section 417;
- (b) references to the ship being dangerously unsafe will be substituted for references to it being in breach of these Regulations.

(6) An authorised person, as described in section 412 of the Act, exercising functions under this regulation shall have the powers conferred on an inspector by section 414 of the Act.

#### **Exemptions.**

**19.** The Director may grant exemptions from all or any of the provisions of these Regulations for classes of cases or individual cases on such terms as may be

specified, and may, subject to giving reasonable notice, alter or cancel any such exemption.

### **Suspension or cancellation of Documents of Compliance and Safety Management Certificates.**

**20.** (1) The Director may by notice in writing suspend or cancel any Document of Compliance or Safety Management Certificate issued by him or at his request under these Regulations where he has reason to believe that—

- (a) the certificate was issued on false or erroneous information; or
- (b) the management structure of either the company or ship has changed substantively, since an audit required by these Regulations was conducted or where any audit of a company or ship has revealed a failure to comply with regulation 4.

(2) A notice referred to in sub-regulation (1) shall contain the grounds for the suspension or cancellation of the certificate.

(3) A notice referred to in sub-regulation (1) shall not be given unless the holder has been given the opportunity to make representations, except where the Director considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

(4) The Director may require that any Document of Compliance or Safety Management Certificate, issued by him under these Regulations, which has expired or has been suspended or cancelled, be surrendered as directed.

(5) A person shall not—

- (a) intentionally alter a Document of Compliance or Safety Management Certificate;
- (b) in connection with any audit conducted pursuant to these Regulations, knowingly or recklessly furnish false information;
- (c) with intent to deceive, use, lend or allow to be used by another, a Document of Compliance or Safety Management Certificate;
- (d) fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under sub-regulation (2); or
- (e) forge any Document of Compliance or Safety Management Certificate.

### **Offences and Penalties.**

**21.** (1) A company which contravenes regulations 4, 5, 6 or 8 commits an offence and is liable on summary conviction to a fine not exceeding Level 3 on the Standard scale of fines as set out under section 452(4) of the Act.

(2) The master of a ship who contravenes regulation 7 commits an offence and is liable on summary conviction to a fine not exceeding Level 3 on the standard scale of fines as set out under section 452(4) of the Act.

(3) A designated person who contravenes regulation 8(2) commits an offence and is liable on summary conviction to a fine not exceeding Level 3 on the standard scale of fines as set out under section 452(4) of the Act.

(4) A company which operates a ship on a service after the service is suspended under regulation 17(1) commits an offence and is liable on summary

conviction to a fine not exceeding Level 3 on the standard scale of fines as set out under section 452(4) of the Act.

(5) A person who contravenes regulation 20(5) commits an offence and is liable on summary conviction to a fine not exceeding Level 3 on the standard scale of fines as set out under section 452(4) of the Act.

**Defence.**

**22.** It shall be a defence for a person charged with an offence under these Regulations to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

*(Inserted by S.R.O. 15/2008)*

---

**THIRTEENTH SCHEDULE**

*(Section 456)*

**MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS)  
REGULATIONS**

**PART I**

**PRELIMINARY**

**Citation.**

**1.** These Regulations may be cited as the Merchant Shipping (Small Commercial Vessels) Regulations.

**Interpretation.**

**2.** (1) In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“Code” means the Code of Safety for Small Commercial Vessels;

“Department” means the Department of Maritime Affairs;

“Director” means the Director of Maritime Affairs appointed pursuant to section 411 of the Act;

“existing licence” means a licence to operate a commercial vessel of less than twenty four metres in length, issued prior to the coming into force of these Regulations;

“fishing vessel” has the meaning given in section 2(1) of the Act;

“master” means a person who has command of a commercial vessel;

“owner” means, in relation to a vessel, the person who owns the vessel;

“passenger” means any person carried in a vessel, except—

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

“passenger vessel” means a vessel carrying more than twelve passengers;

“Registrar” means the Registrar of Shipping and Seamen appointed under section 446(1) of the Act;

“small commercial vessel” means a vessel of less than twenty-four metres in length in commercial use and includes a passenger vessel and a vessel that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house or guest house or other establishment, but does not include a fishing vessel;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping, 1978 and amendments to this Convention;

“surveyor” means a marine surveyor nominated by the Minister to undertake the surveys required by these Regulations and includes any marine surveyor of the Department;

“voyage” includes an excursion.

(2) Where a vessel is managed by a person other than the owner, whether on behalf of the owner or some other person, or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

#### **Application.**

3. Subject to regulation 4, these Regulations shall apply to Saint Christopher and Nevis’ small commercial vessels and other small commercial vessels whilst in Saint Christopher and Nevis waters.

#### **Exemptions.**

4. (1) The Minister may grant exemptions from all or any of the provisions of these Regulations, as may be specified in the exemption, for classes or cases or individual cases on such terms, if any, as he may so specify.

(2) Any approval or exemption given pursuant to these Regulations shall be in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

#### **Equivalent standards.**

5. Where these Regulations require that a particular piece of equipment or machinery shall be provided or carried in a vessel or that any particular provision shall be made, the Director may permit any other piece of equipment or machinery to be provided or carried, or any other provision to be made, where he is satisfied by trials thereof or otherwise that such other piece of equipment or machinery or provision is at least as effective as that required by these Regulations.

## PART II

## REQUIREMENTS FOR VESSELS

**Vessel to be inspected within one year.**

6. Every vessel to which these Regulations apply shall be inspected for the issue of a Certificate of Inspection in accordance with regulation 8 not later than one year after these Regulations come into operation.

**Certificate of Inspection.**

7. (1) An application for a Certificate of Inspection shall be made in writing to the Department of Maritime Affairs and such application for a vessel being newly constructed or converted shall be submitted prior to the start of the construction or conversion.

(2) A Certificate of Inspection shall be issued by the Department following a satisfactory inspection for compliance with the Code, which shall remain valid for a period not exceeding three years from the date of inspection, unless revoked by the Department, provided that the vessel successfully completes an annual inspection.

**Inspections.**

8. (1) An initial or renewal inspection shall include an inspection of the hull and related items on dry dock, structure, machinery, electrical equipment, lifesaving equipment, fire protection equipment, pressure vessels and boilers, steering systems, miscellaneous equipment and systems, sanitation and operational practices including the competence and composition of the crew, to ensure that the vessel complies with the relevant requirements of the Code.

(2) The annual inspection shall be such as to ensure that the ship and its equipment has been maintained in accordance with the Code and is in satisfactory working order.

(3) An inspection for the renewal of a Certificate of Inspection shall be conducted within the period two months prior to the expiry of the certificate and where a vessel is inspected in the thirty days before the date of expiry of a Certificate of Inspection, the new certificate shall be dated from the expiry date.

(4) An annual inspection shall be conducted between the tenth to fourteenth month of the anniversary date of the issuance of the Certificate of Inspection.

(5) The Director may, at any time where he considers it necessary, require a dry-dock inspection to be carried out on a vessel.

(6) Every application for the inspection of a vessel under these Regulations shall be made by or on behalf of the owner of the vessel to the Director and shall be accompanied by such information relating to the vessel as the Director may require for the purpose of the survey, and the prescribed fee.

**Responsibilities of owner and master.**

9. The owner or master of every vessel to which these Regulations apply shall ensure that—

- (a) the condition of the safety equipment is maintained so as to comply with the Code;

- (b) after any survey required by these Regulations has been completed, no material change shall be made in the safety equipment subject to such survey without the approval of the Director; and
- (c) whenever an accident occurs to a vessel or a defect is discovered, either of which affects the safety of the vessel or the efficiency or completeness of its safety equipment, it shall be reported at the earliest opportunity to the Director who shall cause investigations to be initiated to determine whether a survey is necessary and shall in that event require such a survey to be carried out and where the vessel is in a port outside of Saint Christopher and Nevis, the master or owner shall, in addition, make such a report immediately to the appropriate authorities of the country in which the port is situated.

#### **Suspension of Certificate of Inspection.**

**10.** (1) In any case where a vessel does not comply with the requirements of these Regulations or the Code, the Minister may suspend the validity of the Certificate of Inspection.

(2) Where the Minister suspends the validity of a Certificate of Inspection the owner or master shall thereupon deliver up the certificate issued in relation to the vessel.

(3) When the Minister is satisfied that corrective action has been taken he shall restore the validity of the certificate and return the certificate issued in relation to the vessel, to the master.

#### **Prohibition on proceeding to sea.**

**11.** A vessel to which these Regulations apply shall not proceed or attempt to proceed to sea unless—

- (a) the Certificate of Inspection is currently in force;
- (b) the vessel complies with the requirements of the Code, including any requirements as to operation, manning and maintenance and is operated in accordance with any conditions as specified in the certificate;
- (c) the certificate is displayed in some conspicuous place on board.

### PART III

#### BOATMASTERS AND BOAT ENGINEERS

#### **Master and Engineers.**

**12.** (1) A vessel to which these Regulations apply shall have in command of it a person who is qualified as follows—

- (a) he is the holder of a licence issued by the Minister under regulation 13 stating that he is qualified to have command of such a vessel, where—
  - (i) the licence is in force and is of a grade appropriate in respect to the waters in which the vessel is being navigated, the size of the vessel and the number of passengers carried; and

- (ii) the vessel is in an area specified in the licence as one in which a vessel may be navigated under the command of the holder; or
  - (b) he is the holder of a certificate of competency as a deck officer issued in accordance with the provisions of the STCW Convention.
- (2) A commercial vessel fitted with main propulsion machinery of up to 750 KW shall, where an engineer is required by the Minister, or Table IX/8.2 of the Code, carry as engineer a person who is qualified as follows—
  - (a) he is the holder of a licence issued by the Minister under regulation 13 stating that he is qualified to be in charge of the engines and machinery of such a vessel where—
    - (i) the licence is in force and is of a grade appropriate in respect both of the waters in which the vessel is being navigated; and
    - (ii) the vessel is in an area specified in the licence as one in which a vessel may be operated under the charge of the holder; or
  - (b) he is the holder of a certificate of competency as an engineer officer issued in accordance with the provisions of the STCW Convention.
- (3) Except as authorised by the Director, vessels with engines of higher power shall have on board engineers qualified in accordance with the STCW Convention.

**Issue of licence, standards and conditions.**

- 13.** (1) The Minister may issue licences either as Boatmaster or Boat Engineer, as appropriate, to persons who meet the requirements of this regulation on application and receipt of any fee payable, in such form as he may from time to time specify.
- (2) Subject to sub-regulation (3)—
    - (a) the standards of competence to be attained and the conditions, including conditions as to medical fitness, to be satisfied by a person in order for a licence to be issued to him under these Regulations;
    - (b) any exceptions applicable with respect to any such standards or conditions;
    - (c) the manner in which the attainment of any such standards or the satisfaction of any such conditions is to be evidenced; and
    - (d) the conduct of any examinations and the conditions of admission to them,

shall be those specified in paragraphs IX/5 to IX/7 and IX/9 to IX/11 of the Code or those which may from time to time be specified by the Minister by Notice.

(3) Notwithstanding that an applicant for a licence under this regulation complies with the standards and satisfies the conditions specified in sub-regulation (2), the Minister shall not issue such a licence to the applicant unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of such a licence.

**Grade and area restrictions of Boatmaster Licences.**

- 14.** (1) A licence as a master issued under regulation 13 shall bear the title “Boatmaster Licence” and shall be of one of the following grades, which shall be stated in the licence—

Boatmaster Licence, Grade 1

Boatmaster Licence, Grade 2

Boatmaster Licence, Grade 3.

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with paragraph IX/4 of the Code.

(3) A Boatmaster licence of any grade shall be subject to such restriction as the Minister may determine as to the area or areas in which a vessel may be navigated under the command of the holder; and every such restriction shall be stated in the licence.

#### **Grade and area restrictions on Boat Engineer Licence.**

**15.** (1) A licence as engineer issued under regulation 13 shall bear the title “Boat Engineer Licence” and shall be of one of the following grades, which shall be stated in the licence.

Boat Engineer Licence, Grade 1

Boat Engineer Licence, Grade 2.

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with regulation IX/8 of the Code.

(3) A Boat Engineer Licence of any grade shall be subject to such restriction as the Minister may determine as to the area or areas in which a vessel may be operated under the charge of the holder; and every such restriction shall be stated in the licence.

#### **Existing Licences.**

**16.** The Minister shall on the application by a person who holds a licence on the date of the commencement of these Regulations and on receipt of any fee payable, issue to him a licence under these Regulations and the licence shall—

- (a) be of the grade which is appropriate in respect of—
  - (i) a vessel when being navigated or operated in waters in the area or areas stated in the existing licence as the approved area or areas of operation; and
  - (ii) the size of vessel which in the period of twelve months before the coming into force of these Regulations was navigated or operated in that area under the command or charge of the holder of the existing licence; and
- (b) state the area or areas in which a vessel may be navigated or operated under the command or charge of the holder, as the area or areas stated in the existing licence as the approved area or areas of operation.

#### **Validity and renewal of licences.**

**17.** (1) Licences shall be subject to revalidation every three years for persons up to sixty-three years of age and such revalidation shall be subject to—

- (a) the holder providing proof that he has had at least forty-five days’ service in vessels for which the licence is valid during the previous three years; and



(b) the submission of a valid medical fitness certificate issued in accordance with the Act and Regulations made under the Act.

(2) Licences held by persons sixty-three years of age and over shall be subject to revalidation annually and such revalidation shall be subject to the holder providing proof that he has had at least fifteen days service in a vessel—

(a) for which the licence is valid during the previous year; and

(b) the submission of a valid medical fitness certificate issued in accordance with the Act and Regulations made under the Act.

(3) Where a person is unable to produce proof of the experience required under sub-regulation (1) or (2) that person shall apply to the Director for an examination of competency.

(4) A licence issued under these Regulations shall remain valid only so long as the holder complies with the standards of competence and the conditions, including conditions as to medical fitness, specified in regulation 13 (2).

#### **Record and surrender of licences.**

**18.** (1) The Director shall make and, during the period of the Licence, retain a copy of every licence issued under these Regulations.

(2) A record of—

(a) every licence issued under this Part;

(b) every suspension, cancellation or alteration of and any other matter affecting such a licence,

shall be kept, in such manner as the Director may require, by the Registrar or by such other person as the Director may direct.

#### **Loss of licences.**

**19.** (1) Where the holder of a Boatmaster or Boat Engineer licence loses the licence the Director may, on receipt of any fee payable, cause a copy of the licence to be issued to him.

(2) Any copy issued under sub-regulation (1) shall be certified as a copy by the Registrar or, as the case may be, such other person as the Director may have directed.

#### **Suspension of licence.**

**20.** (1) Where it appears to the Minister that a licensed Boatmaster or Boat Engineer is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason, he may cause an inquiry to be held by one or more persons appointed by him and if he does so, may, suspend, pending the outcome of the inquiry, the certificate in question.

(2) A licence so suspended shall be surrendered to the Minister within seven days.

(3) Where the recommendation made after the inquiry referred to in sub-regulation (1), is to withhold, suspend or cancel the certificate it shall be dealt with according to that recommendation.

PART IV  
HOURS OF WORK

**Interpretation for this Part.**

**21.** (1) In this Part unless the context otherwise requires—

“crew” includes every person, except masters and pilots, employed or engaged in any capacity on board a vessel;

“employer”, in relation to a master who has command of a vessel in the course of his employment, means the person who employs that master in that employment;

“working day”, in relation to any person to whom these Regulations apply means any period during which the person is on duty which is not followed by an interval for rest of at least eight hours.

(2) For the purposes of this Part a director of a company shall be deemed to be employed by it.

**Duty of owner, master, crew.**

**22.** (1) It shall be the duty of the owner of a commercial vessel to ensure so far as is reasonably practicable, that the master and seamen do not work more hours than is safe in relation to the safety of the vessel, its cargo and persons carried on board.

(2) It shall be the duty of every master of a commercial vessel to ensure, so far as is reasonably practicable, that seamen do not work more hours than is safe in relation to the safety of the vessel, its cargo and persons carried on board.

(3) Every master and seaman, so far as reasonably practicable, shall ensure that he is properly rested when commencing duty on a vessel and that he obtains adequate rest during periods when he is off duty.

**Working hours in vessels on voyages which exceed 24 hours.**

**23.** (1) This regulation applies to vessels which do not complete a voyage within twenty-four hours.

(2) The hours of rest shall not be less than ten (10) hours in every twenty-four hour period which may be divided into no more than two periods, one of which shall be at least six hours rest in length and the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that such reduction shall not extend beyond two days, and not less than seventy hours of rest are provided in each seven-day period.

(3) The requirements for rest periods specified in sub-regulation (2) need not be maintained in cases of any emergency including giving assistance to other vessels, a person in distress at sea, or drill or any overriding operational conditions.

**Working hours in vessels on voyages of less than 24 hours.**

**24.** (1) This regulation applies to vessels which complete a voyage or voyages within twenty-four hours.

(2) References to a person being on duty are references—

- (a) in the case of a master who has command of a vessel in the course of his employment, to his being on duty, whether for the purpose of having the command of a vessel to which this regulation applies or for

other purposes, in the employment of the person who employs him in that employment or in any other employment under that person; and

- (b) in the case of a master who has command of a vessel for the purposes of a trade or business carried on by him, to his having command of a vessel to which this regulation applies for the purposes of that trade or business or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vessel or the passengers carried by it.
- (3) Subject to sub-regulations (4) and (5)—
- (a) the working hours of a master or engineer shall not exceed sixteen hours;
  - (b) a master shall not on any working day on a vessel or vessels to which this regulation applies work for periods amounting in the aggregate to more than ten hours;
  - (c) where on any working day a master has been on duty—
    - (i) for a period of six hours and the end of that period does not mark the end of the working day there shall be an interval of not less than thirty minutes in which the master may obtain rest and refreshment; or
    - (ii) for periods amounting in the aggregate to six hours and there has not been between any of those periods an interval of not less than thirty minutes in which the master was able to obtain rest and refreshment and the end of the last of those periods does not mark the end of the working day, there shall be such an interval at the end of the last of those periods;
  - (d) there shall be, between any two successive working days of a master, an interval for rest which shall not be less than eight hours; and, in the case of a master who has command of a vessel in the course of his employment, a period of time shall not be treated as not being an interval for rest by reason only that he may be called upon to report for duty if required.

(4) The requirements for rest period specified in sub-regulation (3) need not be maintained in cases of any emergency including giving assistance to other vessels, person in distress at sea, or drill or any overriding operational conditions.

(5) Where the Minister considers that it would be appropriate to grant an exemption from all or any of the requirements of sub-regulation (3) he may on such terms, if any, as may be specified grant such an exemption; and, subject to giving reasonable notice, the Minister may alter or cancel an exemption so granted.

#### **Contravention of Regulation 24.**

**25.** (1) Subject to sub-regulation (2) where any of the requirements of regulation 24 is contravened in the case of any master, that master, and any other person, being that master's employer or a person to whose orders that master was subject, who caused or permitted the contravention, commits an offence.

- (2) A person shall not be liable under this regulation where he can prove—
- (a) that the contravention was due to an unavoidable delay in the completion of a voyage arising out of circumstances which he could not reasonably have foreseen; or

- (b) in the case of a person other than the master, that the contravention was due to the fact that the master had for any particular period or periods conned a vessel or vessels or been on duty otherwise than in the employment of the person charged or, as the case may be, otherwise than in the employment in which he was subject to the orders of the person charged, and that the person charged was not, and could not reasonably have become, aware of that fact.

## PART V

### MANNING AND TRAINING

#### **Manning.**

**26.** A vessel to which these Regulations apply shall not proceed on a voyage unless the manning of the vessel is in accordance with the Certificate of Inspection or approved by the Director in accordance with paragraph IX/17 of the Code.

#### **Training in emergency procedures.**

- 27.** The owner of a passenger vessel to which these Regulations apply shall—
- (a) establish procedures governing actions to be taken during an emergency by the master and crew to assist passengers and to deal with the emergency in general;
  - (b) ensure that a the person having command of the vessel and any other person or persons employed or engaged in any capacity on board the vessel has received adequate on board training in the procedures to be observed by that person in the event of an emergency.

## PART VI

### PASSENGER DETAILS

#### **Passenger details.**

**28.** (1) The owner, charterer, managing operator or master of a passenger vessel making a voyage within the waters of Saint Christopher and Nevis shall keep an accurate record of all persons who embark and disembark from the vessel, including the name, gender and age of all persons.

(2) The record referred to in sub-regulation (1) shall be recorded on the prescribed form.

## PART VII

### MISCELLANEOUS

#### **Penalties.**

**29.** (1) An owner or a master who contravenes any provision of Parts II or III or regulation 26 shall be guilty of an offence and shall be liable to a fine not exceeding

Level 5 of the standard scale of fines set out in Schedule 5 of the Act or to imprisonment for six months or to both such fine and imprisonment.

(2) Any person who contravenes any provision of Part IV or regulation 27 shall be guilty of an offence and shall be liable to a fine not exceeding level 3 of the standard scale of fines set out in Schedule 5 of the Act.

(3) In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that he took all reasonable steps to avoid commission of the offence.

**Power to detain.**

**30.** In any case where a vessel does not comply with the requirements of these Regulations, that vessel shall be liable to be detained and section 436 of the Act shall have effect in relation to the vessel.

*(Inserted by S.R.O. 32/2008)*

---

**FOURTEENTH SCHEDULE**

*(Section 456)*

**MERCHANT SHIPPING (CARIBBEAN CARGO SHIP SAFETY)  
REGULATIONS**

**Citation.**

**1.** These Regulations may be cited as the Merchant Shipping (Caribbean Cargo Ship Safety) Regulations.

**Interpretation.**

**2.** In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“anniversary date” means the date in each year corresponding to the date of expiry of the Caribbean Cargo Ship Safety Certificate;

“Caribbean Trading Area” means the area bounded by the east coasts of North, Central and South America; and a line from the east coast of the United States in latitude 32° 30'N to a point 20° N:60° W, thence to a point 10° N:50° W, and thence south to the coast of South America;

“Code” means the Code of Safety for Caribbean Cargo Ships, 1996;

“Director” means the Director of Maritime Affairs appointed pursuant to section 411 of the Act;

“gross tonnage” means gross tonnage as determined by the Merchant Shipping (Tonnage) Regulations, 2007;

“international voyage” means a voyage from a port in one country to a port in another country;

“nominated surveyor” means a surveyor nominated by the Minister to undertake the surveys required by these Regulations and includes a surveyor from the Department of Maritime Affairs;

“safety equipment” means life-saving appliances, fire appliances, lights, shapes, means of making sound signals, pilot ladders and associated equipment, mechanical pilot hoists, echo-sounder installations, gyro compass installations, direction-finder installations and radar installations;

“Safety Regulations” means any Regulations for safety, including Regulations for life-saving appliances, fire protection, safety construction, safety radio, collision and distress signals, navigational equipment and pilot ladders and hoists, made under the Act;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature.

#### **Application.**

3. Subject to regulation 4 these Regulations apply in relation to sea-going Saint Christopher and Nevis ships of less than 500 gross tonnage but above 24m in length, engaged in voyages in the Caribbean Trading Area, except passenger ships, fishing vessels and pleasure crafts.

#### **Exemption.**

4. The Minister may grant exemptions from all or any of the provisions of these Regulations, as may be specified in the exemption for classes of cases or individual cases on such terms, if any, as he may so specify.

#### **Ships to be surveyed within six months.**

5. Every ship in relation to which these Regulations apply shall be surveyed in accordance with regulation 6 not later than six months after these Regulations come into operation.

#### **Survey before issue of a Caribbean cargo ship safety certificate.**

6. (1) The owner of every ship in relation to which these Regulations apply shall cause the same to be surveyed on completion and thereafter at intervals not exceeding five years by a surveyor.

(2) The survey referred to in sub-regulation (1) shall include the following—

- (a) a complete inspection of the structure, machinery and equipment, other than those items surveyed with the lifesaving appliances and installations to ensure that—
  - (i) the arrangements, materials, scantlings and workmanship of the structure, boilers and other pressure vessels, their appurtenances, main auxiliary machinery including steering gear and associated control systems, electrical installation and other equipment comply with the requirements of the Code and applicable Safety Regulations;
  - (ii) they are in satisfactory condition; and
  - (iii) they are fit for the service for which the ship is intended and that the required stability information is provided;
- (b) an inspection of the pump rooms, cargo, bunker, ventilation piping systems and associated safety devices in the case of tankers or barges carrying liquid cargoes of flammable nature in bulk;

- (c) an inspection of the outside of the ship's bottom and related items on dry dock, to ensure that they are fit for the service for which the ship is intended;
  - (d) a complete inspection of the fire safety system and appliances, life-saving appliances and arrangements except radio installations, the ship borne navigational equipment, means of embarkation for pilots and other equipment to which chapters 2, 3, 4 and 6 of the Code apply to ensure that they comply with the requirements of the Code, and applicable Safety Regulations and are in satisfactory condition and are fit for the service for which the ship is intended;
  - (e) a complete inspection of the fire control plans, nautical publications, lights, shapes, means of making sound signals and distress signals for the purpose of ensuring that they comply with the requirements of the Code and applicable Safety Regulations;
  - (f) a complete inspection of the radio installations, including those used in life-saving appliances to ensure that they comply with the requirements of the Code and applicable Safety Regulations.
- (3) The results of the survey referred to in sub-regulation (1) shall be recorded in the ship's Record of Equipment and Ship Information Book, a copy of which shall be kept on board the ship.
- (4) Every application for the survey of a ship under this regulation shall be made by or on behalf of the owner of the ship to the Director and shall be accompanied by such information relating to the ship as the Director may require for the purposes of the survey and the prescribed fee.
- (5) The nominated surveyor shall, upon receipt of an application, survey the ship and satisfy himself that the ship and its equipment—
- (a) comply with the requirements of the Code and Safety Regulations applicable to the ship, or are exempt from those requirements; and
  - (b) are in all respects satisfactory for the service for which the ship is intended, having regard to the period for which a certificate in respect of the ship is to be issued.
- (6) The nominated surveyor, where satisfied on the survey that he may properly do so, shall forward to the Director a Declaration of Survey containing such particulars of the ship and its equipment as are required by the Director to enable him to issue a Caribbean Cargo Ship Safety Certificate in respect of the ship.

**Annual survey.**

7. (1) The owner of every ship in respect of which a Caribbean Cargo Ship Safety Certificate has been issued shall, subject to the requirements of regulations 6 and 8 and as long as the certificate remains in force, cause the ship to be surveyed at the interval and in the manner specified in sub-regulations (2) and (3), for the purpose of seeing whether the certificate should remain in force, and where the ship is not so surveyed, the Minister may cancel the certificate.
- (2) The survey shall be carried out within three months before or after the anniversary date of the Caribbean Cargo Ship Safety Certificate.
- (3) Every application for the survey of a ship under this regulation shall be made by or on behalf of the owner of the ship to the Director and shall be

accompanied by such information relating to the ship as the Director may require for the purposes of the survey and the prescribed fee.

(4) The nominated surveyor shall, upon receipt of an application, survey the ship in accordance with the procedures specified in Part I of the Schedule and shall satisfy himself that—

- (a) such parts of the ship and its equipment specified in Part I of the Schedule remain efficient; and
- (b) no material alterations have been made, in the equipment of the ship to which the Caribbean Cargo Ship Safety Certificate relates, without the approval of the Minister.

(5) On completion of the survey in accordance with the requirements of sub-regulation (4), the nominated surveyor shall, where he is so satisfied, endorse the attachment to the Caribbean Cargo Ship Safety Certificate to that effect.

#### **Periodic surveys.**

**8.** (1) The owner of every ship in respect of which a Caribbean Cargo Ship Safety Certificate has been issued shall, so long as the certificate remains in force, cause the ship to be periodically surveyed at the intervals and in the manner specified in sub-regulations (2) and (3) for the purpose of determining whether the certificate should remain in force, and where the ship is not so surveyed the Minister may cancel the certificate.

(2) The surveys to be carried out under sub-regulation (1) shall be conducted within three months before or after the second anniversary date or within three months before or after the third anniversary date of issue of the Caribbean Cargo Ship Safety Certificate and should take the place of one of the anniversary surveys.

(3) The nominated surveyor shall, upon receipt of an application, survey the ship in accordance with the procedures specified in Part II of the Schedule and shall satisfy himself that—

- (a) such parts of the ship and its equipment specified in Part II of the Schedule remain efficient; and
- (b) no material alterations have been made, in the equipment of the ship to which the Caribbean Cargo Ship Safety Certificate relates, without the approval of the Minister.

(4) On completion of the survey in accordance with the requirements of sub-regulation (3), the nominated surveyor shall, where he is so satisfied, endorse the attachment to the Caribbean Cargo Ship Safety Certificate to that effect.

#### **Surveys by marine surveyors from the Department of Maritime Affairs.**

**9.** (1) A survey made pursuant to regulation 6, 7, or 8 in a port in Saint Christopher and Nevis or the waters thereof shall be carried out by a marine surveyor from the Department of Maritime Affairs or a nominated surveyor.

(2) At least one survey pursuant to regulation 6, 7 or 8 in any period of five years shall be carried out by a marine surveyor from the Department of Maritime Affairs.



**Responsibilities of owner and master.**

**10.** (1) The owner or master of every ship to which these Regulations apply shall ensure that—

- (a) the condition of the safety equipment is maintained so as to comply with the relevant Safety Regulations and the Code;
- (b) after any survey required by these Regulations has been completed, no material change shall be made in the safety equipment subject to such survey without the approval of the Minister;
- (c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of its safety equipment, it shall be reported at the earliest opportunity to the Minister or a proper officer, either of whom shall cause investigations to be initiated to determine whether a survey by a nominated surveyor is necessary and shall if a survey is needed in that event require such a survey to be carried out; and
- (d) where the ship is in a port outside of Saint Christopher and Nevis the master or owner shall, in addition, make such a report immediately to the appropriate authorities of the country in which the port is situated.

(2) The nominated surveyor shall ascertain from the appropriate authorities of the country in which the port is situated that the report referred to in sub-regulation (1)(d) has been made.

**Procedures to be adopted when safety equipment is deficient.**

**11.** (1) In any case where the nominated surveyor determines that the condition of the ship does not correspond substantially with the particulars of the Caribbean Cargo Ship Safety Certificate or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the nominated surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Minister.

(2) Where such corrective action is not taken within such period, being a reasonable period, as the nominated surveyor may specify, the nominated surveyor shall at the end of that time, immediately notify the Minister who may, on receipt of such notification, suspend the validity of the Cargo Ship Safety Certificate issued in relation to the ship.

(3) The Minister shall give notice of any suspension under sub-regulation (2) to the owner and to the nominated surveyor and the nominated surveyor shall notify the master.

(4) The master shall thereupon deliver up the certificate issued in relation to the ship to the nominated surveyor on demand and the owner shall on receipt of notice of suspension deliver up the duplicate certificate to the Minister.

(5) When the nominated surveyor is satisfied that corrective action has been taken he shall notify the Minister who shall thereupon, in any case where the validity of the certificate has been suspended—

- (a) restore the validity of the certificate;
- (b) give notice thereof to the owner; and
- (c) return the duplicate certificate to the owner,

and the nominated surveyor shall return the certificate issued in relation to the ship to the master.

(6) Where the ship is not within a Saint Christopher and Nevis port and corrective action in accordance with sub-regulation (3) has not been taken, the nominated surveyor shall in addition immediately notify the appropriate authorities of the country in which the port is situated.

#### **Penalties.**

**12.** Where a ship to which these Regulations apply proceeds or attempts to proceed to sea without the requirements of these Regulations having been complied with, the owner or master of the ship shall each be guilty of an offence and liable to a fine not exceeding Level 5 of the standard scale of fines set out in Schedule 5 of the Act or to imprisonment for six months or to both such fine and imprisonment.

#### **Power to detain.**

**13.** In any case where a ship to which these Regulations apply does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 436 of the Act, which relates to the detention of a ship, shall have effect in relation to the ship.

---

## **SCHEDULE TO THE REGULATIONS**

### *(Regulation 7)*

#### **ANNUAL AND PERIODIC SURVEYS**

##### **PART 1**

##### **ANNUAL SURVEYS**

#### *General*

1. In general the scope of the annual survey should be as follows:
  - 1.1 it should consist of
    - .1 an examination of the ship's certificates; and
    - .2 a visual examination of sufficient extent together with certain tests of the ship and its equipment to confirm that their condition is being properly maintained;
  - 1.2 it should also include a visual examination to confirm that no unauthorised modifications have been made to the ship and its equipment;
  - 1.3 the thoroughness or stringency of the survey should depend upon the condition of the ship and its equipment.

#### *Further examination and testing*

2. Should any doubt arise as to the condition of the ship or its equipment, further examination and testing should be conducted as the surveyor deems necessary.

## CONDUCT OF SURVEY

*Examination of ship's certificates*

3. The examination of the ship's certificates in general should consist of checking—
  - 3.1 the validity of the Caribbean Cargo Ship Safety Certificate, the Cargo Ship Safety Radio Certificate as applicable and Exemption Certificate;
  - 3.2 the validity of the International load line certificate, or the International Load Line Exemption Certificate; and
  - 3.3 an examination, with testing from the local and remote operating locations, of all watertight doors in watertight bulkhead penetrations as far as is practicable;
  - 3.4 an examination of the watertight bulkhead penetrations as far as is practicable;
  - 3.5 confirming, as far as is practicable, that no significant changes have been made to the structural fire protection arrangements; and
  - 3.6 an examination of the fire doors including their operation.
4. The survey of the machinery and electrical installation should consist of—
  - 4.1 a general examination of the machinery spaces with particular attention to the propulsion system auxiliary machinery and the provisions against fire and explosion hazards, confirming that the emergency escape routes are free of obstructions;
  - 4.2 an examination of all main and auxiliary steering arrangements including their associated equipment and control systems including their operation;
  - 4.3 testing all means of communication between the navigating bridge and the machinery control positions and between the navigating bridge and the alternative steering position, if applicable;
  - 4.4 an examination of the bilge pumping systems and bilge wells, as far as practicable including the operation of the pumps, remote valve operating devices and level alarms, if fitted;
  - 4.5 an external examination of the boilers and other pressure vessels together with their safety devices, foundations, controls, relieving gear, high pressure and steam escape piping, insulation and gauges;
  - 4.6 a general visual examination and, where feasible, an examination in operation of the electrical machinery, the emergency sources of power, the switchgear and other electrical equipment;
  - 4.7 confirming, as far as practicable, the correct operation of all emergency sources of power including, where applicable, their operation automatically;
  - 4.8 an examination of the record of surveys and inspections for the automatic and remote control systems in ships with periodically unattended machinery spaces;
  - 4.9 an examination of the official log book to establish that the steering gear has been tested as required by the Act or Regulations made under the Act.

*Survey of the life-saving appliances and other equipment*

5. The survey of life-saving appliances and other equipment should consist of—
  - 5.1 confirmation that any new equipment has been properly approved before installation and that no changes have been made such as would affect the validity of the Certificate;
  - 5.2 an examination of the ship's Official Log Book to establish that the required musters, training, emergency procedures and inspections of lifeboat equipment have been carried out as required by the Act or Regulations made under the Act together with posting of the appropriate Muster List as required by the Act, Regulations made under the Act and the Code;
  - 5.3 an examination of all lifeboats, davits, embarkation arrangements and launching gear in position, as far as practicable, and wherever practicable, one of the lifeboats should be lowered to the water;
  - 5.4 an examination of the lifeboat engines, where permitted by cargo handling conditions, to establish that they will readily start and operate in the ahead and astern mode;
  - 5.5 checking that the inflatable liferafts have been serviced during the past twelve months, provided that in any case where this has not been practicable such interval has not been exceeded by more than three months;
  - 5.6 checking that the stowage will facilitate proper release and that launching instructions are posted;
  - 5.7 an examination of the arrangement of inflatable liferafts and, where provided, the arrangement of davit launched liferafts;
  - 5.8 checking the provision of radio equipment for survival craft;
  - 5.9 checking that lifebuoys are in good condition and that the required number are fitted with self-igniting lights and self-activating smoke signals and that all are properly stationed;
  - 5.10 checking that rigid liferafts are in good condition and that stowage will facilitate rapid launching;
  - 5.11 checking that ship and lifeboat distress signals and the line-throwing appliance rockets are not out of date; and
  - 5.12 testing the emergency lighting and general alarm system.

*Survey of the fire appliances*

6. The survey of the fire appliances should consist of—
  - 6.1 ascertaining whether or not any fire has occurred on board necessitating the operation of the fixed fire extinguishing system, or the portable fire extinguishers since the last survey;
  - 6.2 confirmation that fire control plans are properly posted;
  - 6.3 examination as far as possible and testing, where feasible, of the fire and/or smoke detection system(s);
  - 6.4 an examination of the fire main fire system and confirmation that each fire pump including the emergency fire pump can be operated separately

- so that the two required jets of water can be produced simultaneously from different hydrants;
- 6.5 confirmation that fire hoses, nozzles and applicators are in good working condition and situated at their respective locations;
  - 6.6 an examination of fixed fire-fighting system controls, piping, instructions and marking; checking for evidence of proper maintenance and servicing, including date of last system tests;
  - 6.7 confirmation that all non-portable and portable fire extinguishers are in their correct position along with checking for evidence of proper maintenance and servicing and conducting random checks for evidence of discharged containers;
  - 6.8 confirmation, as far as practicable, that the remote controls for stopping fans and machinery and for shutting off fuel supplies in machinery spaces are in working order;
  - 6.9 an examination of the closing arrangements for ventilators, funnel annular spaces, skylights, doorways and tunnel, where applicable;
  - 6.10 confirming that the fireman's outfits are complete and in good condition and that the cylinders of any required self-contained breathing apparatus are charged.

#### *Survey of the navigational equipment*

7. The survey of the navigational equipment should consist of—
  - 7.1 checking that navigation lights, shapes, sound signalling equipment and daylight signalling lamps are in order;
  - 7.2 checking that the compass deviation record book is properly maintained;
  - 7.3 checking that the radar, echo-sounder, gyro-compass and direction finder installation are in working order;
  - 7.4 checking that pilot ladders, associated equipment and mechanical pilot hoists are in good condition and operational; and
  - 7.5 checking that the nautical publications and charts are adequate for the ship's intended trading programme and that they comply with the requirements pursuant to the Act, Regulations made under the Act and the Code.

#### ADDITIONAL SURVEY REQUIREMENTS FOR TANKERS

##### *Additional survey for tanker*

8. The survey should consist of—
  - 8.1 an external examination of the piping of the cargo pump room fixed fire-fighting system; and
  - 8.2 confirming that the deck foam system and deck sprinkler system are in satisfactory operating condition.

##### *Tankers with fitted Inert gas systems*

9. For the inert gas systems, when fitted, the survey should consist of—
  - 9.1 an external examination of the condition of all piping and components for signs of corrosion or gas leakage/effluent leakage;

- 9.2 confirming of the proper operation of both inert gas blowers;
  - 9.3 observing the operation of the scrubber room ventilation system;
  - 9.4 checking as far as practicable the deck water seal for automatic filling and draining and checking for presence of water carry-over and checking the condition of the non-return valve;
  - 9.5 checking as far as practicable the operation of all remotely operated or automatically controlled valves and, in particular, the flue gas isolating valve(s);
  - 9.6 testing the interlocking feature of soot blowers;
  - 9.7 observing that the gas pressure regulating valve automatically closes when the inert gas blowers are stopped; and
  - 9.8 checking as far as practicable the following alarms and safety devices of the inert gas system using simulated conditions where necessary—
    - .1 high oxygen content of gas in the inert gas main;
    - .2 low gas pressure in the inert gas main;
    - .3 low pressure in the supply to the deck water seal;
    - .4 high temperature of gas in the inert gas main;
    - .5 low water pressure to the scrubber;
    - .6 accuracy of portable and fixed oxygen measuring equipment by means of calibration gas.
10. On the weather deck the survey should consist of—
- 10.1 an examination of cargo tank openings including joints, covers coamings and screens;
  - 10.2 an examination of the cargo tank pressure/vacuum valves and flame arresting screens;
  - 10.3 an examination, as far as is practicable, of the flame arresting screens on all bunker, oily ballast and oily slop tanks and void space vents;
  - 10.4 an examination of the cargo, crude oil washing, bunker, ballast and vent piping systems, including vent masts and heaters; and
  - 10.5 confirming that all electrical equipment in hazardous zones is in good condition and has been properly maintained.
11. For cargo pump rooms the survey should consist of—
- 11.1 confirming that potential sources of ignition and fire in or near the cargo pump rooms, e.g loose equipment, excessive product in bilges, excessive vapour, combustible material, are eliminated and that the access ladders are in good condition;
  - 11.2 confirming that all electrical equipment is in good condition and has been properly maintained;
  - 11.3 an examination of all pump room bulkheads for signs of oil leakage or fractures and, in particular, the penetration seal arrangements;
  - 11.4 an examination of the condition of all piping systems;

- 11.5 an examination, as far as is practicable, of the cargo, bilge ballast and stripping pumps for excessive gland seal leakage and verification of the proper operation of electrical and mechanical remote operating and shut down devices;
- 11.6 an inspection of the pump room bilge pumping system;
- 11.7 confirming that the pump room ventilation system is operating correctly and that the ducting is intact, the dampers are operational and the screens are clean; and
- 11.8 verifying that the cargo discharge system pressure gauges and the cargo tank contents gauges are operational.

## PART II

### PERIODIC SURVEYS

#### *General*

1. The periodic survey shall be such as to ensure that the ship and its equipment have been maintained in accordance with the Act, Regulations made under the Act and the Code and are in satisfactory working order.

#### *Compliance with Caribbean Cargo Ship Certificate*

2. The survey should be sufficiently extensive to ensure that the ship's degree of compliance with the Caribbean Cargo Ship Safety Certificate warrants the continued possession of that certificate and that the ship can continue to be operated with safety.

#### *Survey of the Hull*

3. The intermediate survey of the hull, machinery, appliances and equipment should, in any case, include all the relevant items specified in Part I and the following additional items.

4.1 The survey should consist of—

- .1 an examination of the shell including the bottom and bow plating, keel, stem, stern frame and rudder;
- .2 an examination of the sea connections and overboard discharge valves;
- .3 an examination, as far as is practicable, of the anchoring and mooring equipment, for which purpose the anchors should be partially lowered and raised using the windlass;
- .4 an examination of at least two cargo tanks internally; and
- .5 checking the rudder bearing clearances.

4.2 For the examination required by paragraph 4.1.4 of this Part, cargo tanks are to be cleaned and the ship made gas-free so that the necessary surveys can be safely conducted, taking into account whether or not the ship is fitted with an inert gas system.

#### *Survey of the machinery and electrical installation*

5. The survey of the machinery and electrical installation should consist of—

- 5.1 an examination of the propeller and shaft seals, as far as is practicable, checking the propeller shaft clearances;

- 5.2 checking that the surveys of boilers and other pressure vessels have been carried out in accordance with the Act, Regulations made under the Act and the Code; and
- 5.3 a general examination of the electrical equipment and cables in hazardous zones such as cargo pump rooms and areas adjacent to cargo tanks, including checking of the insulation resistance of the circuits, subject to the following conditions—
- .1 records of insulation resistance tests measured by the crew may be accepted;
  - .2 if the condition of the cables, lights, fixtures or equipment appears defective in any way, insulation resistance measurements shall be required;
  - .3 these measurements should be made only when the ship is gas-free;
  - .4 insulation resistance testing of intrinsically safe circuits should not normally be undertaken.

*Survey of piping on the weather deck*

6.1 Where upon examination of the cargo, crude oil washing, bunker, ballast, steam and vent piping there is any doubt as to the condition of the piping it shall be pressure tested, thickness tested, or both;

6.2 Particular attention shall be paid to any repairs which have been made by welding.

*(Inserted by S.R.O. 33/2008)*

## FIFTEENTH SCHEDULE

*(Section 456)*

### MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS

**Citation.**

1. These Regulations may be cited as the Merchant Shipping (Port State Control) Regulations.

**Interpretation.**

2. In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“CCSS Code” means the Code of Safety for Caribbean Cargo Ships adopted by the Committee of the Memorandum of Understanding on Port State Control in the Caribbean Region;

“SCV Code” means the Code of Safety for Small Commercial Vessels adopted by the Committee of the Memorandum of Understanding on Port State Control in the Caribbean Region;



“clear grounds” mean evidence which in the professional judgement of an inspector warrants a more detailed inspection of a ship, its equipment or its crew including in particular the criteria listed in Schedule 1;

“Conventions” means—

- (a) The International Convention on Load Lines, 1966 (LL 66);
- (b) The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- (c) The International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78);
- (d) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);
- (e) The Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 72);
- (f) The International Convention on Tonnage Measurement of Ships, 1969; and
- (g) the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147),

together with the Protocols and amendments to these Conventions and related Codes of mandatory status, in force and a reference to a Convention is a reference to any of the Conventions;

“Convention enactments” means—

- (a) The Act; and
- (b) Regulations made, or treated as made, under the Act, which implement the Conventions;

“expanded inspection” means an inspection as specified in regulation 7;

“Flag Administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

“Inspector” means a person duly authorised by the Minister to carry out inspections required by these Regulations;

“Member State” means a State or Territory the maritime authority of which is a party to the MOU;

“more detailed inspection” means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in regulation 6(3) to an in-depth inspection covering the ship’s construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

“MOU” means the Memorandum of Understanding on Port State Control in the Caribbean Region, signed in Barbados on 2 February 1996;

“Port Authority” means a port authority within the meaning of the Saint Christopher Air and Sea Ports Authority Act No. 9 of 1993 or the Nevis Air and Seaport Authority Act No. 1 of 1995, or if there is no such authority, the person having control of the operation of the port;

“Stoppage of an operation” means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

## PART II

### PROCEDURES FOR PORT STATE CONTROL

#### Application of PART II.

3. (1) Subject to sub-regulation (2), this Part applies to any seagoing ship—
  - (a) in a port in Saint Christopher and Nevis or at an offshore installation; or
  - (b) anchored within the limits of such a port or such an installation, and its crew.
- (2) This Part does not apply to—
  - (a) a Saint Christopher and Nevis ship;
  - (b) a fishing vessel;
  - (c) a ship of war;
  - (d) a naval auxiliary;
  - (e) a wooden ship of a primitive build;
  - (f) a government ship used for non-commercial purposes; or
  - (g) pleasure craft not engaged in trade.
- (3) In the case of a ship below 500 gross tonnage—
  - (a) an inspector shall, to the extent to which a Convention does not apply and without prejudice to any other powers under a Convention enactment, take such action as may be necessary to ensure that the ship is not clearly hazardous to safety, health or the environment;
  - (b) an inspector shall be guided by Annex 1B to the MOU in the application of this sub-regulation;
  - (c) the CCSS automatically shall apply to all cargo ships of less than 50 gross tonnage as part of the MOU Agreement.
- (4) When inspecting a ship pursuant to regulations 5, 6 and 7 no more favourable treatment shall be given to a ship flying the flag of a State which is a party to a Convention or to the crew of such a ship than that given to a ship flying the flag of a State which is not a party to that Convention or to the crew of such a ship.
- (5) A power of inspection or detention conferred by a Convention enactment is also exercisable in relation to a ship which—
  - (a) is at an offshore installation; or
  - (b) is anchored off an offshore installation or a port in Saint Christopher and Nevis where the ship is one to which this Part applies.
- (6) Where—

- (a) a ship to which this Part applies is detained under a Convention enactment; or
- (b) the master of such a ship is served with a detention notice under such an enactment, section 260 of the Act shall apply in relation to the ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention notice and references to sending or taking to sea were construed accordingly.

**Competent Authority.**

4. (1) The Department of Maritime Affairs is designated the competent authority for Saint Christopher and Nevis for the purpose of this Part.

(2) In relation to any other member State the “competent authority” means the national maritime administration maintained by that State for the inspection of ships.

(3) In relation to a State other than a Member State “competent authority” means any authority designated as such by that State.

**Inspection Commitments.**

5. (1) The Department of Maritime Affairs shall carry out an annual total number of inspections corresponding to at least 15% of the number of individual ships to which this Part applies which entered its ports during a calendar year.

(2) In selecting ships for inspection the Department of Maritime Affairs shall give priority to the ships referred to in Schedule 2.

(3) The Department of Maritime Affairs shall refrain from inspecting a ship which has been inspected by the competent authority of any Member State within the previous six months, where—

- (a) the ship is not in a category listed in Schedule 2;
- (b) no deficiencies have been reported following a previous inspection; and
- (c) no clear ground exist for carrying out an inspection.

(4) The provisions of sub-regulation (3) shall not apply to any of the operational controls specifically provided for in the Convention enactments.

**Inspection Procedure.**

6. (1) In carrying out an initial inspection referred to in regulation 5 the inspector shall as a minimum—

- (a) check the certificates and documents listed in Schedule 3;
- (b) satisfy himself of the overall condition of the ship, including the engine room and accommodation, including hygienic conditions.

(2) The inspector may examine all relevant certificates and documents, other than those listed in Schedule 3, which are required to be carried on board in accordance with the Convention enactments.

(3) Whenever there are clear grounds for believing, after the initial inspection referred to in sub-regulations (1) and (2), that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention enactment, a more detailed inspection shall be carried out, including further checking of compliance with on board operational requirements.

(4) The inspector shall also observe the relevant procedures and guidelines for the control of ships specified in Schedule 4.

#### **Expanded Inspection of Certain Ships.**

7. (1) Where there are clear grounds, as specified in Schedule 1, for a more detailed inspection of a ship belonging to any of the categories listed in section A of Schedule 5, an expanded inspection shall be carried out taking into account the guidelines listed in section B of Schedule 5.

(2) A ship referred to in sub-regulation (1) shall be subject to an expanded inspection by any of the competent authorities of the Member States only once during a period of 12 months, however, the ship may be subject to the inspection provided for in regulation 6(1) and (2).

(3) Subject to sub-regulation (2), in the case of a passenger ship operating on a regular schedule in or out of a port in Saint Christopher and Nevis an expanded inspection of the ship shall be carried out before the ship starts operating on the schedule and every twelve months thereafter by the Department of Maritime Affairs subject to consultation with the competent authority of a Member State, where the ship operates to ports in that member State.

#### **Report of Inspection to the Master.**

8. (1) On completion of an inspection, a more detailed inspection, or an expanded inspection, the master of the ship shall be provided by the inspector, with a document in the form specified in Annex 3 to the MOU, giving the results of the inspection and details of any decisions taken by the inspector, and of the corrective action to be taken by the master, owner or operator.

(2) In the case of deficiencies warranting the detention of a ship, the document to be given to the master in accordance with sub-regulation (1) shall include information about the future publication of information concerning the detention in accordance with regulation 17.

#### **Rectification and Detention.**

9. (1) The owner shall satisfy the Department of Maritime Affairs that any deficiencies confirmed or revealed by an inspection referred to in regulation 5 or 7 are or will be rectified in accordance with the Conventions.

(2) In the case of deficiencies which are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in the Convention enactments as appropriate, or issuing a prohibition notice under section 417 of the Act, as the case may be.

(3) A detention notice may—

- (a) include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth; and
- (b) specify the circumstances when the master of the ship may move his or her ship from a specified place for reasons of safety or prevention of pollution.

(4) The detention notice or stoppage of an operation shall not be lifted until the Department of Maritime Affairs establishes that the ship can, subject to any necessary conditions, proceed to sea or the operation can be resumed without risk to

the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat to or harm to the marine environment.

(5) The inspector shall apply the criteria set out in Schedule 6, without prejudice to any other requirement in the Convention enactments, when exercising his professional judgement as to whether or not a ship should be detained.

(6) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of the ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(7) Without prejudice to any other requirement in the Convention enactments, in the event that an inspection referred to in regulation 5 or 7 gives rise to detention, the Department of Maritime Affairs shall—

- (a) immediately inform, in writing, the flag administration or the Consul or, in his absence, the nearest diplomatic representative of the State of the flag administration, of all the circumstances in which intervention was deemed necessary; and
- (b) where relevant, notify nominated surveyors or recognised organisations responsible for the issue of the ship's certificates.

(8) The provisions of these Regulations shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to port State control.

(9) When carrying out inspections under these Regulations, the inspector shall make all possible efforts to avoid a ship being unduly detained or delayed.

#### **Procedure applicable in the absence of ISM certificates.**

**10.** (1) Where an inspection reveals that a copy of the Document of Compliance or the safety management certificate required by the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) are not on board a vessel to which the ISM Code is applicable at the date of inspection, the inspector shall detain the ship.

(2) Notwithstanding the absence of the documentation referred to in sub-regulation (1), where the inspection reveals no other deficiencies warranting detention, the Department of Maritime Affairs may lift the detention order for the purpose of avoiding port congestion.

(3) Whenever a decision, referred to in sub-regulation (2), is taken, the Department of Maritime Affairs shall—

- (a) immediately alert the competent authorities of the Member States; and
- (b) where deficiencies referred to in regulation 9 are found and cannot be rectified in the port of detention, the relevant provisions of regulation 14 shall apply.

(4) A ship which proceeds to sea from any port in any Member State following release in order to avoid port congestion shall not enter any port in Saint Christopher and Nevis until the owner has provided evidence to the satisfaction of the competent authority of the Member State where the ship was detained that the ship fully complies with the requirements of the ISM Code.

(5) Notwithstanding the provisions of sub-regulation (4) access to a specific port may be permitted in situations referred to in regulation 14.

**Detention Procedure.**

11. Regulations 12 and 13 apply in relation to the exercise of the power of detention in any Convention enactment.

**Arbitration.**

12. (1) Any question in connection with the validity of an opinion formed by the inspector and specified in the detention notice shall be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(2) The master or owner of the ship shall notify the inspector of his intention to proceed with arbitration proceedings within 21 days from the service of the detention notice.

(3) Where a notice is given by the master or owner of the ship in accordance with sub-regulation (2), the giving of the notice shall not suspend the operation of the detention notice.

(4) The arbitrator shall have regard, in coming to his or her decision, to any other matters not specified in the detention notice which appear to him or her to be relevant as to whether the ship was or was not liable to be detained.

(5) Where the arbitrator decides the inspector's opinion was invalid or defective he or she shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit and in any other case the arbitrator shall affirm the notice in its original form.

(6) The arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship.

(7) A person shall not be qualified for appointment as an arbitrator under this regulation unless he or she is—

- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer Class 1, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person who is an Attorney at Law of at least 10 years' standing;
- (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.

(8) In connection with his functions under this regulation an arbitrator shall have the powers conferred on an inspector by section 414 of the Act.

**Compensation.**

13. (1) Where on a reference under regulation 12 relating to a detention notice—

- (a) the arbitrator decides that the owner has proved that any matter did not constitute a valid basis for the inspector's opinion; and
- (b) it appears to him that the owner has proved that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator shall award the owner of the ship such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator thinks fit.

(2) Any compensation awarded under this regulation shall be payable by the Minister in accordance with section 454 (e) of the Act.

**Follow-Up to Inspections and Detention.**

14. (1) Where the deficiencies referred to in regulation 9 cannot be rectified in the port of inspection, the administration may allow the ship to proceed to the nearest appropriate repair yard available, as chosen by the master and the responsible parties, provided that the conditions determined by the competent authority of the flag administration and agreed by the Department of Maritime Affairs are complied with.

(2) The conditions referred to in sub-regulation (1) are to ensure the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(3) In the circumstances referred to in sub-regulation (1), the Department of Maritime Affairs shall notify the competent authority of the State where the repair yard is situated, the parties referred to in regulation 9 and any other authority as appropriate of all the conditions for the voyage.

(4) The notification of the parties referred to in sub-regulation (3) shall be in accordance with Annex 2 to the MOU.

(5) Where the Department of Maritime Affairs receives notification from the competent authority of another member State or “the notifying authority” in respect of a ship which the notifying authority allowed to proceed to a repair yard in Saint Christopher and Nevis, the Department of Maritime Affairs shall inform the notifying authority of the action it has taken.

(6) A ship to which this regulation applies which proceeds to sea from any port in any Member State—

- (a) without complying with the conditions determined by the competent authority of the Member State in the port of inspection; or
- (b) which fails to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard,

shall not enter any port within Saint Christopher and Nevis until the owner has provided evidence to the satisfaction of the competent authority of the Member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions.

(7) Sub-regulation (6) applies to a ship, detained in a port in a Member State after inspection has revealed deficiencies which are clearly hazardous to safety, health or the environment, which has been allowed by the competent authority to proceed to the nearest appropriate repair yard.

(8) Where a ship proceeds to sea from a port in Saint Christopher and Nevis without complying with the conditions determined by the Department of Maritime Affairs in accordance with sub-regulation (1), the Department of Maritime Affairs shall immediately alert the competent authorities of all the other Member States.

(9) Where a ship to which sub-regulations (6) and (7) apply is to proceed to a repair yard in Saint Christopher and Nevis but fails to call into the indicated repair yard, the Department of Maritime Affairs shall immediately alert the competent authorities of all the other Member States.

(10) Notwithstanding the provisions of sub-regulations (6) and (7), access to a specific port may be permitted by the Minister—

- (a) in the event of *force majeure* or overriding safety considerations;
- (b) to reduce or minimize the risk of pollution; or

- (c) to have deficiencies rectified,

where adequate measures to the satisfaction of the Department of Maritime Affairs have been implemented by the owner or the master of the ship to ensure safe entry.

#### **Professional Profile of Inspectors.**

**15.** (1) Inspections under these Regulations shall be carried out only by inspectors who fulfil the criteria specified in Schedule 7.

(2) Where an inspector does not possess the required professional expertise he or she shall be guided by any person with the required professional expertise.

(3) An inspector and any person assisting him or her shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall an inspector be employed by or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

(4) An inspector shall carry a personal document in the form of an identity card issued by the Department of Maritime Affairs, which shall include the following information—

- (a) the name of the issuing authority;
- (b) the full name of the holder of the identify card;
- (c) an up-to-date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card; and
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with shipping Convention enactments.

#### **Reports from Pilots and Port Authorities.**

**16.** (1) A Saint Christopher and Nevis pilot, engaged in the berthing or unberthing of a ship to which this Part applies in Saint Christopher and Nevis or engaged on such a ship bound for a port within a Member State, shall immediately inform the port authority or the Department of Maritime Affairs whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) Where a port authority, when exercising its normal duties, learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, that authority shall immediately inform the Department of Maritime Affairs.

#### **Publication of Detentions.**

**17.** (1) The Department of Maritime Affairs shall, as a minimum, publish quarterly information concerning ships to which this Part of the Regulations applies which have been detained during the previous 3-month period and which have been detained more than once during the past 24 months.

- (2) The information published shall include the following—
- (a) the name of the ship;
  - (b) the name of the shipowner or the operator of the ship;



- (c) the IMO number;
- (d) the Flag state;
- (e) the classification society, where relevant;
- (f) where applicable, any other Party which has issued certificates to such ship in accordance with the Conventions on behalf of the flag State;
- (g) the reason for the detention; and
- (h) the Port and date of detention.

#### **Reimbursement of Costs.**

**18.** (1) The costs of any inspection which results in the detention of a ship to which this Part applies, and any subsequent inspection relating to the deficiencies which led to the detention and all costs relating to any inspection carried out by the administration for the purposes of, or in connection with regulation 14 shall be charged to the owner or his or her representative in Saint Christopher and Nevis.

(2) Any detention made pursuant to these Regulations shall not be lifted until any fees payable in respect of any inspection leading to it or arising from it have been paid, or the Minister has been provided with sufficient security for the fees.

#### **Offences.**

**19.** (1) Where there is any contravention of a direction made pursuant to regulation 9 in respect of a ship, the owner and master of the ship commits an offence and is liable on summary conviction to a fine not exceeding Level 5 on the standard scale of fines as set out under section 452 (4) of the Act.

(2) Where a ship—

- (a) fails to proceed to the yard specified in regulation 14(1); or
- (b) enters a port in contravention of regulation 14(6) and (7),

the owner and master commit an offence and shall each be liable on summary conviction to a fine not exceeding Level 5 on the standard scale of fines as set out under section 452 (4) of the Act.

(3) Where a person obstructs an inspector or any person assisting the inspector he or she commits an offence and is liable on summary conviction to a fine not exceeding Level 2 on the standard scale of fines as set out under section 452 (4) of the Act.

(4) A pilot who contravenes regulation 16(1) or a port authority which contravenes regulation 16(1) or 16(2) commits an offence and is liable on summary conviction to a fine not exceeding Level 1 on the standard scale of fines as set out under section 452(4) of the Act.

(5) It shall be a defence for a person charged under this regulation to prove that the person charged took all reasonable steps to avoid committing the offence.

## PART III

## INSPECTION OF FAMILIARITY OF CREW WITH OPERATIONAL PROCEDURES

**Inspection of Operational Procedures.**

**20.** (1) Ships shall be subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship when—

- (a) in ports in Saint Christopher and Nevis; or
- (b) in the case of Saint Christopher and Nevis ships, when in ports elsewhere.

(2) A surveyor of ships may at all reasonable times go on board a ship and inspect the familiarity of the crew with essential procedures and operations relating to the safety of their ship.

---

**SCHEDULE 1 TO THE REGULATIONS**

## EXAMPLES OF “CLEAR GROUNDS” FOR A MORE DETAILED INSPECTION

*(Regulation 7)*

1. Ships identified in Schedule 2 with the exception of item No.1 in Schedule 2.
2. A report or notification by another Member State.
3. A report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Department of Maritime Affairs deems the report or complaint to be manifestly unfounded. The identity of the person lodging the report or the complaint must not be revealed to the master or the ship-owner of the ship concerned.
4. The ship has been involved in a collision on its way to the port.
5. The Oil Record Book has not been properly kept.
6. The ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents.
7. During examination of the certificates and other documentation, (see regulation 6(1)(a) and (2)), inaccuracies have been revealed.
8. Indications that the crew members are unable to comply with the requirements of the Conventions on the minimum level of training of seafarers.
9. Evidence of cargo and other operations not being conducted safely, or in accordance with IMO guidelines, e.g. the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level.
10. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage.
11. Absence of an up-to-date muster list, or crew members not aware of their duties in the event of fire or an order to abandon ship.

12. Deficiencies in regard to the operation and procedures of the ISM Code and the Safety Management System on board.
  13. Physical evidence of corrosion, wastage or heavy rusting of main decks, hatches and/or coamings or other structures.
- 

## SCHEDULE 2 TO THE REGULATIONS

### SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

*(Regulation 5(2))*

1. Ships visiting a port in the MOU region for the first time or after an absence of 12 months or more from a port in the MOU region.
  2. Ships which have been permitted to leave the port of a Member State on condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period.
  3. Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation pursuant to regulation 16.
  4. Ships which are in a category for which an expanded inspection is required by regulation 7.
  5. Ships which have been suspended from their class for safety reasons in the course of the preceding six months.
- 

## SCHEDULE 3 TO THE REGULATIONS

### LIST OF CERTIFICATES AND DOCUMENTS

*(Regulation 6(1))*

1. International Tonnage Certificate (1969).
2.
  - (a) Passenger Ship Safety Certificate;
  - (b) Cargo Ship Safety Construction Certificate;
  - (c) Cargo Ship Safety Equipment Certificate;
  - (d) Cargo Ship Safety Radiotelegraphy Certificate;
  - (e) Cargo Ship Safety Radiotelephony Certificate;
  - (f) Cargo Ship Safety Radio Certificate;
  - (g) Exemption Certificate;
  - (h) Cargo Ship Safety Certificate;
  - (i) Caribbean Cargo Ship Safety Certificate.
3. Cargo Securing Manual.
4. Cargo Record Book.
5. Cargo Information.

6. (a) International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;  
(b) Certificate of Fitness for the Carriage of Liquefied Gases in Bulk.
7. (a) International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;  
(b) Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.
8. International Oil Pollution Prevention Certificate.
9. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
10. Shipboard Marine Pollution Emergency Plan for Noxious Liquid Substances.
11. (a) International load line certificate (1966); or  
(b) International Load Line Exemption Certificate.
12. Oil Record Book, Parts I and II.
13. (a) Minimum Safe Manning Document;  
(b) Certificates of Competency including dangerous goods endorsement.
14. Medical Certificates, (ILO Convention No. 73 concerning Medical Examination of Seafarers).
15. Stability information including grain loading information and document of authorisation.
16. Copy of Document of Compliance and Certificate issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (IMO Resolution A.741 (18) as amended).
17. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question, only to be required where the ship maintains its class with a classification society.
18. Intact Stability Booklet.
19. Damage control plans and booklets.
20. Fire safety training manual.
21. Fire Control plan/booklet.
22. Fire safety operational booklet.
23. On board training and drills record.
24. Certificates for masters, officers or ratings.
25. Shipboard Oil Pollution Emergency Plan.
26. International Sewage Pollution Prevention Certificate.
27. Garbage Management Plan.
28. Garbage Record Book.
29. Voyage data recorder system-certificate of compliance.
30. Document of Compliance.
31. Safety Management Certificate.

32. International Ship Security Certificate (ISSC) or Interim International Ship Security Certificate.
33. Ship Security Plan and associated records.
34. Continuous Synopsis Record (CSR).
35. Special Trade Passenger Ship Safety Certificate, Special Trade Passenger Ship Space Certificate.
36. Search and rescue co-operation plan.
37. List of operational limitations.
38. Decision support system for masters.
39. Document of authorisation for the carriage of grain.
40. Certificate of insurance or other financial security in respect of civil liability for oil pollution damage (1969).
41. Certificate of insurance or other financial security in respect of civil liability for oil pollution damage(1992).
42. Enhanced survey report file.
43. Record of oil discharge monitoring and control system for the last ballast voyage.
44. Bulk Carrier Booklet.
45. Dedicated Clean Ballast Tank Operation Manual.
46. Crude Oil Washing Operation and Equipment Manual (COW Manual).
47. Condition Assessment Scheme (CAS) Statement of Compliance, CAS Final Report and Review Record.
48. Hydrostatically Balanced Loading (HBL) Operational Manual.
49. Oil Discharge Monitoring and Control (ODMC) Operational Manual.
50. Subdivision and stability information.
51. Procedures and Arrangements Manual (P & A Manual).
52. High-Speed Craft Safety Certificate.
53. Permit to Operate High-Speed Craft.
54. Document of compliance with the special requirements for ships carrying dangerous goods.
55. Dangerous goods manifest or stowage plan.
56. International Certificate of Fitness for the Carriage of INF Cargo.
57. A Nuclear Cargo Ship Safety Certificate or Nuclear Passenger Ship Safety Certificate, in place of the Cargo Ship Safety Certificate or Passenger Ship Safety Certificate, as appropriate.
58. Special Purpose Ship Safety Certificate.
59. Certificate of Fitness for Offshore Support Vessels.
60. Diving System Safety Certificate.
61. Dynamically Supported Craft Construction and Equipment Certificate.

62. Mobile Offshore Drilling Unit Safety Certificate.
  63. Wing-in-ground Craft Safety Certificate.
  64. Permit to Operate WIG Craft.
  65. Noise Survey Report.
- 

## SCHEDULE 4 TO THE REGULATIONS

### PROCEDURES FOR THE CONTROL OF SHIPS

#### *(Regulation 6(4))*

1. Procedures for Port State Control (IMO Resolutions A. 787(19) and A.882(20), as amended).
  2. Principles of Safe Manning (IMO Resolution A.890(21) revoked) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2).
  3. Procedures for the Control of Ships and Discharges under Annex 11 to MARPOL 73/78 (IMO Resolution MEPC 26 (23)).
  4. The Provisions of the International Maritime Dangerous Goods Code.
  5. International Labour Organization (ILO) publication “Inspection of Labour Conditions on Board Ship: Guidelines for Procedure”.
  6. Annex 1 to the Caribbean MOU Guidelines for Surveyors.
  7. Procedures for the Control of Ships and Discharges under Annex I to MARPOL 73/78.
  8. Procedures for the Safe Operation of Ships and Pollution Prevention (The ISM Code).
  9. Procedures for the Integrated System of Contingency Planning for Ships Emergencies, Resolution A.852 (20).
- 

## SCHEDULE 5 TO THE REGULATIONS

### SECTION A

#### CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION

#### *(Regulation 7(1))*

1. Oil tankers, 5 years or less from the date of phasing out in accordance with MARPOL 73/78, Annex 1, Regulation 13G, i.e.
  - (a) a crude oil tanker of 20,000 tonnes deadweight and above or a product carrier of 30,000 tonnes deadweight and above, not meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years after that date, if the ship's wing tanks or

- double-bottom spaces not used for the carriage of oil meet the requirements of Regulation 13G(4) of the Annex, unless it has been reconstructed to comply with Regulation 13F of the same Annex;
- (b) an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex;
2. Bulk carriers, older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates;
  3. Passenger ships;
  4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

## SECTION B

NON-MANDATORY GUIDELINES FOR EXPANDED INSPECTION OF  
CERTAIN CATEGORIES OF SHIPS*(Regulation 7(1))*

To the extent applicable the following items may be considered as part of an expanded inspection but Inspectors must be aware that it may jeopardize the safe execution of certain on-board operations, e.g. cargo operation, if tests having a direct effect thereon, are required to be carried out during such operations.

1. SHIPS IN GENERAL (CATEGORIES IN SECTION A)
  - (a) Black-out and start of emergency generator;
  - (b) Inspection of emergency lighting;
  - (c) Operation of emergency fire-pump with two fire hoses connected to the fire main-line;
  - (d) Operation of bilge pumps;
  - (e) Closing of watertight doors;
  - (f) Lowering of one seaside lifeboat to the water;
  - (g) Test of remote emergency stop for e.g. boilers, ventilation and fuel pumps;
  - (h) Test of steering gear including auxiliary steering gear;
  - (i) Inspection of emergency source of power to radio installations;
  - (j) Inspection and, to the extent possible, test of engine-room oily water separator.
2. OIL TANKERS

In addition to the items listed under paragraph 1, the following items may also be considered as part of the expanded inspection for oil tankers—

- (a) Fixed-deck foam system;
- (b) Fire-fighting equipment in general;

- (c) Inspection of fire dampers to engine room, pump room and accommodation;
- (d) Control of pressure of inert gas and oxygen content thereof;
- (e) Check of the Survey Report File (see Resolution A.744(18)) to identify possible suspect areas requiring inspection.

### 3. BULK CARRIERS

In addition to the items listed under paragraph 1, the following items may also be considered as part of the expanded inspection for bulk carriers—

- (a) Possible corrosion of deck machinery foundations;
- (b) Possible deformation and/or corrosion of hatch covers;
- (c) Possible cracks or local corrosion in transverse bulkheads;
- (d) Access to cargo holds;
- (e) Check of the Survey Report File, (see IMO Resolution A.744(18)) to identify possible suspect areas requiring inspection.

### 4. GAS AND CHEMICAL TANKERS

In addition to the items listed under paragraph 1, the following items can also be considered as part of the expanded inspection for gas and chemical tankers—

- (a) Cargo tank monitoring and safety devices relating to temperature, pressure and ullage;
- (b) Oxygen analysing and explosimeter devices, including their calibration. Availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried;
- (c) Cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable);
- (d) Check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable;
- (e) The fixed fire-fighting installations on deck whether they be foam or dry chemical or other as required by the product carried.

### 5. PASSENGER SHIPS

In addition to the items listed under paragraph 1, the following items may also be considered as part of the expanded inspection for passenger ships—

- (a) Testing of fire detection and alarm system;
- (b) Testing of proper closing of fire doors;
- (c) Test of public address system;
- (d) Fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part;
- (e) Demonstration that key crew members are acquainted with the damage control plan.



Where deemed appropriate the inspection may be continued while the ship is on passage to or from the port in Saint Christopher and Nevis, with the consent of the shipmaster or the operator. Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgment could endanger the safety of the passengers, the crews and the ship.

## SCHEDULE 6 TO THE REGULATIONS

### CRITERIA FOR DETENTION OF A SHIP

*(Regulation 9)*

#### **Introduction**

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector must apply the criteria mentioned below in paragraphs 1 and 2.

Section 3 includes examples of deficiencies that may of themselves warrant detention of the ship involved (see regulation 9).

#### **1. Main Criteria**

When exercising his or her professional judgment as to whether or not a ship should be detained the inspector must apply the following criteria:

Timing:

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

Criterion:

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself or herself that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the Department of Maritime Affairs must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

#### **2. Application of main criteria**

When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether—

1. The ship has relevant, valid documentation.
2. The ship has the crew required in the Minimum Safe Manning Document.

During inspection the inspector must further assess whether the ship and/or crew is able to—

3. Navigate safely throughout the forthcoming voyage.
4. Safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage.
5. Operate the engine room safely throughout the forthcoming voyage.

6. Maintain proper propulsion and steering throughout the forthcoming voyage.
7. Fight fires effectively in any part of the ship if necessary during the forthcoming voyage.
8. Abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage.
9. Prevent pollution of the environment throughout the forthcoming voyage.
10. Maintain adequate stability throughout the forthcoming voyage.
11. Maintain adequate watertight integrity throughout the forthcoming voyage.
12. Communicate in distress situations if necessary during the forthcoming voyage.
13. Provide safe and healthy conditions on board throughout the forthcoming voyage.

Where the answer to any of these assessments is negative, taking into account all deficiencies found, the ship must be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

### 3. Use of these guidelines

To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions and/or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

#### 3.1 General

The lack of valid certificates as required by the relevant instruments. However, ships flying the flag of States not party to a Convention (relevant instrument) or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in applying the “no more favourable treatment” clause, substantial compliance with the provisions is required before the ship sails.

#### 3.2 Areas under the SOLAS Convention.

1. Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.
2. Insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.
3. Failure of the proper operation of emergency generator, lighting, batteries and switches.
4. Failure of the proper operation of the main and auxiliary steering gear.
5. Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.

6. Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.
  7. Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
  8. Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
  9. Absence or failure of the proper operation of the radio equipment for distress and safety communication.
  10. Absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS Regulation V/12(o) into account.
  11. Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.
  12. Absence of non-sparking exhaust ventilation for cargo pump rooms (SOLAS Regulation II-2/59.3.1).
- 3.3 Areas under the IBC Code (References are given in brackets)
1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (16.2)
  2. Missing or damaged high-pressure safety device (8.2.3.)
  3. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.3)
  4. Sources of ignition in hazardous locations referred to in 10.2 (11.3.15)
  5. Contraventions of special requirements (15)
  6. Exceeding of maximum allowable cargo quantity per tank (16.1)
  7. Insufficient heat protection for sensitive products (16.6)
- 3.4 Areas under the IGC Code (References are given in brackets)
1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (18.1)
  2. Missing closing devices for accommodations or service spaces (3.2.6)
  3. Bulkhead not gastight (3.3.2)
  4. Defective air locks (3.6)
  5. Missing or defective quick-closing valves (5.6)
  6. Missing or defective safety valves (8.2)
  7. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.4)
  8. Ventilators in cargo area not operable (12.1)

9. Pressure alarms for cargo tanks not operable (13.4.1)
  10. Gas detection plan and/or toxic gas detection plant defective (13.6)
  11. Transport of substances to be inhibited without valid inhibitor certificate (17/19)
- 3.5 Areas under the LOAD LINES Convention
1. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.
  2. A recognised case of insufficient stability.
  3. The absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.
  4. Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
  5. Overloading.
  6. Absence of draft mark or draft mark impossible to read.
- 3.6 Areas under the MARPOL Convention, Annex I (References are given in brackets)
1. Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
  2. Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
  3. Oil Record Book not available. (20(5)).
  4. Unauthorised discharge bypass fitted.
- 3.7 Areas under the MARPOL Convention, Annex II (References are given in brackets)
1. Absence of the P & A Manual.
  2. Cargo is not categorised. (3(4))
  3. No cargo record book available. (9)
  4. Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate. (14)
  5. Unauthorised discharge by-pass fitted.
- 3.8 Areas under the STCW Convention
1. Number, composition or certificate of crew not corresponding with safe manning document.
  2. Any suspect fraudulent certificate to be checked with issuing Authority

### 3.9 Areas under the ILO Conventions

1. Insufficient food for voyage to next port. (Convention 68 Article 5(2)(a))
2. Insufficiency portable water for voyage to next port. (Convention 68 Article 5(2)(a))
3. Excessively unsanitary conditions on board.
4. No heating in accommodation of a ship operating in areas where temperatures may be excessively low. (Convention 92 Article 8)
5. Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations. (Convention 134 Art 4).
6. Cranes, winches and anchors not working correctly or badly maintained.

### 3.10 Areas which may not warrant a detention, but where e.g. cargo operation have to be suspended.

Failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.

### 3.11 Areas under the CCSS Code

See paragraphs 3.2 and 3.5.

---

## SCHEDULE 7 TO THE REGULATIONS

### MINIMUM CRITERIA FOR INSPECTORS

*(Regulation 15(1))*

1. The inspector must be authorised to carry out port state control by the competent authority of Saint Christopher and Nevis.
2. Either—
  - (a) the inspector must have completed a minimum of one year's service as a flag State inspector dealing with surveys and certification in accordance with the Conventions and be in possession of—
    - (i) a certificate of competency as a master, enabling that person to take command of a ship of 1,600 GT or more (see STCW, regulation II/2); or
    - (ii) a certificate of competency as chief engineer enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 KW, (see STCW, regulation III/2); or
    - (iii) have passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years.

- (b) The inspectors mentioned under (a) and (b) must have served for a period of not less than five years at sea as officer in the deck or engine-department respectively.

Or—

The inspector must—

- (a) hold a relevant university degree or an equivalent training, and
- (b) have been trained and qualified at a school for ship safety inspectors, and
- (c) have served at least two years as a flag State inspector dealing with surveys and certification in accordance with the Conventions.

Or—

Where the class or classes of ship are specified, for the inspector to have successfully completed an approved course for ship safety and port state control inspectors.

3. Ability to communicate orally and in writing with seafarers in the language most commonly spoken at sea.
4. Appropriate knowledge of the provisions of the international conventions, the CCSS Code, national legislation and of the relevant procedures on port state control.

*(Inserted by S.R.O. 34/2008)*

## SIXTEENTH SCHEDULE

*(Section 456)*

### MERCHANT SHIPPING (ACCIDENT REPORTING AND PUBLICATION) REGULATIONS

#### **Citation.**

1. These Regulations may be cited as the Merchant Shipping (Accident Reporting and Publication) Regulations.

#### **Interpretation.**

2. (1) In these Regulations—

“access” means the process of embarking on or disembarking from a ship, by whatever means employed;

“accident” means any contingency caused by an event on board a ship or involving a ship whereby—

- (a) there is loss of life or major injury to any person on board, or any person is lost from a ship or a ship’s boat;
- (b) a ship is lost or presumed to be lost or is abandoned or materially damaged;
- (c) a ship strands or is in collision;

- (d) a ship is disabled;
- (e) any material damage is caused by a ship; or
- (f) any of the following occur—
  - (i) a collapse or bursting of any pressure vessel, pipeline or valve;
  - (ii) a collapse or failure of any lifting equipment, access equipment, hatch- cover, staging or boatswain's chair or any associated load-bearing parts;
  - (iii) a collapse of cargo, unintended movement of cargo or ballast sufficient to cause a list, or loss of cargo overboard;
  - (iv) a snagging of fishing gear which results in the vessel heeling to a dangerous angle;
  - (v) a contact by a person with loose asbestos fibre except when full protective clothing is worn; or
  - (vi) an escape of any harmful substance or agent; where the occurrence, taking into account its circumstances, might have been liable to cause serious injury or to cause damage to the health of any person;

“Act” means the Merchant Shipping Act, Cap. 7.05;

“dangerous occurrence” means any occurrence of a kind specified in the Schedule hereto;

“disabled” means—

- (i) not under command for a period of more than 12 hours; or
- (ii) not under command for any lesser period where, as a result, the vessel needs assistance to reach port;

“grounding” means making involuntary contact with the ground, except for touching briefly so that no damage is caused, and “goes aground” shall be construed accordingly;

“incapacity” means inability to undertake the full range of activities normally undertaken;

“inquiry” means a preliminary inquiry pursuant to section 422(1) of the Act;

“major injury” means—

- (a) any fracture, other than to the fingers or toes;
- (b) any loss of a limb or part of a limb;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight (whether temporary or permanent);
- (e) penetrating injury to the eye; or
- (f) any other injury—
  - (i) leading to hypothermia or to unconsciousness;
  - (ii) requiring resuscitation; or

- (iii) requiring admittance to hospital or to an offshore sick-bay for more than 24 hours or where at sea requiring confinement to bed for more than 24 hours;

“serious injury” means an injury, other than a major injury, to a person employed or carried in a Saint Christopher and Nevis ship which occurs on board or during access which results in incapacity for more than three consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without him, unless the incapacity is known or advised to be of three consecutive days or less excluding the day of the accident;

“ship’s boat” includes a life raft, painting punt and any boat normally carried by a ship;

“strands” means goes aground and cannot immediately re-float.

(2) Where a ship is managed by a person other than her owner or some other person, or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

#### **Application.**

3. (1) These Regulations apply to accidents involving or occurring on board—

- (a) any Saint Christopher and Nevis ship; and
- (b) any other ship within the waters of Saint Christopher and Nevis.

(2) These Regulations shall apply in respect of serious injuries as they apply in respect of accidents.

#### **Duty to report accidents, dangerous occurrences and serious injuries.**

4. (1) Subject to sub-regulations (2), (3) and (7), when an accident occurs the master shall send a report to the Director as soon as is practicable by the quickest means available and in any case not later than 24 hours after the ship next arrives at a port.

(2) Where a ship is lost or presumed lost or is abandoned, then such a report shall be sent by the owner, the master, or a senior surviving officer as soon as is practicable by the quickest means available.

(3) Subject to sub-regulation (8), the master shall report every serious injury to the Director within 14 days of its happening or, where the ship is at sea, within 14 days of its arrival at the next port of call.

(4) The Registrar shall make report forms available on a website for use by those making reports under this regulation.

(5) The following reports shall be regarded as complying with this regulation—

- (a) a report made to the Department of Maritime Affairs;
- (b) a report made to the Registrar;
- (c) a report made to a surveyor of ships appointed pursuant to section 411 or surveyor pursuant to section 181 of the Act.

(6) The master shall, so far as is reasonably practicable, ensure that the circumstances of every accident involving death, major injury or serious injury are examined.



(7) The owner or master shall on request provide the Director with a report in addition to any report made under the preceding sub-regulations, giving the findings of the examination referred to in sub-regulation (6) and stating any measures taken or proposed to prevent a recurrence.

(8) No report made under this regulation shall be admissible in evidence against the maker in any proceedings except proceedings in pursuance of regulation 9(1).

#### **Preservation of evidence.**

5. The owner and master shall so far as is possible ensure that all charts, log books and other records and documents which might reasonably be considered pertinent to an accident reportable under regulation 4 shall be kept and no alteration shall be made to entries therein, and any equipment which might reasonably be considered pertinent to such an accident shall so far as is practicable be left undisturbed, until either—

- (a) where notification is received from the Director that an inquiry will take place, the Director or the person carrying out the inquiry indicates that he no longer requires them; or
- (b) where no such notification is received, three months after the accident.

#### **Release of information during inquiry.**

6. The Director may at any time during the course of any inquiry release information as to material facts where in his opinion it is necessary or desirable to do so.

#### **Procedure where inquest is held.**

7. (1) Where an inquest is to be held following an accident which is or has been the subject of an inquiry, a report of the inquiry may be made available for the inquest by the Director.

(2) The confidentiality of the report shall be at the discretion of the Director.

#### **Summaries of investigations.**

8. (1) A summary report of any inquiry may be published.

(2) The Director may prepare and publish from time to time collective summaries of inquiries or of reports received of accidents and serious injuries.

(3) A summary of the circumstances of any accident which has been the subject of an inquiry shall be made available to any person requesting it who satisfies the Director of his legitimate interest.

(4) A summary shall not be published or otherwise made available where prosecution against any person in connection with the subject accident has begun, unless the Director is satisfied that nothing in its content would prejudice a fair trial.

#### **Penalties.**

9. (1) Where a master, owner or officer fails without reasonable cause to make a report as required by regulation 4, he shall be guilty of an offence and liable to a fine not exceeding Level 1 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act.

(2) Where any person fails without reasonable cause to comply with regulation 5 he shall be guilty of an offence and liable to a fine not exceeding Level 2 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act.

**Dangerous occurrences.**

**10.** A dangerous occurrence is an occurrence specified in the Schedule.

**SCHEDULE**

*(Regulation 10)*

**DANGEROUS OCCURRENCES**

Failure of any load bearing part of any lifting machinery (includes lifts, hoists, cradles, access platforms).

Pressure systems -The failure of any closed vessel (including a boiler or boiler tube) or associated pipe work.

Electrical short circuits or overloads attended by fire or explosion which causes stoppage of plant involved for more than 24 hours, or has the potential to cause the death of a person.

Explosions or fires caused by explosion.

Escape of dangerous substances, including poisons, flammable and biological substances in a quantity sufficient to cause the death, major injury or any other damage to the health of any person.

Any incident in which breathing apparatus malfunctions—

- (a) while in use; or
- (b) during testing immediately prior to use in such a way that had the malfunction occurred while the apparatus was in use it would have posed a danger to the health or safety of the user.

(This paragraph shall not apply to breathing apparatus while it is being maintained or tested as part of a routine maintenance procedure.)

Any of the following incidents in relation to a diving operation—

- (a) the failure or the endangering of—
  - (i) any lifting equipment associated with the diving projects; or
  - (ii) life support equipment, including control panels, hoses and breathing apparatus,

which puts a diver at risk;

- (b) any damage to, or endangering of the dive platform, or any failure of the dive platform to remain on station, which puts a diver at risk;
- (c) the trapping of a diver;
- (d) any explosion in the vicinity of a diver; or

- (e) any uncontrolled ascent or any omitted decompression which puts a diver at risk.

The complete or partial collapse of—

- (a) any scaffold which is—
  - (i) more than 5 metres in height which results in a substantial part of the scaffold falling or overturning; or
  - (ii) erected over or adjacent to water in circumstances such that there would be a risk of drowning to a person falling from the scaffold into the water; or
- (b) the suspension arrangements (including any outrigger) of any slung or suspended scaffold which causes a working platform or cradle to fall.

The following incidents in respect of a pipeline or pipeline works—

- (a) the uncontrolled or accidental escape of anything from, or inrush of anything into, a pipeline which has the potential to cause the death of, major injury or damage to the health of any person;
- (b) the unintentional ignition of anything in a pipeline or of anything which, immediately before it was ignited, was in a pipeline;
- (c) any damage to any part of a pipeline which has the potential to cause the death of, major injury or damage to the health of any person;
- (f) any failure of any pipeline isolation device, equipment or system which has the potential to cause the death of, major injury or damage to the health of any person; or
- (g) any failure of equipment involved with pipeline works which has the potential to cause the death of, major injury or damage to the health of any person.

Any collision between a vessel and another vessel or between a vessel and a shore facility or an offshore installation and any standing or grounding, any of which results in damage to the vessel or the shore facility or offshore installation.

Any occurrence with the potential for a collision between a vessel and an offshore installation where, had a collision occurred, it would have been liable to jeopardise the overall structural integrity of the offshore installation.

Any of the following occurrences having the potential to cause death or major injury—

- (a) the failure of equipment required to maintain a floating offshore installation on station;
- (b) the dropping of any object on an offshore installation or on an attendant vessel or into the water adjacent to an installation or vessel; or
- (c) damage to a vessel or on an offshore installation caused by adverse weather conditions.

Any incident involving loss of stability or buoyancy of a vessel or floating offshore installation.

Any evacuation of a vessel or of an offshore installation, in whole or part, in the interests of safety.

Any case of a person falling more than 2 metres into water.  
(Inserted by S.R.O. 15/2012)

## SEVENTEENTH SCHEDULE

(Section 456)

### MERCHANT SHIPPING (MEDICAL EXAMINATION) REGULATIONS

#### Citation.

1. These Regulations may be cited as the Merchant Shipping (Medical Examination) Regulations.

#### Interpretation.

2. (1) In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“approved medical practitioner” for the purposes of these Regulations means a medical practitioner qualified under the Medical Act or other legislation in Saint Christopher and Nevis or the equivalent National legislation in the practitioner’s home country or country that has issued his medical qualifications where those countries are a signatory to the Medical Examination (Seafarers) Convention 1946 (International Labour Organization Convention 73 of 1946) or the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organization Convention 147 of 1976) or the International Labour Organization Maritime Labour Convention 2006 (MLC 2006);

“authorised person” means a person authorised in writing by or on behalf of the Director or the Designated Authority for the purpose of these Regulations;

“chemical” means any liquid product listed in Chapter 17 of the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (IBC Code) and includes products not so listed but which have been accepted for carriage in chemical tankers under International Maritime Organization guidelines, pending their inclusion in Chapter 17 of the Code;

“GT” means gross registered tons as defined in the tonnage regulations;

“medical fitness certificate” means a certificate issued under regulation 5, whether or not subject to restrictions, or a certificate deemed to be equivalent thereto under regulation 6 or 7;

“offshore installation” means a fixed or floating platform capable of engaging in operations for the exploration or exploitation of resources beneath the seabed, whether on location or not;

“Shipping Notice” means a Notice described as such, issued by the Director and includes a reference to any document amending that Notice which is considered by the Minister to be relevant from time to time and is specified in a Shipping Notice;

“surveyor” means a surveyor appointed by a Certifying Authority or a surveyor of ships appointed pursuant to section 411 of the Act.

(2) Any approval in pursuance of these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

### **Application.**

3. (1) These Regulations apply to sea-going Saint Christopher and Nevis ships.

(2) Regulations 13 and 14 apply to sea-going foreign ships when they are in a Saint Christopher and Nevis port or Saint Christopher and Nevis waters, being ships which are of 100 GT or over other than fishing vessels and pleasure craft and offshore installations whilst on their working stations.

### **Prohibition on employment.**

4. (1) Subject to sub-regulation (6), no person shall employ a seafarer in a ship unless that seafarer is the holder of a valid medical fitness certificate.

(2) Any seafarer who has served at sea on a Saint Christopher and Nevis ship at any time during one year immediately preceding the coming into force of these Regulations may continue his seagoing employment without such a medical fitness certificate for a period of one year from that date.

(3) Any seafarer, the validity of whose certificate expires while he is in a location where medical examination in accordance with these Regulations is impracticable, may continue to be employed without such a certificate for a period not exceeding three months from the date of expiry of such medical certificate.

(4) Subject to sub-regulation (6), no person shall employ a seafarer in a ship in a capacity or in a geographical area precluded by any restriction in that seafarer's medical fitness certificate.

(5) Subject to sub-regulation (6), no person shall employ a seafarer in a ship carrying chemicals in bulk unless that seafarer is the holder of a valid medical fitness certificate issued in respect of a medical examination undertaken not more than twelve months previously, notwithstanding that the period of validity specified in the medical fitness certificate may exceed twelve months.

(6) Sub-regulations (1), (4) and (5) shall not apply to the employment of—

- (a) a pilot who is not a member of the crew;
- (b) a person employed in a ship or offshore installation solely in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
- (c) a person solely employed in work directly related to—
  - (i) the exploration of the seabed or subsoil or the exploitation of their natural resources;
  - (ii) the storage of gas in or under the seabed or the recovery of gas so stored;
  - (iii) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine telegraph cable; or
  - (iv) pipe-line works, including the assembling, inspection, testing, maintaining, adjusting, repairing, altering, renewing, changing the position of, or dismantling a pipe-line or length of pipe-line,

who is not engaged in the navigation of the ship or in the deck, engine room, radio, medical or catering department of that ship or offshore installation;

- (d) a person employed in a port who is not ordinarily employed at sea; or
- (e) a person employed in a ship or offshore installation solely to provide goods, personal services or entertainment on board who is not employed by the owner or the person employing the master of the ship and has no emergency safety responsibilities.

#### **Issue of medical fitness certificates.**

5. (1) Every applicant for a medical fitness certificate shall be examined by an approved medical practitioner.

(2) Where, upon such examination, the approved medical practitioner considers that the applicant is fit, having regard to the medical standards specified in Schedule 1, he shall issue the applicant with a medical fitness certificate in the form set out in Schedule 2 or an equivalent form, which is acceptable to the Director, according to the National Regulations for Medical Examination of Seafarers in the approved medical practitioner's practising country and that certificate may be restricted to such capacity of sea service or geographical area as the approved medical practitioner considers appropriate.

(3) Where the approved medical practitioner considers that an applicant has failed to meet the required medical standards, he shall give to that applicant notice of such failure in the form set out in Schedule 3 or an equivalent form, which is acceptable to the Director, according to the National Regulations for Medical Examination of Seafarers in the practitioner's practising country.

#### **Certificate equivalent.**

6. (1) Subject to sub-regulation (2), any certificate of medical and visual fitness for seafaring employment issued by an approved medical practitioner to a seafarer in respect of a medical examination conducted before the coming into force of the Regulations shall be deemed for the purposes of these Regulations to be equivalent to a medical fitness certificate issued under these Regulations.

(2) Any such certificate issued by an approved medical practitioner shall remain valid from the date of the medical examination only for the appropriate maximum period, according to the age of the seafarer, prescribed in regulation 8, or for such lesser period as may be specified in the certificate.

#### **Certificates issued by foreign states.**

7. Any medical fitness certificate issued to a seafarer in accordance with the Medical Examination (Seafarers) Convention 1946 (International Labour Organisation Convention 73 of 1946) or the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147 of 1976) or the International Labour Organisation Maritime Labour Convention 2006 (MLC 2006)—

- (a) by an authority empowered in that behalf by the laws of the country outside Saint Christopher and Nevis which is a party to either of those Conventions; or
- (b) by an approved authority empowered in that behalf by the laws of any other country outside Saint Christopher and Nevis,

shall be deemed for the purposes of these Regulations to be equivalent to a medical fitness certificate issued under these Regulations.

**Period of validity.**

**8.** An approved medical practitioner who issues a medical fitness certificate under regulation 5 shall specify the period of validity of the certificate commencing with the date of the medical examination subject to the following maximum periods—

- (a) in respect of seafarers under 18 years of age, one year;
- (b) in respect of seafarers 18 years of age and over, two years;
- (c) in respect of colour vision certificates for a maximum of six years.

**Suspension or cancellation of certificate.**

**9.** Where an approved medical practitioner has reasonable grounds for believing that—

- (a) there has been a significant change in the medical fitness of a seafarer during the period of validity of his medical fitness certificate; or
- (b) when the medical fitness certificate was issued the approved medical practitioner, had he been in possession of full details of the seafarers condition, could not reasonably have considered that the seafarer was fit, having regard to the medical standards referred to in regulation 5; or
- (c) the medical fitness certificate was issued otherwise than in accordance with these Regulations,

he shall notify the seafarer concerned and may—

- (i) suspend the validity of the certificate until the seafarer has undergone a further medical examination;
- (ii) suspend the certificate for such period as he considers the seafarer will remain unfit to go to sea; or
- (iii) cancel the certificate where he considers that the seafarer is likely to remain permanently unfit to go to sea.

**Application for review.**

**10.** (1) Subject to sub-regulation (2), a seafarer who is aggrieved by—

- (a) the refusal of an approved medical practitioner to issue him with a medical fitness certificate; or
- (b) any restriction imposed on such a certificate; or
- (c) the suspension of a certificate for a period of more than three months or cancellation of a certificate pursuant to regulation 9,

may apply to the Director or if the Director so directs, the Registrar, for the matter to be reviewed by a single referee appointed by the Director.

(2) An application for a review shall be in the form set out in Schedule 4 and made only by—

- (a) a seafarer who has served at sea on a Saint Christopher and Nevis ship at any time during the two years immediately preceding the date on which these regulations come into operation; or
  - (b) a seafarer who has held a valid medical fitness certificate at any time during the two years immediately preceding that refusal, imposition of a restriction, suspension or cancellation.
- (3) Any such application shall—
- (a) be submitted to the Director or if the Director so directs, the Registrar, within one month of the date on which the seafarer is given notice of the refusal, imposition of a restriction, suspension or cancellation, or such longer period as the Director may determine, where the delay is caused by the seafarer's employment on board ship away from Saint Christopher and Nevis; and
  - (b) include the applicant's consent for the approved medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee, and specify the name and address of that practitioner.
- (4) The medical referee to whom the matter is referred by the Director or if the Director so directs, the Registrar, shall—
- (a) obtain a report from the approved medical practitioner by whom the applicant was examined and shall examine the medical condition of the applicant;
  - (b) where the applicant so requests, disclose to the applicant the report of the approved medical practitioner and any other evidence not produced by the applicant himself but such disclosure is not required to be made, where the medical referee considers that disclosure would be harmful to the applicant's health;
  - (c) have regard to any relevant medical evidence, whether produced by the applicant, his employer, or otherwise, and whether or not disclosed as aforesaid.
- (5) In the light of the medical evidence before him, the medical referee shall, where he considers that the applicant is fit having regard to the medical standards referred to in regulation 5, issue the applicant with a medical fitness certificate in the approved form.
- (6) Where the medical referee considers that restrictions should be imposed as to capacity or geographical area other than those imposed on the medical fitness certificate issued to the applicant or that any restrictions so imposed should be deleted or varied, he shall issue to the applicant, a revised medical fitness certificate and the former certificate shall thereupon cease to have effect and in any other case, he shall notify the applicant of his decision.
- (7) Action by the medical referee under sub-regulation (5) or (6) shall be taken not later than two months from the date on which the application for review is submitted to the Director or if the Director so directs, the Registrar, who shall notify the medical referee of the date, or within such longer period as the Director may determine.



**Records.**

**11.** Any approved medical practitioner who conducts a medical examination in accordance with these Regulations shall—

- (a) make a report in the form set out in Schedule 5 of each such medical examination; and
- (b) retain a record of each report of the medical examination for a period of six years.

**Inspection and detention of Saint Christopher and Nevis ship.**

**12.** (1) An authorised person or surveyor may inspect any Saint Christopher and Nevis ship to which these Regulations apply and may detain the ship where upon inspection the authorised person or surveyor is satisfied that—

- (a) any seafarer whose employer is required by regulation 4 to ensure that he is the holder of a medical fitness certificate is unable to produce such a certificate; and
- (b) the state of his health is such that the ship could not sail without serious risk to the safety and health of those on board.

(2) The authorised person or surveyor shall not in the exercise of these powers detain or delay the ship unreasonably.

**Inspection and detention of foreign ship.**

**13.** (1) An authorised person or surveyor duly authorised by the Director may inspect any foreign ship to which these Regulations apply when the ship is in a Saint Christopher and Nevis port, and where he is satisfied that any seafarer is unable to produce a valid medical fitness certificate he may—

- (a) send a report to the Director;
- (b) subject to sub-regulation (2), where he is satisfied that conditions on board are hazardous to safety or health—
  - (i) take such measures as are necessary to rectify those conditions; and
  - (ii) detain the ship.

(2) Measures referred to in sub-regulation (1)(b) may be taken only when the ship has called at a Saint Christopher and Nevis port in the normal course of business or for operational reasons.

(3) Where an authorised person or surveyor takes either of the measures specified in sub-regulation (1)(b), on receipt of his report, the Director, shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag state of the ship and send a copy of the report to the Director General of the International Labour Office and the Secretary General of the International Maritime Organisation.

(4) Sections 436 and 437 of the Act shall have effect in relation to a ship detained under these Regulations.

**Penalties.**

14. (1) An employer who contravenes regulation 4 shall be guilty of an offence and liable to a fine not exceeding Level 3 on the standard scale of fines as set out under the Merchant Shipping Act, Cap. 7.05, section 452(4).

(2) In any proceedings for an offence under these Regulations it shall be a defence for the employer to show that all reasonable steps had been taken by him to ensure compliance with the Regulations.

---

**SCHEDULE 1**

*(Regulation 5(2))*

**MEDICAL AND EYESIGHT STANDARDS FOR SEAFARERS****PART I****GENERAL****Introduction**

1.1.1 The medical and eyesight standards are framed to provide the maximum flexibility in their interpretation compatible with ensuring the health of the individual seafarer and maintaining the safety of ships at sea.

1.1.2 It is clearly not possible to cover every condition within the specified standards. As a general principle the medical examiner should be satisfied in each case that no disease or defect is present which could either be aggravated by working at sea or represent an unacceptable health risk to the individual seafarer, other crew members or the safety of the ship.

1.1.3 Apart from the purely medical aspects, the occupational circumstances which apply at sea should be fully considered, especially in any borderline case. Particular factors to be taken into account are—

- .1 the potentially hazardous nature of seafaring, which calls for a high standard of health and continuing fitness;
- .2 the restricted medical facilities likely to be available on board ship; few ships carry doctors, medical supplies are limited, and there will be a delay before full medical treatment is available;
- .3 the possible difficulty of providing/replacing required medication; as a general rule a seafarer should not be accepted if the loss of a necessary medicine could precipitate the rapid deterioration of a condition;
- .4 the confined nature of life on board ship and the need to be able to live and work in a closed community;
- .5 the limited crew complements which means that illness of one crew member may place a burden on others or impair the safe and efficient working of the ship;
- .6 the potential need for crew members to play a role in an emergency drill, which may involve strenuous activity in adverse conditions;

- .7 since many seafarers will need to join and leave ships by air, they should be free from any condition which precludes air travel or could be seriously affected by it, such as pneumothorax or conditions which predispose to barotrauma.

1.1.4 Seafarers attending a medical examination should produce personal identification. The examining doctor should be satisfied that no condition is present which is likely to lead to problems during voyages and no treatment is being followed which might cause adverse side effects. It would be unsafe practice to allow a seafarer to go to sea with any known medical condition where there was the possibility of serious exacerbation requiring expert treatment. Where medication is acceptable for seafarers, the individual seafarer should arrange for a reserve stock of the prescribed drugs to be held in a safe place, with the agreement of the ship's Master.

### **Frequency of Medical Examination**

1.2.1 Seafarers below the age of 18 are required to have a yearly medical examination.

1.2.2 Seafarers aged 18 and over are required to be examined at intervals not exceeding two years.

1.2.3 Seafarers serving on bulk chemical carriers are required to have medical examinations, which may include blood tests, at yearly or more frequent intervals, according to the nature of the cargo.

1.2.4 Seafarers who, while holding a valid medical certificate suffer a condition covered by this Schedule which precludes seafaring, should arrange for an additional approved medical examination as soon as possible after diagnosis, and revised certification should be issued. It is also the seafarer's responsibility to reveal to the examining doctor if he or she has been issued with a certificate indicating that he or she has failed a medical examination by an approved medical practitioner.

### **Period of Validity of Medical Certificates**

1.3.1 In line with paragraph 2, the period of validity must be entered on the certificate according to the following maximum periods—

- .1 seafarers under 18 years of age - one year;
- .2 seafarers 18 years and over - two years.

1.3.2 Medical surveillance is important in maintaining the health of the seafarer. This is particularly so after an illness or accident ashore involving a condition covered by this Schedule and lasting for a month or more.

### **Categories of Medical Fitness**

1.4.1 The following categories are applied in assessing whether or not the seafarer is fit in terms of the medical and visual standards—

- .1 The seafarer may be assessed as fit—
  - (a) A for unrestricted sea service;
  - (b) A (T) for unrestricted service, subject to medical surveillance;
  - (c) B for restricted service only, with the restriction being clearly specified on the medical report.
- .2 The seafarer may be assessed as not fit—
  - (a) C temporarily: review in four weeks;

(b) D indefinitely: review in six months;

(c) E permanently.

1.4.2 Category A(T) may be used where a seafarer can be considered fit for all shipping trades, geographical areas, types of ships or jobs but where medical surveillance is required at intervals. The medical certificate should be validated only for the appropriate period which should take into account the expected duration of the tour of duty. Approved medical practitioner should make full use of the categories B, C, and D before declaring a serving seafarer permanently unfit.

1.4.3 It is the responsibility of the employer, or those authorised to act on his behalf, to ensure that the category recommended by the approved medical practitioner is taken fully into account when the engagement or the continued employment of a seafarer is under consideration.

1.4.4 It may be necessary, with the seafarer's consent, for the approved medical practitioner to consult the seafarer's doctor. When it is necessary to consult with other doctors the usual ethical considerations apply, but the decision on fitness in accordance with the required standard rests with the approved medical practitioner, subject to the medical appeal procedure.

1.4.5 Full clinical notes should be kept of any detailed medical examination. All sections of the approved report form (Schedule 5) should be completed.

### **Restricted Service**

1.5 Restricted service means that the seafarer's employment is restricted to certain shipping trades, geographical areas, types of ships or jobs for such period of time as may be stipulated by the approved doctor. The type of restriction and the length of time it will operate should be made clear. Restriction to ferry and coastal work, for example, might be applied to seafarers who are physically and mentally fit for their duties but who require medical treatment or review at frequent intervals.

### **Permanent Unfitness**

1.6 In a serving seafarer, a decision of permanent unfitness should be reached only after a full investigation and consideration of the case and should be fully discussed with the seafarer.

### **Medical Appeals**

1.7.1 All seafarers who have served on a Saint Christopher and Nevis ship and been found permanently unfit or fit only for restricted service have a right of appeal to an independent Medical Referee appointed by the Director. There is no right of appeal for new entrants at their first examination. Wherever possible, Medical Referees should be assisted by the disclosure, in confidence, of any necessary medical information.

1.7.2 Medical Referees are empowered, while working to the same standards—

- .1 to ensure that the diagnosis has been established beyond reasonable doubt, in accordance with the medical evidence on which the approved doctor reached his decision and, normally with the assistance of a report from a Consultant in the appropriate speciality;
- .2 to determine whether the standards have been properly interpreted; and
- .3 to consider the possibility of a seafarer previously declared permanently unfit, returning to sea.

1.7.3 In cases not covered by the medical standards or in Category “E” cases where exceptional medical considerations apply, the Medical Referee should decide an appropriate disposal after consultation with the approved doctor involved and consideration of all the evidence presented to him.

## PART II

### MEDICAL STANDARDS

#### 2.1 Infectious Diseases

2.1.1 *Gastro-Intestinal Infectious Diseases* - until satisfactorily treated - C. Special care should be taken in respect of catering staff.

2.1.2 *Other Infectious or Contagious Diseases* until satisfactorily treated - C.

2.1.3 Active Pulmonary Tuberculosis—

.1 When the examining doctor is satisfied, on the advice of a chest physician, that the lesion is fully healed and that the patient has completed a full course of chemotherapy, then re-entry should be considered. In such cases, Category “A(T)” would be appropriate initially to allow for adequate surveillance;

.2 Cases where either one or both lungs have been seriously affected are rarely suitable for re-employment. All relapsed cases should be E.

2.1.4 Sexually Transmissible Diseases—

.1 All cases of acute infection or while under treatment - C. Cases under surveillance having finished treatment will usually be fit for normal service but restricted service may be necessary if facilities for supervision are inadequate. In all cases evidence of satisfactory tests of cure should be produced.

2.1.5 *AIDS* related complex and clinical AIDS - All confirmed cases - E.

#### 2.2 Malignant Neoplasms

2.2.1 *Malignant Neoplasms* - including Lymphoma, Leukemia and similar conditions.

2.2.2 Each case should be graded on diagnosis - D. Later progression to Categories A, A(T), B or C should be dependent on assessment of progress, prognosis, measure of disability and the need for surveillance following treatment. No unrestricted category A grading should be given within 5 years of completion of treatment, except in cases of skin cancer.

#### 2.3 Endocrine and Metabolic Diseases

2.3.1 Serving seafarers developing thyroid disease - for investigation - C, then A, A (T), B or C on case assessment.

2.3.2 All other cases of endocrine disease in serving seafarers - for investigation - C upon which assessment will depend.

2.3.3 Diabetes Mellitus—

.1 all cases requiring insulin - E;

.2 serving seafarers whose diabetes is controlled by food restriction; an initial period of 6 months should be allowed to achieve stabilization -

D. Thereafter, to be subject to medical review at appropriate intervals. The current treatment regimen should be confirmed with the general practitioner at each review. A (T);

- .3 serving seafarers requiring hypoglycemic agents: an initial period of 6 months should be allowed to achieve stabilization - D. Thereafter, in the absence of any complication, service may be considered subject to 6 monthly medical reviews and assessment for suitable job and sea trade. A (T) on assessment.

2.3.4 *Obesity* - A general degree of obesity, with or without complications, and adversely affecting exercise tolerance, mobility and general health - C for treatment.

Refractory or relapsing cases - E.

*Note:* When a body mass index (BMI - weight in kg/height in m<sup>2</sup>) is 30 or over, it is especially important to take into account other existing risk factors for mobility and mortality.

## 2.4 **Diseases of the Blood and Blood Forming Organs**

2.4.1 There should not be any significant disease of the haemopoetic system.

2.4.2 *Unexplained or symptomatic anaemia* - C, then A, A(T), B or E on case assessment.

## 2.5 **Mental Disorders**

2.5.1 *Acute Psychosis*, - whether organic, schizophrenic, manic depressive or any other psychosis listed in the International Classification of Diseases - E.

2.5.2 *Alcohol Abuse (Dependency)* - where persistent and affecting health by causing physical or behavioural disorder - E.

2.5.3 Drug Dependence—

- .1 A history of abuse of drugs or substances within the last 5 years – E;  
 .2 Neurosis - e.g. - Anxiety state, depression, or any other mental disorder likely to impair safe performance at sea - C, for assessment  
 Chronic or recurrent - E.

## 2.6 **Diseases of the Nervous System and Sense Organs**

2.6.1 .1 *Organic Nervous Disease* - especially those conditions causing defect of muscular power, balance, mobility and co-ordination – E;

.2 Some minor localized disorders not causing symptoms of incapacity and unlikely to progress, may be - A.

2.6.2 Epilepsy—

- .1 Any type of epilepsy since the age of 5 years – E;  
 .2 A single fit in a serving seafarer - C for investigation. Then, providing that the post medical history is clear and investigation has shown no abnormality; re entry can be considered after 1 year without seizure without treatment or after 1 year without seizure following the cessation of treatment;  
 .3 Serving seafarers who have had cranial surgery or significant traumatic brain damage - D for 12 months - then A, B or E on case assessment.

- 2.6.3 *Migraine* - slight infrequent attacks responding quickly to treatment - A. Frequent attacks causing incapacity - E.
- 2.6.4 *Syncope or Other Disturbances of Consciousness* for assessment - C. Recurrent attacks with complete or partial loss of consciousness - E.
- 2.6.5 Meniere's Disease - E.
- 2.7 **Cardiovascular System**
- 2.7.1 The Cardiovascular System should be free from acute or chronic disease causing significant disability—
- .1 Valvular disease - causing significant impairment or having required surgery – E;
  - .2 Satisfactorily treated patent ductus arteriosus or arterial septal defect could be accepted.
- 2.7.2 Hypertension—
- .1 All cases for investigation – C;
  - .2 Serving seafarers with hypertension whose blood pressure can be maintained below 170/100mm by dietary control - A (T) for annual assessment;
  - .3 Serving seafarers whose blood pressure can be maintained below 170/100mm by antihypertension therapy without significant side effect B A(T) to allow for health surveillance and to ensure that arrangements have been made for continuation of treatment;
  - .4 All other cases - E.
- 2.7.3 Ischaemic Heart Disease—
- .1 A history of Coronary Thrombosis Myocardial infraction – E;
  - .2 Confirmed Angina - E.
- 2.7.4 Other Cardiovascular Disorders
- Any clinically significant abnormality of rate or rhythm or disorder of conduction - E.
- 2.7.5 Cerebro-vascular Disease—
- .1 Any cerebro-vascular accident including transient ischaemic attacks – E;
  - .2 General cerebral arteriosclerosis including dementia and senility - E.
- 2.7.6 Diseases of Arteries
- A history of intermittent claudication - including any case where vascular surgery was required - E.
- 2.7.7 Disease of Veins—
- .1 Varicose Veins B slight degree - A. Moderate degree without symptoms or oedema may be A, but with symptoms - C for treatment. Recurrent after operation, with symptoms - D for further surgical opinion or, where not suitable for further treatment – E;
  - .2 Chronic varicose ulceration - E. Thin unhealthy scars of healed ulcers or unhealthy skin of varicose eczema – E;

- .3 Recurrent or persistent deep vein thrombosis or thrombophlebitis – E;
- .4 Haemorrhoids -not prolapsed, bleeding or causing symptoms - A. Other cases should be C until satisfactory treatment has been obtained;
- .5 Varicocoele - symptomless - A. With symptoms - D for surgical opinion.

## 2.8 **Respiratory System**

The respiratory system should be free from acute or chronic disease causing significant disability.

- 2.8.1 *Acute Sinusitis* - until resolved - C.
- 2.8.2 *Chronic Sinusitis* - where disabling and frequently relapsing despite treatment - E.
- 2.8.3 *Nasal Obstruction*, septal abnormality or polypus - until satisfactorily treated - C.
- 2.8.4 *Throat Infections* - a history of frequent sore throats or unhealthy tonsils with adenitis - until satisfactorily treated - C.
- 2.8.5 *Chronic Bronchitis or Emphysema* - class depends on severity. Mild uncomplicated cases with good exercise tolerance may be - A, but cases with recurrent illness causing significant disability in relation to the job should be - E.
- 2.8.6 *Bronchial Asthma* - C, for investigation. Where confirmed - E subject to consideration of exceptions as follows—
  - .1 a history of bronchial asthma resolving, without recurrence, before the age of 16 may be disregarded;
  - .2 Well controlled asthma (confirmed by investigation and appropriate supporting evidence) treated with inhaled medication only and without a history of exacerbation requiring hospital admission or oral steroids, and subject to suitable follow up - A (T) or E.
- 2.8.7 *Occupational Asthma* to avoid the allergen - B.
- 2.8.8 *Pneumothorax* - All cases to be classified - D for at least 12 months. With recurrences - E.

## 2.9 **Disease of the Digestive System**

- 2.9.1 Diseases of the Oral Cavity—
  - .1 Mouth or gum infection until satisfactorily treated – C;
  - .2 Dental defects - until satisfactorily treated - C. Seafarers should be dentally fit.
- 2.9.2 *Diseases of the Oesophagus, Stomach and Duodenum*—
  - .1.1 Peptic Ulceration - for investigation – C;
  - .1.2 Cases of proven ulceration should not return to seafaring until they are free from symptoms. There should also be evidence of healing on gastroscopy and the seafarer should have been on an ordinary diet, without treatment, for at least 3 months - A (T).



- .1.3 Where there has been gastro-intestinal bleeding, perforation or recurrent peptic ulceration, in spite of maintenance H2 blocker treatment, or an unsatisfactory operation result - normally E;
  - .2 Recurrent attacks of Appendicitis - pending surgical removal – C;
  - .3 Non-Infective Enteritis and Colitis -severe or recurrent or requiring special diet – E;
  - .4 Intestinal Stoma - E.
- 2.9.3 Diseases of the Liver and Pancreas—
- .1 Cirrhosis of the Liver - for investigation - C, then where condition is serious or progressive or where complications such as oesophageal varices or ascites are present – E;
  - .2 Biliary Tract Diseases - after complete surgical cure - A or A(T) on case assessment;
  - .3 Pancreatitis - recurrent pancreatitis and all cases where alcohol is an aetiological factor - E.
- 2.10 **Diseases of the Genitourinary System**
- 2.10.1 All cases of *proteinuria*, *glycosuria* or other urinary abnormalities should be referred for investigation.
- 2.10.2 *Acute Nephritis* - until resolved - C.
- 2.10.3 *Subacute or Chronic Nephritis* or *Nephrosis* - for investigation - C, then B or E on case assessment.
- 2.10.4 *Acute urinary infection* - until satisfactorily treated - C. Recurrent cases - B unless full investigation has proved satisfactory.
- 2.10.5 *Renal or Ureteric Calculus* - for investigation and any necessary treatment - C. An isolated attack of renal colic with passage of small calculus may be - A after a period of observation, provided urine and renal function remain normal and there is no clinical and radiological evidence of other calculi. Recurrent stone formation - E.
- 2.10.6 *Urinary Obstruction* B from any cause for investigation - D, where not remediable - E.
- 2.10.7 *Removal of Kidney* - in serving seafarers, provided remaining kidney is healthy with normal function - A(T). Such cases may be unsuitable for service in the tropics or other conditions of high temperature, in which case - B.
- 2.10.8 Renal Transplant - E.
- 2.10.9 *Incontinence of Urine* for investigation - C. Where irremediable - E.
- 2.10.10 *Enlarged Prostate* for investigation - C.
- 2.10.11 *Hydrocoele* - Small and symptomless - A. Large or recurrent - C or, where untreated - E.
- 2.10.12 *Abnormality of the Primary and Secondary Sexual Characteristics* for investigation - C, upon which final assessment will depend.

**2.11 Obstetrical and Gynaecological Conditions**

2.11.1 There should be no persistent gynaecological disorder or disease affect working capacity at sea.

**2.11.2 Pregnancy—**

.2.1 The doctor should discuss with the seafarer the implications of continuing to work at sea, particularly if it is a first pregnancy;

.2.2 A seafarer with a normal pregnancy before the 28th week may be permitted to work on short haul trips or a long haul trip on a vessel carrying a doctor - to allow for ante-natal care - B;

.2.3 Employment shall not be permitted after the 28th week of pregnancy until at least 6 weeks after delivery.

2.11.3 Abnormal Pregnancy, on diagnosis - D.

**2.12 Skin**

Special care is required in passing fit for care in the tropics where there is a history of skin trouble. Catering staff in particular should have no focus of skin sepsis.

Any condition liable to be aggravated by heat, sea air, oil, caustics or detergents or specific occupational allergens may be - A(T), B, C, D or E on case assessment.

**2.12.1 Infections of Skin—**

.1 until satisfactorily treated C;

.2 Acne - Most cases A, but severe pustular cystic acne - E.

**2.12.2 Other Inflammatory Skin Conditions—**

.1 Atopic Dermatitis and Related Conditions until satisfactorily treated – C;

.2 Contact Dermatitis. Refer for dermatological opinion – C;

.3 Acute Eczema. No seafarer should return to duty until skin is healthy – C;

.4 Recurrent Eczema of more than minimal extent – E;

.5 Psoriasis B Most cases can be - A, but some widespread or ulcerated cases should be - C for treatment. Severe cases resistant to treatment, frequently relapsing or associated with joint disease - E.

**2.13 Musculoskeletal System**

It is essential that seafarers should not have any defect of the musculoskeletal system which might interfere with the discharge of their duties; muscular power, balance, mobility and co-ordination should be unimpaired.

2.13.1 Osteoarthritis for assessment - C.

Advanced cases where disability is present - E.

2.13.2 Limb prosthesis normally would not be acceptable.

2.13.3 Back Pain - recurrent incapacitating back pain - E.

2.13.4 Hernia—

- .1 Hernia until repaired – C;
  - .2 Diaphragmatic Hernia - to be assessed according to the disability.
- 2.14 **Speech Defects**
- 2.14.1 Where likely to interfere with communication - E.
- 2.15 **Hearing**
- 2.15.1 Acute and Chronic Otitis Externa - C. Should be completely healed before returning to sea. Care is required for passing fit for tropics.
- 2.15.2 Acute Otitis Media - C. Until satisfactorily treated.
- 2.15.3 Chronic Otitis Media - C. May become A or B after satisfactory treatment or surgery. Special care is required in passing fit for tropics, where air travel is required, or where the job requires food handling.
- 2.15.4 Loss of Hearing - A degree of impairment sufficient to interfere with communication - E.
- 2.15.5 Unilateral Complete Loss of Hearing in serving seafarers - assessment of this condition should be considered in relation to the job.
- 2.15.6 A serving seafarer in whom impaired hearing acuity is found should be referred for full investigation by an ENT surgeon.
- 2.15.7 .1 *Hearing Aids*. The use of a satisfactory hearing aid at work by certain catering department personnel could be considered where not hearing an instruction would not result in a danger to the seafarer or others. The hearing aid should be sufficiently effective to allow communication at normal conversational tones;
- .2 The use of a hearing aid by those working in, or associated with, the deck or engine room departments, including electricians and radio officers, should not be permitted.

### PART III

#### EYESIGHT STANDARDS

- 3.1 No person should be accepted for training or sea service where any irremediable morbid condition of either eye, or the lids of either eye, is present and liable to risk of aggravation or recurrence.
- 3.2 Binocular vision is necessary for all categories of seafarers. However, monocular seafarers serving and those who become monocular in service and meet the required standard should be allowed to continue at sea.
- 3.3 In all cases where visual aids, spectacles or contact lenses, are required for the efficient performance of duties, a spare pair must be carried while seafaring. Where different visual aids are used for distant and near vision, a spare pair of each must be carried.
- 3.4 Colour Vision for deck officers and ratings is tested with Ishihara plates; using the introductory plate and all the transformation and vanishing plates. Candidates who fail the Ishihara colour plate test may ask for their colour vision to be re-tested using a Holmes Wright B lantern at a nominated centre. For engineer and radio department personnel colour vision is tested using

either Ishihara plates (as for deck department) or Farnsworth D15 test or City University test.

**TABLE**

Category of seafarer	Basic Visual Acuity Standard - unaided		Higher visual acuity - standard - aided if necessary		Near	Colour	Visual Field
	Better eye	Other eye	Better eye	Other eye			
Deck or dual career	6/60	6/60	6/6	6/12	N8	Ishihara or Lantern 2 miles	No pathological field defect
Engineer / Radio	6/60		6/18	6/18	N8	Ishihara or Farnsworth D15 or City University	Sufficient to undertake duties efficiently
Others	Sufficient to undertake duties efficiently						
Those who become monocular in service with no evidence of progressive eye disease in the remaining eye							
Deck	6/60	-	6/6	-	N8	Ishihara or Lantern 2 miles	No pathological field defect
Engineer / Radio	6/60	-	6/9	0	N8	Ishihara or Farnsworth D15 or City University	Sufficient to undertake duties efficiently
Others	Sufficient to undertake duties efficiently						
There should be a sufficient period of adaptation after becoming monocular to enable stairs to be descended rapidly and safely.							

**Notes**

1. No diplopia, congenital night blindness, retinitis pigmentosa or any other serious or progressive eye disease is permitted.
2. Where bifocal glasses are worn there should be a period of adaptation first because of the risk of falls.
3. Where glasses or contact lenses are needed to meet the higher standard, a spare pair (distance and near vision if necessary) should be carried.
4. Aids to colour vision, e.g. Red-tinted, x-chroma, chromas lenses and chromagen lenses are not permitted.
5. Seafarers who suffer pathological field defects (i.e. not new entrants, deck officers and monocular seafarers) should have a field of vision at least 120 degrees in the horizontal measured by the Goldman perimeter using the iii/4 setting (equivalent perimetry) in addition there should be no significant defect in the binocular field which encroaches within 20 degrees of fixation above or below the meridian. Homonymous or bi temporal defects which come close to fixation where hemianopic or quadrantopic are not accepted.
6. Where the vision standard in this Schedule is marginally higher than the previous standard, seafarers in service before the date of publication of this Schedule may continue to be assessed according to the old standard, to ensure

that serving seafarers are not penalised. This means that the following standards may continue to apply for seafarers already in service—

- .1 deck department personnel required to operate lifting plant: 6/9 for the better eye (as opposed to the new standard of 6/6) for aided visual acuity;
- .2 deck department personnel not required to perform lookout duties or to operate lifting plant: 6/18 for the better eye (as opposed to the new standard of 6/6) for aided visual acuity;
- .3 engineers: 6/60 for the other eye (As opposed to the new standard of 6/18) for aided visual acuity.

**SCHEDULE 2**

**FORM OF MEDICAL FITNESS CERTIFICATE**

*(Regulation 5(2))*

**MEDICAL FITNESS CERTIFICATE**

**ISSUED UNDER THE MERCHANT SHIPPING (MEDICAL EXAMINATION) REGULATIONS**

Seafarer’s Name .....

Seafarers Number .....

Date of expiry of this Certificate (dd/mm/yyyy).....

This certificate is valid for 12 months, from date of issue, for seafarers below the age of 18 and for 24 months for seafarers over 18 years of age.

I certify that I have examined the seafarer named above to the Medical and Visual Standards for Seafarers as contained in Schedule 1 of the above-named Regulations and have found \*him/her fit for seafaring subject to the following restrictions:  
\*Delete as appropriate

Restrictions:

Official Stamp

Signed .....

Name .....

(An approved medical practitioner)

Date of Examination (dd/mm/yyyy) .....

The original or certified copy of the physical report must accompany an application for a Seafarers Document/Certificate. A duplicate copy clearly labelled ‘certified

copy' on its face and initialled by the examining Medical Doctor must be maintained by the applicant as evidence of physical qualification while serving on board a vessel.

SCHEDULE 3

FORM OF NOTICE OF FAILURE TO MEET MEDICAL FITNESS STANDARDS FOR SEAFARERS

(Regulation 5(3))

NOTICE OF FAILURE TO MEET MEDICAL FITNESS STANDARDS FOR SEAFARERS

TO:

Full Name.....Seafarers Number.....

I have examined you in accordance with the standards of fitness for seafarers, as contained in the Schedule 1 for the Merchant Shipping (Medical Examination) Regulations, and found that you are —

- † \* A(T) Fit for full range of duties but for restricted period only
† \* B Fit for restricted service only
† C Temporarily unfit for service: For review in.....(max. four) weeks.
† D Indefinitely unfit for sea service. For review in.....(max. six) months.
† E Permanently unfit for service

For the following reasons: .....
.....
.....

Official Stamp

Signed .....

Name .....

(An approved medical practitioner)

Date of Examination (dd/mm/yyyy).....

- \* Restrictions, where applicable, are to be detailed in the Medical Fitness Certificate
† delete whichever is not applicable

Note: Any application for review of the above decision must be lodged in writing on the prescribed form within one month of the date of the examination to Director or if the Director so directs, the Registrar.

**SCHEDULE 4**  
**FORM OF APPLICATION FOR REVIEW OF DECISION**  
*(Regulation 10(2))*

**APPLICATION FOR REVIEW OF DECISION TO:**

- \*Refuse to issue a Medical Certificate
  - \*Impose Restriction on Medical Certificate
  - \*Suspend or Cancel Medical Certificate
- (Delete whichever is inapplicable)

I hereby apply for a review of the above decision and request that arrangements be made for me to be examined by an independent medical referee.

I agree that a report of my case may be submitted to the medical referee by the medical practitioner concerned.

I understand that I am entitled to present any medical evidence available to me in support of my case and agree to any medical report prepared by the examining doctor being made available to the medical referee.

Signed .....  
(Name in block letters)

Address.....Telephone No.....

NOTE. *Before lodging an appeal you are advised to consult your usual medical practitioner and, should you wish to submit medical evidence in support of the appeal, you should arrange for this to be sent to the medical referee before the appointment date.*

*You will be advised of the name and address of the referee and the date for your appointment as soon as this has been arranged*

\_\_\_\_\_

**SCHEDULE 5****FORM OF REPORT OF MEDICAL EXAMINATION***(Regulation 11(a))***PHYSICAL EXAMINATION REPORT** (This Report comprises 2 pages)

PLEASE COMPLETE CLEARLY IN CAPITAL LETTERS IN BLACK INK OR BY USE OF A TYPEWRITER

<b>Last Name of Applicant:</b>		<b>First Name of Applicant:</b>		<b>Middle Initial:</b>	
<b>Seafarers Number (if assigned)</b>					
<b>Date of Birth:</b>			<b>Place of Birth:</b>		<b>Sex:</b>
<i>Month</i>	<i>Day</i>	<i>Year</i>	<i>City</i>	<i>Country</i>	<input type="checkbox"/> : Male <input type="checkbox"/> : Female
<b>Examination for Duty As:</b>			<b>Mailing Address of Applicant:</b>		
<input type="checkbox"/> : Master <input type="checkbox"/> : Radio Officer <input type="checkbox"/> : Mate <input type="checkbox"/> : Rating <input type="checkbox"/> : Engineer					
<b>MEDICAL EXAMINATION</b>					
<b>Height:</b>	<b>Weight:</b>	<b>Blood Pressure:</b>	<b>Pulse:</b>	<b>Respiration:</b>	<b>General Appearance:</b>
<b>Vision:</b> With Glasses Without Glasses	<b>Right Eye:</b>	<b>Left Eye:</b>	<b>Hearing:</b>  <i>Right Ear</i> <i>Left Ear</i>		
<b>Colour Test Type:</b>		<input type="checkbox"/> : Book <input type="checkbox"/> : Lantern	Check if Colour Test is Normal: Yellow ___ Red ___ Green ___ Blue		
<b>Head and Neck:</b>			<b>Heart (Cardiovascular):</b>		
<b>Lungs:</b>			<b>Speech</b> (Is speech unimpaired for normal voice communication?):		
<b>Extremities:</b>					
<i>Upper</i>			<i>Lower</i>		
Is applicant suffering from any disease likely to be aggravated by, or to render him/her unfit for service at sea or likely to endanger the health of other persons on board? (Give further details overleaf if necessary):					

This is to certify that a physical examination was given to:                      Name of Applicant

The Shipping (Medical Examination) Regulations have been/have not been\* met and a Medical Certificate has/has not\* been issued.

Delete as appropriate and tick box below

A Unrestricted sea service       A (T)Unrestricted sea service, subject to medical supervision[  ]B Restrictive Service only  [  ]



Details of any Restriction.....

Period of restriction

- C. Temporarily [ ] (Review in.....(max. four) weeks)
- D. Indefinitely [ ] (Review in.....(max. six ) months)
- E. Permanently [ ]

Name and Degree of Medical Doctor .....

Address .....

Name of Medical Doctor's Certifying Authority.....

Date of Issue of Medical Doctor's Certificate .....

Signature of Medical Doctor .....

.....Date.....



Signature of Applicant

.....Date of Application

The signature should be affixed in the presence of the examining Medical Doctor and signed without touching any of the box lines.

**Remarks to or further details of Medical Examination:**

(to be completed by examining Medical Doctor)

.....  
.....  
.....  
.....  
.....  
.....

(Inserted by S.R.O. 16/2012)

\_\_\_\_\_

**EIGHTEENTH SCHEDULE***(Section 456)***MERCHANT SHIPPING (TRAINING, CERTIFICATION, SAFE  
MANNING, HOURS OF WORK AND WATCHKEEPING)  
REGULATIONS****PART I****PRELIMINARY MATTERS****Citation.**

1. These Regulations may be cited as the Merchant Shipping (Training, Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations.

**Interpretation.**

2. (1) In these Regulations unless the context otherwise requires—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“appropriate certificate” shall be construed as having its natural and ordinary meaning as exemplified in Article VIII(3) of the Convention, specifically, within these Regulations it means—

(a) in relation to Saint Christopher and Nevis ships, a certificate or endorsement attesting to the recognition of a certificate issued in accordance with the provisions of these Regulations entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage or power and means of propulsion indicated by the endorsement while engaged on the particular voyage concerned; or

(b) in relation to other ships, a certificate issued under the Convention as noted under Articles VI and VII of the Convention;

*(Substituted by S.R.O. 39/2014)*

“area A1”; “area A2”; “area A3” and “area A4”, have the meanings assigned to “Sea area A1, Sea area A2”, “Sea Area A3” and “Sea Area A4” in Regulation 2, Chapter IV of the SOLAS Convention;

“authorised person” means a person authorised by the Minister for the purposes of these Regulations;

“certificate of competence” means an appropriate certificate for the purposes of regulations 4 and 6;

“charterer”, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention and those of the International Safety Management (ISM) Code where such applies to the ship;

“chemical tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC Code;

“company” includes an individual, and in relation to a ship means the owner of the ship or any other organisation or person such as the Manager or the demise charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed either explicitly or implicitly to take over all the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention or those of the International Safety Management (ISM) Code or those imposed on ship-owners by the Merchant Shipping (Maritime Labour Convention, 2006) Regulations, 2013, regardless of whether such an organisation or individual is the same as or different from ‘company’ as defined herein;

*(Substituted by S.R.O. 39/2014)*

“constructed” in relation to a ship means the keel of which is laid or which is at a similar stage of construction; and “similar stage of construction” means a stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is the less;

“Director” has the meaning given in section 2 of the Act;

“GT” means gross tons as defined in the Merchant Shipping (Tonnage) Regulations 2007;

“HSC Code” means the International Code of Safety for High Speed Craft adopted by the Maritime Safety Committee of the International Maritime Organization by resolution MSC.36(63), as may be amended by the Organization;

“high speed craft” is a ship meeting the definition given in the IMO International Code of Safety for High Speed Craft (the HSC Code).

“IBC Code” means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, published by the IMO;

“IGC Code” means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, published by the IMO;

“IMO” has the meaning given in section 2 of the Act;

“length” has the meaning given in the Merchant Shipping (Tonnage) Regulations 2007;

“liquefied gas tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the IGC Code;

“master” has the meaning given in section 2 of the Act;

“management level” means the level of responsibility associated with—

- (a) serving as master, chief mate, chief engineer or second engineer of a sea-going ship; and
- (b) ensuring that all functions within the designated area of responsibility are properly performed;

“near-coastal voyage” means—

- (a) a voyage of 72 hours or less within the Unlimited Trading Area in the course of which the ship is at no time more than 150 miles from a safe port of refuge; or
- (b) a voyage within the Caribbean Trading Area in the course of which the ship is at no time more than 150 miles from a safe port of refuge.

“non-STCW ship” means a ship that is not a STCW ship;

“officer” means a person carried in a ship in the capacity of an officer under the terms of the minimum safe manning certificate issued in respect of that ship;

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products other than oil-like substances, which are subject to Annex II of the International Convention for the Prevention of Pollution from Ships, 1973/78;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier when it is carrying a cargo or part cargo of oil in bulk;

“pleasure vessel” has the meaning given in section 2 of the Act;

“propulsion power” means the total maximum continuous rated output power in kilowatts of all the ship’s main propulsion power which appears on the ship’s certificate of registry or other official document;

“Radio Regulations” means the Radio Regulations annexed to, or regarded as being annexed to, the most recent International Telecommunication Convention which may be in force at any time;

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

“Registrar” has the meaning given in section 2 of the Act;

“Saint Christopher and Nevis ship” has the meaning given in section 2 of the Act;

“seafarer” has the same meaning as “seaman” under the Act;

“sea-going” means going to sea beyond the limits of the internal waters of Saint Christopher and Nevis;

“Secretary-General” means the Secretary-General of the IMO;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1978 as amended by the International Maritime Organisation;

“the STCW Code” means the Seafarer’s Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

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

“STCW country” means a country which is a party to the STCW Convention;

“STCW ship” means a ship entitled to fly the flag of a STCW country;

“tanker” means—

- (a) a chemical tanker;
- (b) a liquefied gas tanker; or

(c) an oil tanker;

(2) Any reference to the IBC Code, the IGC Code, the ISM Code, the ISPS Code, the STCW Code, or the STCW Convention shall include reference to any document amending the Code or Convention.

### **Application.**

3. (1) Except as referred to in sub-regulation (2) and subject to regulation 28, these Regulations apply to—

- (a) sea-going Saint Christopher and Nevis ships wherever they may be and ships which are not Saint Christopher and Nevis ships when in Saint Christopher and Nevis waters; and
- (b) Masters and seafarers employed in sea-going Saint Christopher and Nevis ships.

(2) These Regulations shall not apply to—

- (a) warships and naval auxiliaries or other ships owned or operated by a State and engaged only on Government non-commercial service;
- (b) fishing vessels;
- (c) pleasure vessel (except when over 24metres in length or carrying twelve or more passengers or if being used for commercial purposes); or
- (d) wooden ships of primitive build,

or to seafarers employed in the ships referred to in paragraphs (a) to (d).

## PART II

### CERTIFICATION AND RECOGNITION OF CERTIFICATES

#### **Qualification as an officer.**

4. A person is qualified as an officer for the purposes of section 108 of the Act where he holds a certificate of competence issued under regulation 18 or a certificate of competence, which has been duly recognised and endorsed in accordance with regulation 6, in one of the following capacities—

- (a) master;
- (b) chief mate or chief officer - either description may be used;
- (c) officer in charge of a navigational watch;
- (d) chief engineer officer;
- (e) second engineer officer;
- (f) officer in charge of an engineering watch;
- (g) electro-technical officer; or  
*(Inserted by S.R.O. 39/2014)*
- (h) radio operator.

**Revalidation of certificates.**

5. (1) The certificate of a master or other officer issued with a certificate in compliance with regulation 4 shall not be valid for sea-going service unless revalidated at intervals not exceeding 5 years to establish continued professional competence in accordance with section A-I/11 of the STCW Code.

(2) A certificate referred to in regulation 9 shall not be valid for sea-going service unless revalidated at intervals not exceeding 5 years, to establish continued professional competence in accordance with section A-I/11 of the STCW Code.

(3) The requirements of Schedule 1 shall apply to all applicants for revalidation of a certificate.

**Recognition of Certificates.**

6. (1) The Director may, for service on board Saint Christopher and Nevis ships, recognise an appropriate certificate issued by or under the authority of another STCW country to a master, officer or radio operator where he is satisfied—

- (a) that the requirements of the STCW Convention concerning standards of competence, the issue and endorsement of certificates and record keeping are fully complied with; and
- (b) that prompt notification will be given to the Director of any significant change in the arrangements for training and certification provided in compliance with the Convention.

(2) For the purpose of satisfying himself under sub-regulation (1), the Director—

- (a) with respect to the issuing authority, shall take into account any IMO list of STCW countries which, according to the IMO, have given full and complete effect to the STCW Convention; and
- (b) with respect to verification of the authenticity and validity of a certificate presented for recognition, may—
  - (i) require from the authority which has issued the certificate, copies of its maritime legislation and details of its facilities and procedures concerning the training and certificate of seafarers; and
  - (ii) where deemed necessary, inspect such facilities and procedures.

(3) Every certificate presented for recognition under this regulation shall be in the original form or certified as a true copy, and where the original is in a language other than English, it shall be accompanied by an official translation in English.

(4) Where the Director recognises a certificate pursuant to sub-regulations (1), (2) and (3), he shall endorse such a certificate to attest its recognition.

(5) The endorsement shall be issued as a separate document which shall be in the form set out in Schedule 2, and the capacity in which the holder of a certificate is authorised to serve shall be provided in the form of endorsement in the manner provided therein.

(6) Each endorsement referred to in this regulation shall—

- (a) be assigned the same number as the certificate concerned, where that number is unique; and

(b) expire as soon as the certificate endorsed expires or is withdrawn, suspended or cancelled by the party which issued it and, in any case, not more than five years after the date of issue.

(7) The Director may recognise a certificate other than a certificate referred to in sub-regulation (1), issued by or under the authority of another STCW country following successful completion by a seafarer of courses of training such as those referred to in regulations 9, 10, 11, 12, 13, 14, 15, 16 and 17, where he is satisfied that such certificate was issued in compliance with the relevant requirements of the STCW Convention.

(8) The Director shall ensure that every seafarer who presents for recognition a certificate of competence which has been issued as certification at the management level has appropriate knowledge of the maritime legislation of Saint Christopher and Nevis, and proficiency in the English language relative to the functions which he is permitted to perform.

(9) The information provided and the measures agreed upon under this regulation shall be communicated to the Secretary-General, within the time prescribed and in the format specified in Section A - I/7 paragraph 3.2 of the STCW Code.

(10) No certificate issued by or under the authority of a State that is not a STCW country shall be recognised.

(11) The Director may, where circumstances require, allow a seafarer to serve in a capacity other than radio operator, (except as provided in the Radio Regulations), for a period not exceeding three months on board a Saint Christopher and Nevis ship, while holding an appropriate and valid certificate issued and endorsed by the authority of another STCW country but which has not yet been endorsed so as to render it appropriate for service on board Saint Christopher and Nevis ships, provided the Director is satisfied that application for an endorsement has been duly submitted.

(12) An endorsement issued by or under the authority of an STCW country in recognition of, or attesting to, the recognition of a certificate by or under the authority of another STCW country shall not be used as the basis for recognition by the Director.

(13) Subject to sub-regulation (14), an endorsement granted under this regulation shall remain valid only as long as the certificate to which it attests remains valid.

(14) The Director may revoke or cancel at any time an endorsement granted under this regulation where he has clear grounds for believing that the holder of the certificate has—

- (a) committed a violation of any provision of the Act or any Regulations made thereunder;
- (b) committed an offence under the laws of Saint Christopher and Nevis;
- (c) demonstrated a lack of sobriety or good character and conduct; or
- (d) failed to maintain the required standard of medical fitness.

(15) The Director shall, under this regulation, recognise and endorse a certificate of service issued pursuant to any Regulations made under the Act and in force prior to these Regulations.

**Appropriate Certificates.**

7. (1) The Table of Criteria shall be in the form set out in Schedule 3 and any officer serving in the capacity set out in column 1 of the Table of Criteria shall hold an appropriate certificate for the capacity.

(2) A person shall only be entitled to be issued with such an appropriate certificate where he complies with the criteria in Regulations annexed to the STCW Convention, set out in column 2 of the table in relation to that entry, and any other requirements specified by the Director, as provided in Schedule 4.

**Ratings and holders of other qualifications.**

8. (1) Every rating forming part of a navigational watch on a ship of 500 GT or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall hold a certificate referred to herein as a “Navigational Watch Rating Certificate” issued in accordance with Regulation II/4 in the Annex to the STCW Convention, by the Director or by or under the authority of another STCW country.

(2) Every able seafarer deck serving on a seagoing ship of 500 GT or more, shall be duly certified in accordance with Regulation II/5 of the STCW Convention and shall hold an appropriate certificate issued by the Director or under the authority of another STCW country.

*(Inserted by S.R.O. 39/2014)*

(3) Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall hold a certificate referred to herein as an “Engine Room Watch Rating Certificate” issued in accordance with Regulation III/4 in the Annex to the STCW Convention by the Director or by or under the authority of another STCW country.

(4) Every able seafarer engine serving in a manned engine room or designated to perform duties in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be duly certificated in accordance with Regulation III/5 of the STCW Convention and shall hold an appropriate certificate issued by the Director or under the authority of another STCW country.

*(Inserted by S.R.O. 39/2014)*

(5) Any person designated to perform watchkeeping duties in a manned or periodically unmanned engine-room on a ship powered by main propulsion machinery of 350 kW power, or more, but less than 750 kW shall be the holder of one of the engineering certificates of competency referred to in regulation 7 or be the holder of a Boat Engine Operator’s licence issued in compliance with any Small Commercial Vessel Regulations.

*(Amended by S.R.O. 39/2014)*

(6) Every seafarer designated as an electro-technical rating on board a seagoing vessel of 500 GT or more, shall be duly certified in accordance with III/7 of the STCW Convention and shall hold an appropriate certificate issued by the Director or under the authority of another STCW country.

*(Inserted by S.R.O. 39/2014)*

**Radio communication Personnel.**

9. (1) Every ship shall carry a person or persons—



- (a) qualified for distress and safety radio communication purposes as specified in sub-regulation (2); and
  - (b) who are holders of certificates specified in the Radio Regulations as appropriate, and one such person shall be designated by the master to have primary responsibility for radio communications during distress incidents.
- (2) On Area A1 ships the person qualified as mentioned in sub-regulation (1) shall hold at least a GMDSS restricted operator's certificate issued in accordance with subsection D of section IIIA of Article 55 of the Radio Regulations.
- (3) On ships operating in Areas A1/A2, A1/A2/A3 and A1/A2/A3/A4, the person qualified as mentioned in sub-regulation (1) shall hold a GMDSS general operator's certificate issued in accordance with subsection C of section IIIA of Article 55 of the Radio Regulations.
- (4) The Director shall not grant a certificate referred to in sub-regulations (2) and (3) to any person unless that person—
- (a) is at least 18 years of age;
  - (b) has completed approved education and training and meets the standard of competence specified in section A-IV/2 of the STCW Code; and
  - (c) any other requirements specified by the Director.

#### **Training and qualification of masters and seafarers on tankers.**

- 10.** (1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based advanced fire-fighting course as specified in section A-VI/3 of the STCW Code in addition to the training required by section A-VI/1 of the STCW Code and shall have completed—
- (a) at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or
  - (b) an approved tanker familiarisation course covering at least the syllabus given for that course in section A-V/1 of the STCW Code.
- (2) The period of seagoing service required under sub-regulation (1)(a) may be reduced to not less than one month where—
- (a) the tanker on which such service is performed is of less than 3,000 GT;
  - (b) the duration of each voyage of the tanker on which such approved service is performed does not exceed 72 hours; and
  - (c) the operational characteristics of the tanker on which such approved service is performed and the number of voyages and loading and discharging operations completed during the period, allow the same level of knowledge and experience to be acquired as would have been acquired in approved service performed in accordance with sub-regulation (1)(a) on a tanker of a size, and performing voyages, not falling within paragraphs (a) and (b).
- (3) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo in tankers shall, in addition to meeting the requirements of sub-regulation (1), have—

- (a) experience appropriate to their duties on the type of tanker on which they serve; and
- (b) completed an approved specialized training programme which at least covers the subjects set out in section A-V/1 of the STCW Code that are appropriate to their duties on the tanker on which they serve or provide evidence of having achieved the required standard of competence within the previous five years.

(4) An appropriate endorsement shall be issued on certificates of competency to officers and ratings who are qualified in accordance with sub-regulation (1) or (3) as appropriate, and every rating who is so qualified shall be certificated.

**Training and qualification of masters, officers, ratings and other personnel on ro-ro passenger ships.**

**11.** (1) This regulation applies to masters, officers, ratings and other personnel serving on board ro-ro passenger ships.

(2) Prior to being assigned shipboard duties on board ro-ro passenger ships, seafarers shall have completed the training required by sub-regulations (4) to (8) in accordance with their capacity, duties and responsibilities.

(3) Seafarers who are required to be trained in accordance with sub-regulations (4), (7) and (8) shall, at intervals not exceeding five years, undertake appropriate refresher training.

(4) Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.

(5) Masters, officers and other personnel assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarization training specified in section A-V/2, paragraph 2 of the STCW Code.

(6) Personnel providing direct service to passengers in passenger spaces on board ro-ro passenger ships shall have completed the safety training specified in section A-V/2, paragraph 3 of the STCW Code.

(7) Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.

(8) Masters, chief mates, chief engineer officers and any person having responsibility for the safety of passengers in emergency situations on board ro-ro passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 5 of the STCW Code.

(9) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

(10) Any documentary evidence issued by an STCW country to a seafarer who is trained and qualified in accordance with this regulation may be recognised in accordance with regulation 6, for service as referred to in this regulation on board ro-ro passenger ships.

**Training and qualifications of masters and seafarers on passenger ships other than the ro-ro passenger ships.**

**12.** (1) This regulation applies to masters, officers, ratings and other personnel serving on-board passenger ships, other than ro-ro passenger ships.

(2) Prior to being assigned shipboard duties on board passenger ships, seafarers shall have completed the training required by sub-regulations (4) to (8) in accordance with their capacity, duties and responsibilities.

(3) Seafarers who are required to be trained in accordance with sub-regulations (4), (7) and (8) shall, at intervals not exceeding five years, undertake appropriate refresher training or be required to provide evidence of having achieved the required standard of competence within the previous five years.

(4) Personnel designated on muster lists to assist passengers in emergency situations on board passenger ships shall have completed training in crowd management as specified in Section A-V/3, paragraph 1 of the STCW Code.

(5) Masters and seafarers assigned specific duties and responsibilities on board passenger ships shall have completed the familiarisation training specified in section A-V/3, paragraph 2 of the STCW Code.

(6) Seafarers providing direct service to passengers on board passenger ships in passenger spaces shall have completed the safety training specified in Section A-V/3, paragraph 3 of the STCW Code.

(7) Masters, chief mates, and every person assigned immediate responsibility for embarking and disembarking passengers shall have completed approved training in passenger safety as specified in Section A-V/3, paragraph 4, of the STCW Code.

(8) Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board passenger ships shall have completed approved training in crisis management and human behaviour as specified in Section A-V/3, paragraph 5 of the STCW Code.

(9) Any documentary evidence issued by an STCW country to a seafarer who is trained and qualified in accordance with this regulation may be recognised in accordance with regulation 5, for service as referred to in this regulation on board passenger ships other than ro-ro passenger ships.

**Training and Qualification of masters and seafarers on high speed craft.**

**13.** (1) This regulation applies to masters, officers, and seafarers serving on board high-speed craft.

(2) Prior to being assigned shipboard duties on board high speed craft, masters, officers and seafarers shall have completed the training specified in Schedule 5.

(3) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

(4) In the case of masters and of officers having an operational role on high speed craft, the documentary evidence shall be a certificate in a form specified in Schedule 5 and shall be endorsed in a manner specified in that Schedule.

(5) Any documentary evidence issued by an STCW country to a seafarer who is trained and qualified in accordance with this regulation may be recognised, in accordance with regulation 6, for service in high-speed craft.

**Familiarisation, basic safety training and instructions for all seafarers.**

**14.** (1) All seafarers shall receive familiarisation, basic safety training or instruction in accordance with section A-VI/1 of the STCW Code and shall meet the appropriate standard of competence specified therein.

(2) All seafarers serving on a seagoing ship which is required to comply with provisions of the ISPS Code shall receive approved security related familiarisation training in accordance with Regulation VI/6 of the STCW Convention and Section A-VI/6 of the Code.

*(Inserted by S.R.O. 39/2014)*

(3) Seafarers who have received the basic safety and security-related training specified in sub-regulations (1) and (2) shall be required every five years to provide evidence of maintaining the standard of competence and on-board training and experience may be accepted as a means of maintaining the standard.

*(Inserted by S.R.O. 39/2014)*

**Requirements for the holding of certificates of proficiency for survival craft and rescue boats.**

**15.** (1) Every person designated to launch or take charge of survival craft or rescue boats other than fast rescue boats shall hold a certificate of proficiency in such craft.

(2) No person shall be granted a certificate referred to in sub-regulation (1) unless he meets the criteria specified in Regulation VI/2.1 in the Annex to the STCW Convention.

(3) Every person designated to launch or take charge of a fast rescue boat shall hold a certificate of proficiency in such boats.

(4) No person shall be granted a certificate referred to in sub-regulation (3) unless he meets the criteria specified in Regulation VI/2.2 in the Annex to the STCW Convention.

(5) Any certificate of proficiency issued by an STCW country to a seafarer who is qualified in accordance with this regulation may be recognised, in accordance with regulation 6, for service in survival craft and rescue boats.

(6) In this regulation—

“fast rescue boat” means a rescue boat which is—

- (a) not less than 6 metres in length and not more than 8.5 metres in length; and
- (b) capable of manoeuvring, for at least 4 hours, at a speed of at least 20 knots in calm water with a suitably qualified crew of 3 persons and at least 8 knots with a full complement of persons and equipment.

**Requirements for training in advanced fire fighting and ship security.**

**16.** (1) Seafarers designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organisation, tactics and command in accordance with the

provisions of section A-VI/3 of the STCW Code and shall meet the standard of competence specified therein.

(2) Where training in advanced fire fighting is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in advanced fire fighting referred to in sub-regulation (1).

(3) Any person designated as Ship Security Officer under Regulation VI/5 of the Convention shall be certified as competent in accordance with Section A-VI/5 of the Code.

*(Inserted by S.R.O. 39/2014)*

(4) Any certificate or other appropriate documentary evidence issued by an STCW country to a seafarer who is qualified in accordance with this regulation may be recognised, in accordance with regulation 6, where such seafarer is designated to control the operations referred to in sub-regulation (1).

*(Amended by S.R.O. 39/2014)*

#### **Requirements relating to medical first aid and medical care.**

**17.** (1) Seafarers designated to provide medical first aid on board ships shall meet the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1 to 3 of the STCW Code.

(2) Seafarers designated to take charge of medical care on board ships shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs 4 to 6 of the STCW Code.

(3) Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care.

(4) Any certificate or other appropriate documentary evidence issued by an STCW country to a seafarer who is qualified in accordance with this regulation may be recognised, in accordance with regulation 6, where such seafarer is designated to provide the medical first aid or medical care referred to in sub-regulations (1) or (2).

#### **Issue, form, validity, record and surrender of certificates.**

**18.** (1) A seafarer, on application and payment of the prescribed fee shall be entitled to be issued an appropriate certificate or endorsement provided he meets the requirements set out in Schedule 4.

(2) Certificates and endorsements under these Regulations shall be issued by the Director and delivered to the person entitled to hold them.

(3) A certificate or endorsement shall remain valid for sea-going service only so long as the holder can comply with the standards and conditions as to medical fitness and professional competence to act in the appropriate capacity specified by the Director.

(4) A record of all certificates and endorsements which are issued under these Regulations, have expired or have been revalidated, suspended, cancelled, or reported lost or destroyed and any alteration of or any other matters affecting any such certificates or endorsements, shall be kept in such manner, including an electronic form, as the Director may require and such record shall include at least the details

specified in Schedule 6 and any other details which may be specified by the IMO from time to time.

*(Substituted by S.R.O. 39/2014)*

(5) Where the holder of a certificate is issued with an appropriate certificate at a higher level he shall surrender the first-mentioned certificate for cancellation to the Director, or to such person as the Director directs.

(6) Where a person is convicted of an offence under the Act, or where a certificate or endorsement is issued and the conditions for its issue prescribed in these Regulations or specified by the Director have not been complied with, then the holder of the relevant certificate shall, at the direction of the Director, deliver it for cancellation to the Director, or to such person as the Director directs.

(7) In this regulation “endorsement” means endorsement of the recognition of a certificate pursuant to regulation 6.

#### **Refusal of certificates, and appeals against refusal.**

**19.** (1) Notwithstanding that an applicant for a certificate of competence or an endorsement complies with the standards or fulfils the conditions specified by, or by virtue of, the foregoing provisions of these Regulations, the Director shall not issue or revalidate the appropriate certificate applied for unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of the certificate and to act in the capacity to which it relates.

(2) Where the Director intends to refuse the issue or revalidation of a certificate of competence or certificate of equivalent competence for any reason, he shall give notice in writing to the applicant who shall have the right, before a date specified in the notice, to require the application to be reviewed at an inquiry.

(3) Where an applicant, before the date mentioned in sub-regulation (2), has required his case to be reviewed at an inquiry, in pursuance of that sub-regulation the Minister shall cause such an inquiry to be held by one or more persons appointed by him.

#### **Loss of Certificates.**

**20.** (1) Where a person entitled to a certificate or endorsement loses or is deprived of a certificate or endorsement already issued to him, the Director—

(a) where satisfied that the person has lost or been deprived of the certificate or endorsement without fault on his part shall; and

(b) where he is not so satisfied may,

upon receipt of any fee payable, cause to be issued to that person a certified copy of the certificate or endorsement to which the person appears to be entitled.

(2) A person aggrieved under sub-regulation (1)(b) may appeal the decision of the Director in accordance with the Act.

(3) In this regulation “endorsement” means endorsement of the recognition of a certificate pursuant to regulation 6.

#### **Near Coastal Voyages.**

**21.** The principles governing near coastal voyages are set out in Schedule 7.

## PART III

## QUALITY STANDARDS

**Training, assessment and maintenance of quality standards.**

**22.** (1) The training and assessment of seafarers shall be administered, supervised and monitored in accordance with the provisions of section A - I/6 of the STCW Code.

(2) The provisions of Schedule 8 shall apply in respect of the assessment of seafarers ashore for certification under regulation 4.

(3) Persons responsible for the training and assessment of seafarers shall be appropriately qualified in accordance with the provisions of section A - I/6 of the STCW Code for the type and level of training or assessment involved.

(4) The performance standards and other provisions set forth in section A - I/12 and such other requirements as are prescribed in Part A of the STCW Code for any certificate concerned shall be complied with in respect of—

- (a) all mandatory simulator-based training;
- (b) any assessment of competence required by Part A of the STCW Code which is carried out by means of a simulator; and
- (c) any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.

(5) Simulators installed or brought into use prior to 1 February 2002 shall be exempt from full compliance with the performance standards referred to in sub-regulation (4).

(6) Under the direction of the Director, and in accordance with section A - I/8 of the STCW Code, a quality standards system shall be established through which all activities relating to training, assessment of competence, certification, endorsement and revalidation shall be continuously monitored to ensure the achievement of defined objectives including those concerning the qualifications and experience of instructors and assessors.

(7) Education and training provided by maritime training institutions of an STCW country other than Saint Christopher and Nevis may be recognised by the Director for the purpose of examination and certification under these Regulations.

(8) An independent evaluation shall be undertaken in accordance with section A- I/8 of the STCW Code by suitably qualified persons appointed by the Director who are not themselves involved in the activities concerned and information relating to such evaluation shall be communicated to the Secretary-General.

## PART IV

## HOVERCRAFT

**Application of Schedule IV.**

**23.** This Part applies to every sea-going hovercraft registered in Saint Christopher and Nevis which was constructed on or after 1st January 1996.

**Mandatory minimum requirements for the training of hovercraft personnel.**

24. (1) It shall be the duty of every owner of a hovercraft to which this Part applies to ensure that masters, seafarers and other personnel have completed the training specified by the Director.

(2) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training. In the case of masters, and of officers having an operational role on high speed craft, the documentary evidence shall be a certificate in a form specified by the Director and shall be endorsed in a manner specified by the Director.

**Certificates.**

25. Regulations 18, 19 and 20 apply to certificates issued under regulation 24 as they apply to other certificates or endorsements issued under these Regulations.

**Exemption.**

26. The Director may exempt the owner of any hovercraft from any of the requirements of regulation 24 subject to such conditions as he may specify, and may alter or cancel any exemption so granted.

**PART V****SAFE MANNING****Responsibilities of companies, masters and others.**

27. (1) SOLAS regulations require minimum safe manning levels to be established for every ship, following a transparent procedure and taking into account the guidance adopted by IMO under Assembly resolutions on Principles of Safe Manning; and for Administrations to issue an appropriate minimum safe manning document or equivalent to each vessel on their Register as evidence of the minimum safe manning considered necessary.

(2) In accordance with SOLAS regulations the Director requires every company operating a St Christopher and Nevis vessel to ensure that—

- (a) every seafarer assigned to any of its ships holds an appropriate certificate in respect of any function he is to perform on that ship;
- (b) every seafarer on any of its ships has had training specified in these Regulations in respect of any function that he is to perform on that ship; and
- (c) documentation and data relevant to all seafarers employed on its ships are maintained and readily available for inspection and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties.

(3) Nothing in sub-regulation (2) of this regulation shall prohibit the allocation of tasks for training under supervision or in case of *force majeure*.

(4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures



and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

(5) The policies and procedures referred to in sub-regulation (4) shall include—

- (a) allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with—
  - (i) the specific equipment the seafarer will be using or operating; and
  - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
- (b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive essential information in a language the seafarer understands.

(6) It shall be the duty of any master and any member of a crew designated with an obligation under sub-regulation (4) of this regulation to carry out that obligation.

*(Substituted by S.R.O. 39/2014)*

#### **Minimum safe manning certificate.**

**28.** (1) It shall be the duty of the company to ensure that in relation to every ship, to which these Regulations apply, of 24 metres length and above and all passenger ships of any size plus any other ships to which these Regulations do not apply but for which there is a voluntary application by the company and for any ship which the Director may so determine—

- (a) a minimum safe manning certificate is in force in respect of the ship and the manning of the ship;
- (b) the minimum safe manning certificate is kept on board the ship at all times; and
- (c) the manning of the ship is maintained at all times to at least the levels specified in the minimum safe manning certificate.

(2) The master of any ship to which this regulation applies shall ensure that the ship does not proceed to sea unless there is on board a valid minimum safe manning certificate issued in respect of the ship and the manning of the ship complies with that document.

(3) It shall be the duty of the company applying for the minimum safe manning certificate in respect of any Saint Christopher and Nevis ship to submit to the Director proposals as to the numbers and grade of personnel it considers should be carried so that the ship would be safely manned if it proceeded to sea on any intended voyage and in preparing such proposals the company shall take into account the guidelines contained in Schedule 9 and any additional guidance issued by the Director.

(4) It shall be the duty of the company after the issue of a minimum safe manning certificate to inform the Director as soon as any of the circumstances which are pertinent to that minimum safe manning certificate change, for the purpose of enabling the Director to review the document's continuing validity or approve new proposals from the company.

**Dispensations.**

29. (1) Subject to sub-regulation (2) the Director may, in circumstances of exceptional necessity and where in his opinion no danger to persons, property or to the environment will be caused, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months, in a capacity other than that of a radio operator, except as provided by the relevant radio regulations, for which he does not hold the appropriate certificate, provided the person to whom the dispensation is issued is adequately qualified to fill the vacant post in a safe manner, in accordance with the applicable safe manning requirements.

(2) A dispensation shall not be granted to a person to act as a master or chief engineer except in circumstances of *force majeure*, and in any event, such dispensation, where granted, shall be granted only to an officer at the management level and for the shortest duration possible.

(3) In granting a dispensation under sub-regulation (2), the Director shall specify the particular voyage or part of a voyage for which the dispensation will be valid.

(4) A dispensation shall only be granted to a person properly certificated to fill the post immediately below; and where certification for such post is not required under these regulations, a dispensation may be issued to a person whose qualifications and experience are, in the opinion of the Director, of a clear equivalence to the requirements for the post to be filled, provided that, where such person does not hold an appropriate certificate, he shall be required to pass a test acceptable to the Director as demonstrating that such a dispensation may safely be issued.

(5) Where a dispensation is granted under this regulation, the Director shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

(6) The Director shall, as soon as possible after the first day of January of each year, submit to the Secretary-General, a report indicating the total number of dispensations granted for each capacity for which an appropriate certificate is required in respect of all sea-going Saint Christopher and Nevis ships, and the numbers of those ships above and below 3000 GT respectively.

(7) A dispensation shall be given in the form specified in Schedule 10.

PART VI  
HOURS OF WORK

**Application of Part VI.**

30. (1) This Part applies only to Saint Christopher and Nevis ships.

(2) If any doubt arises as to whether a conflict exists between the provisions of this Part of the Regulation and the provisions of the Merchant Shipping (Maritime Labour Convention, 2006) Regulations, 2013, the matter will be determined by the Director after consultation with the concerned ship-owners and seafarers' organisations.

*(Inserted by S.R.O. 39/2014)*

**General duty of companies, employers and masters.**

**31.** (1) Subject to regulation 34, it shall be the duty of every company in respect of a ship, and of every employer, to ensure, so far as is reasonably practicable, that the master and seafarers do not work more hours than is safe in relation to the safety of the ship and the master's and the seafarers's performance of their duties.

(2) Subject to regulation 34, it shall be the duty of every master of a ship to ensure, so far as is reasonably practicable, that seafarers do not work more hours than is safe in relation to the safety of the ship and the master's and the seafarers's performance of their duties.

**Duties of masters and seafarers.**

**32.** Every master and seafarer shall, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he is off duty.

**Schedules of duties and need to maintain records.**

**33.** (1) It shall be the duty of the company to produce a schedule of duties complying with this regulation.

(2) Where the company is not also the employer of the master and all the seafarers, it shall consult any other person who is an employer of the master or of any of the seafarers before production of the schedule.

(3) The company may arrange with any such employer that the employer is to produce a schedule of duties in accordance with this regulation and in such a case that employer shall also be subject to the duties of the company under this regulation.

(4) Before producing a schedule the company shall seek the views of the master, and the master shall seek, and convey to the company, the views of—

- (a) the ships safety committee; or
- (b) the seafarers or their representatives.

(5) Subject to sub-regulation (6), a schedule complies with this regulation where—

- (a) it sets out the hours of work for—
  - (i) masters and seafarers whose work includes regular watchkeeping duties or ship handling; and
  - (ii) the ship's chief engineer, chief officer and second engineer officer,

so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seafarers's performance of their duties;

- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any 24-hour period, which may be divided into no more than two periods, one of which shall be at least six hours in length.

(6) Notwithstanding sub-regulation (5)(c), the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such

reduction shall not extend beyond two days and not less than seventy hours of rest are provided in each seven day period.

(7) The company shall give consideration to the nature of the shipping operation and the voyages to be undertaken in arranging the hours of work at sea and in port.

(8) The schedule may be changed by the company, or by an employer who by virtue of sub-regulation (3) is subject to the duties of the company, on condition that—

- (a) other employers and where necessary the company have been consulted;
- (b) the company or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the company the views of persons mentioned in sub-regulation (4)(a) or (b); and
- (c) the schedule as changed complies with sub-regulation (5).

(9) The company shall ensure that the schedule is displayed prominently in the crew accommodation for the information of all the seafarers.

(10) It shall be the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule are not exceeded.

(11) The following requirements apply with respect to the schedule produced in accordance with sub-regulation (1)—

- (a) the company and the master shall maintain on the ship a copy of the schedule, and a record of all deviations from its requirements;
- (b) (i) the company for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for five years from the date the schedule was introduced, and that they are available for inspection by the Registrar, a proper officer, or a surveyor, or an inspector appointed under section 411 of the Act;  
(ii) where during the five year period there ceases to be a company in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such company; and
- (c) the master shall give to every seafarer a copy of the schedule pertaining to that seafarer, which copy shall be signed by the master or a person authorised by the master, and by the seafarer.

(12) Musters, fire-fighting and lifeboat drills shall be conducted in a manner that minimises the disturbance of the rest periods and does not induce fatigue.

(13) Where a seafarer is on call, such as where a machinery space is unattended, an adequate compensatory rest period shall be given to such seafarer where the normal period of rest is disturbed by call-outs to work.

(14) In this regulation “schedule” means the schedule of duties referred to in sub-regulation (1).

#### **Exemptions for emergencies.**

**34.** (1) The requirements for rest periods specified in regulation 33(5)(c) and (6) need not be maintained in case of any emergency, including giving assistance to other

ships or persons in distress at sea, or drill or in other overriding operational conditions.

(2) Without prejudice to the generality of sub-regulation (1), a master of a ship or seafarer may participate in a navigational, engine room or machinery watch although he has not had the rest period provided by the schedule produced in pursuance of regulation 33, and the master may exceed, and a seafarer may be required to exceed, the schedule's work or duty periods, when in the opinion of the master it is necessary to meet an emergency threatening the safety of the ship or the life of any person or threatening damage to the environment, until the emergency is over.

(3) As soon as practicable after the emergency is over, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

(4) When in pursuance of sub-regulation (1) the master or a seafarer has worked within a rest period provided for by the schedule, his name shall be entered in the record required to be maintained by regulation 33(11), together with the reason why he so worked.

(5) In this regulation "schedule" means the schedule of duties referred to in regulation 33(1).

#### **Duty to carry copy of regulations.**

**35.** There shall be carried on board every Saint Christopher and Nevis ship to which these Regulations apply a copy of these Regulations.

#### **Failure to comply with provisions relating to hours of work and rest.**

**36.** (1) Where the records or other evidence indicate a failure, on the part of any person concerned, to comply with the provisions of these Regulations relating to hours of work and rest, the Director shall take such measures as he may deem necessary to ensure that such failure to comply is not repeated.

(2) The measures referred to in this regulation may include a revision of the safe manning requirements.

## PART VII

### WATCHKEEPING

#### **Watchkeeping Arrangements.**

**37.** (1) The master of any ship shall ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches having regard to Chapter VIII of section A of the STCW Code.

(2) Without prejudice to the duties of the master provided by sub-regulation (1), the master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 4-1 of section A-VIII/ 2 of the STCW Code and any requirements specified in Schedule 9.

*(Amended by S.R.O. 39/2014)*

(3) The chief engineer officer of any ship shall ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a

safe watch, in accordance with Part 4 - 2 of section A-VIII/2 of the STCW Code, and when deciding the composition of the watch the chief engineer officer shall observe the principles set out in Part 4 - 2 of that section and the requirements specified in Schedule 9.

*(Amended by S.R.O. 39/2014)*

**Watchkeeping arrangements in ports.**

**38.** (1) The master of any ship which is safely moored or safely at anchor under normal circumstances in port shall arrange for an appropriate and effective watch to be maintained for the purposes of safety.

(2) The arrangements referred to in sub-regulation (1) shall be in accordance with Part 4 of section A-VIII/2 of the STCW Code and any operational guidance specified in Schedule 9.

**Watchkeeping arrangements in ports for ships carrying hazardous cargo.**

**39.** (1) The master of any ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor, shall in addition to any watchkeeping arrangements required under regulation 38, in the case of—

- (a) a ship carrying hazardous cargo in bulk ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and where appropriate, ratings; and
- (b) a ship carrying hazardous cargo other than in bulk, ensure that in organising safe watchkeeping arrangements he takes account of the nature, quality, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.

(3) Such watchkeeping arrangements shall take full account of the principles and requirements specified by the Director and as provided in Schedule 9.

PART VIII

MISCELLANEOUS

**Prohibition on the employment of young persons.**

**40.** (1) No person under the age of 16 shall be employed on a ship.

(2) No person under 18 years of age shall be employed in the engine room or boiler room of a ship.

*(Substituted by S.R.O. 39/2014)*

(3) (a) No seafarers under the age of 18 shall work at night;

(b) For the purposes of paragraph (a), “night” means a period of at least 9 consecutive hours, including the period from midnight to 0500 hours.

**Carriage of STCW Certificates and documents.**

**41.** Without prejudice to regulation 27, the company and the master shall ensure that there are carried at all times on board ship all original certificates and other documents issued pursuant to the STCW Convention indicating the qualification of

any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

### **Inspection of ships.**

**42.** (1) An authorised person may inspect any ship while in a Saint Christopher and Nevis port for the purposes of—

- (a) verifying that all seafarers serving on board who are required to be certificated hold valid appropriate certificates and endorsements or valid dispensations or have provided documentary proof required by regulation I/10, paragraph 5 of the STCW Convention, or where regulations 6(11) or 29 are applicable, the requirements of those provision have been met;
- (b) verifying that the numbers and certificates of the seafarers serving on board are in conformity with the applicable safe manning requirements; and
- (c) assessing the ability of the seafarers in the ship to maintain the watchkeeping standards required by these Regulations where there are clear grounds for believing that such standards are not being maintained because, while in a port in Saint Christopher and Nevis or in the approaches to that port, any of the following has occurred—
  - (i) the ship has been involved in a collision, grounding or stranding;
  - (ii) there has been an unlawful discharge of substances from the ship when underway, at anchor or at a berth;
  - (iii) the ship has been manoeuvred in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed; or
  - (iv) the ship has otherwise been operated in such a manner as to pose a danger to persons, property or the environment.

(2) Where an authorised person finds on inspection any deficiency of a kind specified in sub-regulation (3) he shall notify the master of the ship, in writing, and in the case of a ship which is not a Saint Christopher and Nevis ship, the nearest maritime consular or diplomatic representative of the flag state.

(3) Deficiencies referred to in sub-regulation (2) are—

- (a) a failure of any seafarer required to hold an appropriate certificate, to have a valid appropriate certificate, an endorsement, or a valid dispensation;
- (b) a failure of any seafarer to produce the documentary proof required by Regulation I/10, paragraph 5 of the STCW Convention, or where regulation 6(11) is applicable, the requirements of that provision have not been met;
- (c) a failure to comply with the applicable safe manning requirement;
- (d) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;
- (e) an absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;

- (f) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

(4) The certificates, endorsements and dispensations referred to in sub-regulation (1) shall be accepted by the authorised person carrying out the inspection unless there are clear grounds for believing that a certificate has been fraudulently obtained or that the holder of a certificate is not the person to whom that certificate was originally issued.

#### **Power to detain.**

**43.** (1) In any case where it is found—

- (a) in relation to a Saint Christopher and Nevis ship, that there is any contravention of these Regulations; or
- (b) in relation to a ship which is not a Saint Christopher and Nevis ship, that there is—
  - (i) any contravention of regulation 28, 37, 38 or 39; or
  - (ii) a failure to correct a deficiency of a kind specified in regulation 42(3) after notification to the master pursuant to regulation 42(2), and there is in consequence a danger to persons, property or the environment,

the ship may be detained, and section 436 of the Act shall apply to such detention.

(2) The Director shall promptly report to the Secretary-General the facts concerning the detention of a ship pursuant to this regulation.

#### **Parity of treatment of STCW ships and non STCW Ships.**

**44.** Regulations 42 and 43 shall be applied as may be necessary to ensure that no more favourable treatment is given to non-STCW ships than is given to STCW ships.

#### **Provision of information on certificates.**

**45.** (1) The Director shall make available information on the status of such certificates, endorsements and dispensations as are referred to in regulation 18(4), to the authorities of other STCW countries and companies who request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates or for employment on board ship.

(2) The Director may request from the authorities of other STCW countries information on certificates, endorsements and dispensations issued by them, where such certificates, endorsements and dispensations are produced to the Director by seafarers seeking recognition of their certificates under regulation 6 or for seeking employment on board Saint Christopher and Nevis sea-going ships or by seafarers serving on board a ship which is not a Saint Christopher and Nevis ships operating in Saint Christopher and Nevis waters.

#### **Penalties.**

**46.** (1) Any owner who contravenes regulation 24(1) shall be guilty of an offence, and be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.



(2) Any company which contravenes regulation 27(2) or (4), 28(1), (3) or (4), 33(1), (2), (9) or (11) or 41 shall be guilty of an offence and shall be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(3) Any master who contravenes regulation 27(6), 28(2), 34(3), 37(1) or (2), 38, 39 or 41 shall be guilty of an offence and shall be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(4) Any member of the crew who contravenes regulation 27(6) shall be guilty of an offence and shall be liable to a fine not exceeding Level 1 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(5) Any chief engineer officer who contravenes regulation 37(3) shall be guilty of an offence and shall be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(6) Any company which contravenes regulation 31(1) shall be guilty of an offence and shall be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(7) Any employer who contravenes regulation 31(1) shall be guilty of an offence and shall be liable to a fine not exceeding Level 2 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(8) Any master who contravenes regulation 32, 33(10) or (11) shall be guilty of an offence and shall be liable to a fine not exceeding Level 1 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(9) Any seafarer who contravenes regulation 32 shall be guilty of an offence and shall be liable to a fine not exceeding Level 1 on the Standard Scale of Fines as set out under section 452(4) of the Act.

(10) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to avoid commission of the offence.

(11) In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

#### **Exemptions.**

47. The Director may grant, on such terms, if any, as he may specify, exemptions from all or any provisions of these Regulations for classes of cases or individual cases.

#### **Delegation.**

48. The Director may delegate in whole or in part any of the duties carried out by him according to these regulations, to the Registrar.

---

**SCHEDULE 1***(Regulation 5)*

## REVALIDATION OF CERTIFICATES

**Applicants for revalidation**

- 1.1 Seafarers with 12 months seagoing service within the last 5 years shall—
- .1 meet the minimum prescribed standards of medical fitness;
  - .2 establish continued professional competence in accordance with Section A-I/ 11 of the STCW 95 Convention by having performed, during their period of seagoing service, functions appropriate to the level of certification held; and
  - .3 meet such other requirements as may be prescribed by the Department of Maritime Affairs pursuant to the issuing of certificates of competence.
- 1.2 Seafarers who have performed functions considered to be equivalent to the seagoing service of 12 months within the last 5 years, namely—
- .1 marine pilots;
  - .2 masters, Deck Officers and Engineering Officers serving onboard tugs;
  - .3 officers serving onboard auxiliary vessels such as navigational aids tenders; seismic, oceanographic and hydrographic survey vessels; marine research vessels and training vessels shall meet the following criteria—
    - (a) the minimum prescribed standards of medical fitness;
    - (b) establish continued professional competence in accordance with Section A-I/ 11 of the STCW 95 Convention, by having performed, during the period, functions appropriate to the level of certification held; and
    - (c) such other requirements as may be prescribed by the Department of Maritime Affairs pursuant to the issuing of certificates of competence;
- 1.3 Seafarers who have less than 12 months seagoing service within the last 5 years shall successfully complete any relevant examination approved by the Department of Maritime Affairs.
- 1.4 Seafarers who do not have any seagoing service within the last 5 years shall successfully complete a programme of study approved by the Department of Maritime Affairs.
- 1.5 Seafarers who are employed ashore within the maritime industry and have been performing functions appropriate or relevant to their certificates of competence namely—
- .1 maritime lecturers;
  - .2 maritime surveyors;
  - .3 maritime administrators,
- who do not have 12 months seagoing service within the last 5 years shall meet the following criteria—
- (a) the minimum prescribed standards of medical fitness; and

- (b) complete a period of approved seagoing service of not less than 3 months in a super-numerary capacity, or in a lower Officer rank / capacity than that for which their certificate of competence is valid.

## 2 Special Training Requirements

Every Master, Officer and Radio Operator serving onboard seagoing ships and in capacities or functions for which special training requirements have been internationally agreed upon, including tankers and ro-ro ships, will only have their certificates, endorsements and recognition revalidated by the Department of Maritime Affairs provided that they have successfully completed the relevant training pertaining to—

- .1 emergency functions;
- .2 operational safety functions;
- .3 medical care functions;
- .4 survival functions.

### SCHEDULE 2

#### Regulation 6(5)

#### FORM OF ENDORSEMENT

#### ST KITTS & NEVIS

Photo of  
Seafarer  
covered by  
transparent  
hologram

Coat  
of  
arms

INTERNATIONAL SHIP REGISTRY

DMA  
logo

## *Certificate of Endorsement*

**Endorsement attesting the recognition of a certificate under the provisions of the Merchant Shipping Act Cap. 7.05, giving effect Regulation I/10 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 as amended**

The Government of Saint Christopher (St. Kitts) & Nevis certifies that:

Number	Surname	Given names

Issuing government:

is duly recognised in accordance with the provisions of Regulation I/10 of the above Convention, as amended, and the lawful holder is authorised to perform the following functions, at the levels specified, subject to any limitations indicated until the date of expiry shown below.

Function	Level	Limitations applying

Capacity	Limitations

Seafarers Number: **SKN0900**

Date of Issue:

Date of Expiry:

Signature of authorised official:

Name of authorised official:

Date of birth of the holder of the certificate:

Signature of the Holder of the certificate:

*The original of this endorsement must be kept available in accordance with paragraph 9 of regulation I/2 of the Convention while serving on a ship.*

Endorsement No. /00

The validity of this Endorsement is hereby extended until:	
Affix official stamp/seal here	Signature of a duly authorised official

Date of revalidation	Name of duly authorised official
----------------------	----------------------------------

The validity of this Endorsement is hereby extended until:	
Affix official stamp/seal here	Signature of a duly authorised official
Date of revalidation	Name of duly authorised official

The validity of this Endorsement is hereby extended until:	
Affix official stamp/seal here	Signature of a duly authorised official

Date of revalidation	Name of duly authorised official
----------------------	----------------------------------

*(Substituted by S.R.O. 39/2014)*

### SCHEDULE 3

*(Regulation 7)*

#### TABLE OF CRITERIA FOR APPROPRIATE CERTIFICATES

Column 1	Column 2
Master and Deck Departm	Regulation Annexed to the STCW Convention
Officer in charge of a navigational watch on any ship on voyages not limited to near-coastal voyages.	Regulation II/1.2.
Master or chief mate (chief officer) on a ship of 3000 GT or more.	Regulation II/2.2.
Master or chief mate (chief officer) on a ship of less than 3000 GT.*	Regulation II/2.4.
Officer in charge of a navigational watch on a ship of less than 500 GT engaged on near-coastal voyages.	Regulation II/3.4.
Master on a ship of less than 500 GT engaged on near-coastal voyages.	Regulation II/3.6.
Engine Department	Regulation Annexed to the STCW Convention
Officer in charge of an engineering watch in a manned engine room, or designated duty engineer officer in a periodically unmanned engine-room, on a ship powered by main propulsion machinery of 750 kW propulsion power or more.	Regulation III/1.2.
Chief Engineer officer or second engineer officer in a ship powered by main propulsion machinery of 300 kW propulsion power or more.	Regulation III/2.2.
Chief Engineer officer** and second engineer officer*** in a ship powered by main propulsion machinery of between 750 and 3000 kW propulsion power.	Regulation III/3.2.

\*This certificate may be endorsed for service in vessels of 3000 GT or more in the near-coastal area.

\*\*This certificate may be endorsed, if required, for service in vessels up to 6000 kW in the near-coastal area for those with not less than 36 months sea service.

\*\*\*This certificate may be endorsed for service in vessels up to 6000 kW in the near-coastal area.

---

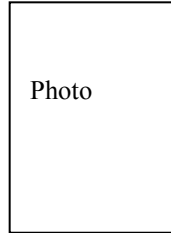
## SCHEDULE 4

(Regulations 7, 8 and 18)

### ISSUE OF CERTIFICATES OF COMPETENCE

1. Candidates seeking to be certificated (in any capacity, function or level) shall—
  - .1 provide proof of their identity and nationality;
  - .2 provide proof of their age;
  - .3 hold a valid certificate of medical fitness (inclusive of sight and hearing tests) - such certificate to have been issued within the previous 12 months or have at least 6 months validity remaining;
  - .4 have completed the required period of watchkeeping or seagoing service;
  - .5 have successfully completed the required course of compulsory training. In this regard they should provide transcripts from an approved training institution attesting that they have successfully completed the course of study;
  - .6 meet the required standards of competence or have successfully completed the prescribed assessment, as appropriate;
  - .7 provide testimonials as to their character, including sobriety, and a record of suitable experience and satisfactory conduct during the period of seagoing service.
2. Candidates seeking initial certification as watchkeeping officers are required, in addition to the abovementioned requirements, to produce a training record book, attesting to the fact that they have completed a period of systematic, practical training and experience in the tasks, duties and responsibilities of an officer in charge of a watch.
3. The Department of Maritime Affairs will issue certificates of competence only to those candidates who meet the requirements appropriate to the capacity, function and level of responsibility for which they seek to be certificated.
4. Certificates of competence issued by the Department of Maritime Affairs shall be in the form specified in the Annex to this Schedule.
5. Any certificate of competence issued by the Department of Maritime Affairs shall be kept by the lawful holder in its original form onboard the ship on which they are serving.
6. The Director may delegate the issuing of Certificates of Competence as described above to the Registrar.

**ANNEX**  
**FORM OF CERTIFICATE OF COMPETENCY**  
**ST KITTS & NEVIS**  
**INTERNATIONAL SHIP REGISTRY**



Photo

Coat  
of  
arms

*Certificate of  
Competency*

DMA  
logo

***The Saint Christopher & Nevis Merchant Shipping Act Cap 7.05***  
***Department Of Maritime Affairs***

*Certificate issued under the provisions of the Merchant Shipping Act Cap 7.05 giving effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarer's 1978 as amended in 1995*

The Government of Saint Christopher (St. Kitts) & Nevis certifies that:

Certificate Number .....

Issued to .....

By or on behalf of the Government of .....

Has been found duly qualified in accordance with the provisions of Regulation ..... of the above Convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until the date shown below or until the date of expiry of any extension of the validity of his certificate as may be shown overleaf.

FUNCTION	LEVEL	LIMITATIONS (IF ANY)

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Department of Maritime Affairs:

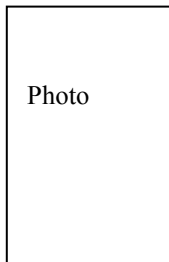
CAPACITY	LIMITATIONS (if any)





Signature of a duly authorised official .....
Date of revalidation ..... Name of duly authorised official .....

The validity of this Endorsement is hereby extended until :	
Affix official stamp/seal here	
Signature of a duly authorised official .....	
Date of revalidation ..... Name of duly authorised official .....	



Photo

Coat  
of  
Arms

**ST KITTS & NEVIS  
INTERNATIONAL SHIP REGISTRY**

***Certificate***

DMA  
logo

***The Saint Christopher & Nevis Merchant Shipping Act Cap 7.05  
Department Of Maritime Affairs***

<i>Certificate issued under the provisions of the Merchant Shipping Act Cap 7.05 giving effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarer's 1978 as amended in 1995</i>
--

The Government of Saint Christopher (St. Kitts) & Nevis certifies that:

Certificate Number .....

Issued to .....

Has been found duly qualified in accordance with the provisions of Regulation ..... of the above Convention, as amended to be proficient in:

[Familiarization, Basic Safety Training and Instruction] [Survival Craft and Rescue Boats/\*other than fast rescue boats] [Advanced Fire Fighting] [Medical First Aid and Medical Care] [to serve on tankers] [to serve as navigation/\* engine room watch rating] [to serve as an electro-technical rating]\*\*.

(Substituted by S.R.O. 39/2014)

\*\* Appropriate notation shall be made on the Certificate

Seafarers Number	Date of issue (for this certificate)	Place of Issue (for this certificate)
SKN 800	DD/MM/YY	

.....  
**Authorised Official**

**Signature of the Holder of  
Date of Birth of the this Certificate**

Please keep your signature within the  
box and sign without touching any of the box lines.

.....  
**Date of Birth of the  
Holder of this Certificate**

*The original of this Endorsement shall be kept available in accordance with Regulation I/2, paragraph 9 of the Convention while serving on a ship*

## SCHEDULE 5

*(Regulation 13)*

### TRAINING AND CERTIFICATION OF OFFICERS AND CREW ON HIGH SPEED CRAFT

#### Training Requirements

- 1.1 Deck officers serving on High Speed Craft (HSC) are required to hold a Type Rating Certificate (TRC) in addition to a valid deck officer certificate of competency.
- 1.2 HSC operators are responsible for ensuring that appropriate training is given to deck officers so that they may qualify for the issue of a TRC. The training required by the HSC Code includes knowledge of the craft's propulsion and control systems, handling characteristics, communication and navigation procedures, intact stability and survivability of the craft.
- 1.3 Organizations providing TRC training are required to nominate a person responsible for the training. This person will be designated the Type Rating Instructor (TRI). TRIs may be appointed from within the HSC operating organization or from an outside source. Organisations should also nominate another person responsible for the assessment of training to serve as a Type Rating examiner (TRE). Both TRIs and TREs should be experienced in the operation of the craft on the route on which they will be instructing and

examining, respectively, and be approved by the Director. Under no circumstances will the same person be allowed to work as both TRI and TRE.

- 1.4 Engineer officers on HSC are required to be appropriately certificated under the requirements of the regulations but do not require additional type rating certification.
- 1.5 On HSC with gas turbine propulsion, engineer officers may hold either: Motor, Steam or Combined certificates of competency. In addition, specified senior engineer officers are required to hold a certificate attesting to the completion of an approved gas turbine training programme for the machinery on their vessel.

#### **Issue of Type Rating Certificates**

- 2.1 After undergoing training with the approved TRI a candidate will be examined by the approved TRE. Where successful, the organization should issue a TRC in the form given in the Annex to this Schedule. The TRC, plus a duplicate copy, should be forwarded, together with a valid medical fitness certificate, to the Department of Maritime Affairs. The TRC shall specify the craft or class of craft (e.g. 65 metres wave piercing catamaran), and its operational area or routes.
- 2.2 Where the Director is satisfied that all the requirements have been met he will endorse the TRC for service use. This procedure is required in order to satisfy the requirements of paragraph 18.3.3 of the HSC Code. The Director will return the original and keep the duplicate copy for record purposes.
- 2.3 Further routes may be added to a TRC after a holder has undergone route familiarization training and performance assessment by the TRE. The organization may issue a new TRC or amend an existing one upon the recommendation of the TRE. In either case, the TRC shall be submitted to the Department of Maritime Affairs for endorsement of the amendments and recording purposes as above.

#### **Revalidation**

- 3.1 Revalidation of a TRC is required at intervals of not more than 2 years. For revalidation, candidates shall be able to show evidence of continuing fitness for service on HSC. They shall provide evidence of at least 6 months sea service on HSC in the preceding 2 years or a statement from a HSC operator or other TRC training organization to indicate that the candidate has successfully completed a training programme prior to seeking revalidation. When the issuing organization is satisfied that the revalidation requirements have been met, the TRC should be revalidated (see reverse side of specimen certificate format in the Annex) and submitted to the Department of Maritime Affairs for endorsement and recording purposes as in 2.1.

#### **Ratings and Other Personnel**

- 4.1 Ratings and other personnel employed on HSC shall undergo a training programme appropriate to their duties on board and may be trained solely for HSC service without seagoing experience on other types of ships. Ratings in this category may hold [a certificate as a Deck Rating (EDH)] limited for service on HSC as appropriate. This limitation will be removed where the holder completes at least 6 months service on a conventional ship. Application for removal of a limitation should be made to the Department of Maritime Affairs.

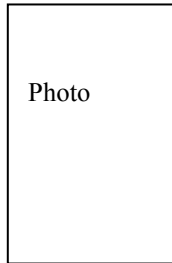
Non Sea-going HSC

3.2 Deck officers on non sea-going HSC should follow a training, assessment and certification system similar to that detailed above. In order to qualify for a TRC, the applicant shall be able to demonstrate the skills appropriate to navigational duties in the relevant operational area.

ANNEX

FORM OF TYPE RATING CERTIFICATE

ST KITTS & NEVIS



Photo

Coat of Arms

INTERNATIONAL SHIP REGISTRY

DMA logo

Type Rating Certificate for High Speed Craft

THE SAINT CHRISTOPHER & NEVIS MERCHANT SHIPPING ACT CAP 7.05 DEPARTMENT OF MARITIME AFFAIRS

The Government of Saint Kitts and Nevis certifies that:

Name of Seafarer .....

Date of Birth .....

Discharge Book No/Other National ID .....

Certificate of Competency (if any) -Class/Regulation .....

Date of Issue ..... Issuing Authority .....

Has completed a course of training as required by Chapter 18.3.3 of the International Code of Safety for High Speed Craft and has passed an examination, including practical tests, commensurate with operational tasks on board the craft and routes detailed below:

Name (or class) of Craft ..... Type of Craft .....

Route .....

.....

.....

Issuing Authority Stamp and Date

.....

Name & Title of Authorised Official

Capacity .....

AMENDMENTS Details of Additional Routes .....

.....  
Issuing Authority Stamp  
and Date  
.....

.....  
Name & Title of Authorised  
Official

This certificate is subject to 2 yearly revalidation in accordance with Chapter 18.3.5 of the HSC Code. Confirmation that the certificate has been revalidated is to be confirmed by completion of the table below.

**REVALIDATION**

This is to certify that this certificate is valid for a period of two years from the date of issue or last revalidation date.

The validity of this Certificate is hereby extended until :	
<p>Affix official stamp/seal here</p> <p style="text-align: right;">..... Signature of a duly authorised official</p> <p>.....</p> <p>Date of revalidation <span style="float: right;">Name of duly authorised official</span></p>	

The validity of this Certificate is hereby extended until :	
<p>Affix official stamp/seal here</p> <p style="text-align: right;">..... Signature of a duly authorised official</p> <p>.....</p> <p>Date of revalidation <span style="float: right;">Name of duly authorised official</span></p>	

The validity of this Certificate is hereby extended until :	
<p>Affix official stamp/seal here</p> <p style="text-align: right;">..... Signature of a duly authorised official</p> <p>.....</p>	
Date of revalidation	Name of duly authorised official

## SCHEDULE 6

*(Regulation 18(4))*

### RECORD OF CERTIFICATES AND ENDORSEMENTS

1. In implementing the requirement in paragraph 4.1 of regulation I/9 of the revised STCW Convention for the maintenance of a Register of certificates and endorsements a standard database is not necessary provided that all the relevant information is recorded and available.
2. The following items of information should be recorded and available either on paper or electronically in accordance with regulation I/9, as a minimum:
  - (1) Status of certificate—
    - (a) Valid;
    - (b) Suspended;
    - (c) Cancelled;
    - (d) Reported lost;
    - (e) Destroyed,

with a record of changes to status to be kept, including dates of changes.

2. Certificate details—
  - (a) Seafarer's name;
  - (b) Date of birth;
  - (c) Nationality;
  - (d) Sex;
  - (e) Preferably a photograph;
  - (f) Relevant document number;

- (g) Date of issue;
  - (h) Date of expiry;
  - (i) Last revalidation date;
  - (j) Details of dispensations(s).
3. Competency details—
- (a) STCW competency standard (e.g. regulation II/1);
  - (b) Capacity;
  - (c) Function;
  - (d) Level of responsibility;
  - (e) Endorsements;
  - (f) Limitations.
4. Medical details

Date of issue of latest medical certificate relating to the issue or revalidation of the appropriate certificate.

---

## SCHEDULE 7

### *(Regulation 21)*

#### NEAR COASTAL VOYAGES

1. The Department of Maritime Affairs recognizes, for the purpose of defining Near Coastal Voyages, the following Trade areas—
  - (a) the Unlimited Trading Area; and
  - (b) the Caribbean Trading Area for ships engaged in near Coastal Trade.
2. The Unlimited Trading Area is any area in which voyages, which are not near coastal voyages, are undertaken.
3. The Caribbean Trading Area is the area bounded by the east coasts of North, Central and South America; and a line from the east coast of the United States in latitude 32° 30' N to a point 20° N : 60° W, thence to a point 10° N : 50° W, and thence south to the coast of South America, as illustrated in the map set out in this Schedule.
4. A “near coastal voyage” is as provided in regulation 2.
5. The Department of Maritime Affairs will issue Certificates of Competence specifically for Near Coastal Voyages.
6. The Department of Maritime Affairs may issue endorsements to suitably qualified seafarers who hold certificates of competence, allowing them to serve, subject to certain restrictions, in stated capacities or levels on near coastal voyages. Such endorsements shall not apply to seagoing service on tankers nor passenger ships.



## SCHEDULE 8

(Regulation 22)

### ASSESSMENTS

#### Responsibilities of the Department of Maritime Affairs

- 1.1 The Department of Maritime Affairs will conduct assessments, in order to ascertain competence for certification, for all certificates of competence. Candidates wishing to be assessed shall submit a duly completed application form along with documentary proof that they have met the requirements listed under paragraphs 1.1 to 1.5 and 1.7 to 1.8 of the Fourth Schedule and the specific requirements for each certificate for which they are applying.
- 1.2 The Department of Maritime Affairs will nominate a pool of suitably qualified persons who will from time to time be appointed to Boards of Examiners. Such persons shall be holders of certificates of competence as Masters or Chief Engineers without restrictions or the professional equivalent, have completed the IMO model Course for Examiners, and had a period of on-the-job training or exposure to maritime examination methods and practices. In this part, "professional equivalent" means appropriate training in related subjects or disciplines at a tertiary level.
- 1.3 For each assessment, in each discipline, the Department of Maritime Affairs will appoint at least 3 persons to form a Board of Examiners. The Board will comprise of a President who will be from the Department of Maritime Affairs and 2 members who will be from the pool of suitably qualified persons.



- 1.4 Boards will be structured according to the discipline (deck, engine or radio department) in which the candidates are to be assessed. Such Boards may be appointed for assessments in different classes of certification, but will not be appointed for assessments in different disciplines.
- 1.5 The Department of Maritime Affairs will maintain a separate data bank of questions and model answers for each class of certification within each discipline.
- 1.6 The Department of Maritime Affairs will provide a selection of questions, and model answers, to each appointed Board of Examiners for their consideration in formulating assessment papers.
- 1.7 The Department of Maritime Affairs will, once it has been duly satisfied that the assessment has been properly administered, conducted and evaluated, according to the Board's report, officially notify the candidates of their results and advise those candidates who were unsuccessful of the reasons why they were unsuccessful and any recommendations as to retraining or re-sitting the assessment.
- 1.8 The Department of Maritime Affairs will maintain a facility for investigating complaints, which may be preferred by candidates as to the format or content, conduct or evaluation of assessments. All such matters will be referred to the Board of Examiners for them to conduct an investigation and submit a report to the Department of Maritime Affairs. This report will then be evaluated and appropriate action taken by the Department of Maritime Affairs to address the matter.
- 1.9 The Department of Maritime Affairs will provide invigilators in sufficient numbers to adequately support each examination.
- 1.10 The Department of Maritime Affairs will promulgate the timetable detailing the schedule and conduct of examinations and ensure that this information is communicated to the candidates in a timely manner.

#### **Responsibilities of Training Institutions**

- 2.1 Training institutions will be required to provide to the Department of Maritime Affairs, at least one month before the scheduled dates of commencement of assessments, 3 complete assessment papers and model answers for each class of certification within each discipline to be assessed.
- 2.2 In the formulation of questions for these papers, the training institution shall ensure that all the required publications, charts, instruments and other material or equipment are serviceable and available in sufficient quantities to support the assessment. Such requirements are to be clearly stated along with the associated serviceability and availability.
- 2.3 Training institutions will be required to provide instructors who are versed in the particular subject discipline being assessed, to assist in the invigilation of examinations and to respond to and deal with queries regarding any aspect of the examination which may be raised by candidates.
- 2.4 Training institutions are to maintain records of the course-work, attendance, written and practical work etc., for each student undertaking an approved course of maritime study. Such records are to be made available to the Board of Examiners that may be assessing that particular individual as a candidate for certification, if and when required.

- 2.5 Training institutions are to submit to the Department of Maritime Affairs a draft timetable for the scheduling and conduct of examinations, at least three months before the tentative commencement of the first examination.

### **Terms of Reference of Boards of Examiners**

- 3.1 The Board will be responsible for the formulation of assessment papers, and conduct of examinations, and the evaluation of individual papers. Upon completion of all these functions the Board will be required to submit a report to the Department of Maritime Affairs.
- 3.2 Prior to and during the examinations, the Board will be responsible for ensuring that
- .1 the required charts, publications, instruments and other material or equipment are serviceable and available in sufficient numbers to adequately support the examination;
  - .2 the listed candidates for each examination are present and properly accounted for according to the seating and numbering arrangements;
  - .3 written Examinations are conducted as follows
    - .3.1 the candidates are to be briefed on the general rules, requirements and duration of the examination;
    - .3.2 the examination papers are to administered and the examination conducted according to the prescribed rules for the examination;
    - .3.3 the examination is to be started and completed on time and within the specified duration; allowances may be made for any unforeseen or unavoidable stoppages or disruptions;
    - .3.4 the examination papers are to be collected and properly accounted for on completion of the examination;
    - .3.5 the Board may disqualify any candidates who violate the rules of the examination;
    - .3.6 the Board may suspend the examination where the members are not satisfied with the existing facilities, support equipment or material or conditions under which the examination is to be conducted and may subsequently make such other arrangements as may be deemed appropriate in order to ensure the proper conduct of the examination;
    - .3.7 after the examination, the Board is to ensure that each examination paper is independently evaluated by at least two persons; the first evaluation is to be done by an instructor, versed in the subject or discipline concerned, from the training institution, with the second evaluation being done by a member of the Board. Evaluations will then be compared by the Board and final grades assigned to each paper. Borderline cases are to be reviewed by a member of the Board who hitherto was not involved in the evaluation of that particular paper;
    - .3.8 in assigning final grades, the Board is to compare and average the grades of the two independent evaluations. The Board may also take into consideration—
      - .1 the candidate's course-work; or

- .2 the candidate's training record book and testimonials of conduct and character during their period of seagoing training;
- .3 any other relevant matter concerning the candidate's competence.

### **Delegation of Responsibilities from the Director to the Registrar**

4. The Director may delegate any or all of the above responsibilities of himself or the Department of Maritime Affairs to the Registrar.

## **SCHEDULE 9**

*(Regulations 28, 37, 38 and 39))*

### **SAFE MANNING, HOURS OF WORK AND WATCHKEEPING**

#### **1. SAFE MANNING**

##### **1.1 Introduction**

- 1.1.1 These Regulations place clear responsibilities on companies owning or operating Saint Christopher and Nevis seagoing ships, and other ships whilst in Saint Christopher and Nevis waters, to ensure that their ships are manned with personnel of appropriate grades who have been properly trained and certificated, and who are in possession of an appropriate certificate or endorsement or have applied for such an endorsement in accordance with Regulation 6.
- 1.1.2 The numbers of certificated officers and certificated and non-certificated ratings shall be sufficient to ensure safe and efficient operation of the ship at all times.
- 1.1.3 All ships of 24 metres length and above and all Passenger Ships of any size and any other ships to which these Regulations do not apply but for which there is a voluntary application by the company or any other ships which the Director so determines, are required to hold a minimum safe manning certificate.
- 1.1.4 The owner or operator of a Saint Christopher and Nevis registered ship is required to make an assessment of the numbers and grades of personnel necessary for safe operation. These should be sufficient to ensure that -
  - .1 the required watchkeeping standard can be maintained and that personnel are able to obtain sufficient rest;
  - .2 personnel are not required to work more hours than is safe in relation to the safety of the ship;
  - .3 the master and seafarers can perform their duties in accordance with the framework of operational guidance in section A-VIII of the STCW Code;
  - .4 the master and seafarers are not required to work such hours or under such conditions which may be injurious to their health and safety.
- 1.1.5 Proposals based on the assessment should be submitted to the Director who, when satisfied that the proposed manning levels are adequate, will issue a minimum safe manning certificate.

## 1.2 Safe Manning

- 1.2.1 SOLAS requires minimum safe manning levels to be established for every ship, following a transparent procedure and taking into account the guidance adopted by IMO under Assembly resolutions on Principles of minimum safe manning; and for Administrations to issue an appropriate minimum safe manning document or equivalent to each vessel on their Register as evidence of the minimum safe manning considered necessary.

*(Inserted by S.R.O. 39/2014)*

- 1.2.2 The responsibility to ensure that ships are safely, sufficiently and efficiently manned rests with the owners and managing operators. Guidance on determining appropriate manning levels is given in section 2 and Annex 2 to this Schedule.
- 1.2.3 In order to avoid possible problems at a later stage, owners and operators are recommended to consult with seafarers or their representatives and the Director on their proposed manning when new ships are at the design stage and in advance of registering existing ships in Saint Christopher and Nevis.
- 1.2.4 In the event of any disagreement between the owners and seafarers or their representatives regarding manning levels, the Director will consider any views put forward and may require a revision of the manning levels, where so justified. In such cases it may be necessary to arrange for some form of practical demonstration of the ability of the crew to carry out the essential tasks in the context of the principles of safe manning. Similarly, in the event of any change in the equipment, construction or use of the ship which may affect the safe manning level, the owner or operator should make an application for the issue of a new minimum safe manning certificate.

## 1.3 Specialist ship types

- 1.3.1 Offshore support vessels present special problems because of the diverse nature of their operations and the conditions under which they are required to operate. Owners are particularly reminded of the restrictions placed on working hours under the Regulations and should set manning levels accordingly.
- 1.3.2 Shipowners and operators shall ensure that the master, officers and ratings on tankers, and the master, officers, ratings and other personnel on passenger ships including ro-ro passenger ships have completed the training required by the Regulations which is specified in sections A-V/1 and A-V/2 of the STCW Code. All crew members on high speed craft shall have completed the training required under the HSC Code, and masters and officers having an operational role shall hold a Type Rating Certificate as required by the HSC Code. On passenger ships generally, the need to handle large numbers of passengers unfamiliar with the marine environment shall be taken into account in determining manning levels. Personnel should be appropriately trained and certificated and owners and operators shall give particularly careful attention to the requirements for minimum numbers of trained crew to take charge of survival craft.

## 1.4 Minimum safe manning certificate

When the Director has agreed to proposals regarding the manning of a particular ship, a minimum safe manning certificate shall be issued for that ship in a format which complies with the requirements of the SOLAS Convention. It should be retained on board and be available for inspection whenever required by an authorised person.

## **2. Determination of Safe Manning Levels**

### **2.1 Principles**

2.1.1 The Director will consider a ship to be safely manned where the crew includes sufficient officers and ratings with appropriate skills and experience to ensure that the following capabilities are available; these reflect principles in IMO Resolution A 890 (21) and any subsequent amendments thereto, which should be consulted when determining safe manning levels—

- .1 maintain a safe bridge watch at sea in accordance with regulation VIII/2 of STCW 95, which includes general surveillance of the vessel;
- .2 moor and unmoor a vessel effectively and safely;
- .3 operate and maintain effectively all watertight closing arrangements including the ability to mount an effective damage control party;
- .4 operate and, when practicable, maintain efficiently, all fire equipment and lifesaving appliances provided including the ability to muster and disembark passengers and non-essential personnel;
- .5 manage the safety functions of a vessel at sea, when not under way;
- .6 maintain a safe engineering watch at sea in accordance with regulation VIII/2 of STCW 95, and also maintain general surveillance of spaces containing main propulsion and auxiliary machinery;
- .7 operate and maintain in a safe condition the main propulsion and auxiliary machinery to enable the ship to overcome the foreseeable perils of the voyage;
- .8 maintain the safety arrangements and the cleanliness of machinery spaces to minimize the risk of fire;
- .9 provide for medical care on board ship;
- .10 maintain a safe radio watch in accordance with the SOLAS Convention and ITU; regulations, as amended;
- .11 maintain the precautions and safeguards necessary to protect the marine environment in accordance with MARPOL 73/78 as amended; and
- .12 maintain safety in all ship operations whilst in port.

### **2.2 Establishing safe manning requirements**

2.2.1 The Department of Maritime Affairs requires all ships to be sufficiently and efficiently manned for their safe operation, having regard to the nature of their work and their location. To ensure safe and efficient operation, a minimum level of manning should be determined. To make that assessment, owners and operators should take account of the following factors—

- .1 the length and nature of voyage and trading area;
- .2 any special requirements of the trade involved;
- .3 number, size (kW) and type of main propulsion units and auxiliaries;
- .4 size of ship (GT);
- .5 construction and technical equipment of ship.

- 2.2.2 In conjunction with these factors, the IMO principles of safe manning (see paragraph 2.1) and the need to ensure that personnel do not work more hours than is safe, the owner or operator should—
- .1 identify all the functions to be undertaken on board during a representative voyage;
  - .2 identify the skills and experience required to perform those functions;
  - .3 identify those functions in normal operations which need to be undertaken concurrently;
  - .4 determine the minimum numbers of personnel required to undertake concurrent operations safely;
  - .5 establish working arrangements, including - in accordance with regulation 13 of Chapter V of the SOLAS Convention - the establishment of a working language on a passenger ship, to ensure the master and crew are capable of undertaking concurrent and continuing operations with respect to their skills and training;
  - .6 ensure that the working arrangements allow for sufficient rest periods to avoid fatigue and draw up work schedules accordingly.

### **2.3 Guidance on appropriate manning levels**

- 2.3.1 The Tables annexed hereto provide guidance on the numbers of certificated deck and engineer officers and ratings appropriate to different sizes of ships, tonnages and trading areas. These tables only provide guidance; owners and operators shall take all relevant factors into account before finalizing their manning proposals.
- 2.3.2 The number of ratings required will be determined by the factors summarized at paragraph 2.2. Owners and operators should additionally seek to obtain a good balance between skilled and less skilled and between experienced and less experienced ratings.

### **2.4 Watchkeeping**

- 2.4.1 The Regulations require the master of any ship to be responsible for the overall safety of the ship. He shall also ensure that the watchkeeping arrangements are adequate for maintaining safe navigational watches at all times, including the provision of a lookout as required by the International Regulations for the Prevention of Collisions at Sea 1972, as amended. The chief engineer officer of any ship is required to ensure that the engineering watch arrangements for the ship are adequate at all times for maintaining a safe engineering watch.
- 2.4.2 The principles applying to the keeping of a safe watch are in section A-VIII/2 of the STCW Code and shall be followed in order to comply with these Regulations.

## **3. Hours of Work**

### **3.1 Working arrangements**

- 3.1.1 Every operator of a ship and employer is obliged to ensure that the master, officers and ratings do not work more hours than is safe in relation to the performance of their duties and the safety of the vessel. The same responsibility is placed on the master in relation to the seafarers. Manning levels should be such as to ensure so far as possible that the time and place available for taking rest periods are appropriate for achieving a good quality of

rest. Operators will also want to take into account section B-VIII/1 of the STCW Code which provides further guidance about fitness for duty.

- 3.1.2 Operators are required to ensure that a schedule of duties is produced setting out the hours of work and the rest periods. It should provide that the master, officers and all other seafarers do not work more hours than is safe in relation to the safety of the ship. In devising the schedule, operators should take account of factors such as—
- 1 trade and type of operation;
  - 2 type and size of ship;
  - 3 construction and technical equipment of ship;
  - .4 manning levels and changes in crew numbers due to crew changes and sickness;
  - .5 maximum period of continuous watchkeeping;
  - .6 minimum rest periods;
  - .7 total workload;
  - .8 the seriousness of irregular working hours and their contribution to fatigue causation and the importance of scheduling reasonably stable watchkeeping hours over a voyage.
- 3.1.3 Changes should not be made to the schedule unless they can be justified by substantially altered work patterns made necessary, for example, by a change in trading pattern or other significant factor. Where it is known that a vessel engages in an irregular trading pattern or that working hours are likely to be uniform this can be taken into account and recorded in the schedule. The consultation process referred to in paragraph 3.2 also applies to changes in the schedule.

### 3.2 Consultation

Operators of ships are required to seek the views of the master when first drawing up a schedule of duties for a ship or ships. The master of a ship should seek the views of his officers and shall seek and convey to the operator the views of the seafarers or their representatives or a trade union, as appropriate. The final decision on the schedule rests with the operator who will have the responsibility to ensure that the schedule is safe in relation to the safety of the ship and the performance of duties. The master shall ensure that, as far as reasonably practicable, the schedule is adhered to. Of course, in an emergency or when unforeseeable events occur, changes may well be unavoidable. Regulation 32(9) requires that, once a schedule has been completed by the operator, it shall be displayed prominently in the crew accommodation on board the vessel for the information of all the seafarers.

### 3.3 Records

- 3.3.1 A record of all deviations from the schedule's requirements is to be kept on the ship. Any suitable form of record is acceptable provided that the record is always accessible to those authorized to carry out inspections; the record shall be retained for a period of up to five years. There is no need to rewrite the schedule for each voyage so long as it is applicable to the voyage in question and the composition of the crew for whom it was originally intended has not changed.

3.3.2 The overriding aim is to ensure that a proper record of agreed work patterns exists on board for the benefit of crew members and inspecting authorities, and that the record may be matched to each individual crew member involved by means of other documents such as the crew list.

### **3.4 Exceptions for emergencies**

The regulations recognize that situations may arise in which a master or seafarer may be required to exceed the schedule's duty periods. These include emergencies which threaten the safety of the ship or the environment or put life at risk. Where a master or other seafarer exceeds the scheduled hours of work in this manner, and has worked during his rest period, his name shall be entered in the record required to be maintained, together with the reason for the excess.

## **4. Application for a Minimum safe manning certificate**

### **4.1 Information to be provided**

4.1.1 When applying to the Director for a minimum safe manning certificate, owners or operators should submit a clear and concise explanation of how the proposed manning level has been determined and how it takes account of the guidance in paragraphs 2 and 3 and the hours of work provisions in the regulations. The Director will be able to make a quick assessment of the application where the owner or operator can demonstrate that all the factors and principles in those paragraphs have been taken into account.

4.1.2 Applications for a minimum safe manning certificate should be made by the owner or a person authorized to act on his behalf, on the prescribed form.



**ANNEX 1**

**APPLICATION FOR A MINIMUM SAFE MANNING CERTIFICATE**

Form A12

**ST KITTS & NEVIS  
INTERNATIONAL SHIP REGISTRY**

Coat of Arms

The Saint Christopher & Nevis Merchant Shipping Act Cap 7.05  
Department of Maritime Affairs

DMA logo

**APPLICATION FOR FIRST ISSUANCE, CHANGE OR RENEWAL  
OF A MINIMUM SAFE MANNING CERTIFICATE**

*All ships registered in St Kitts & Nevis of 24m length and above and all passenger ships of any size are required to carry a minimum safe manning certificate.*

*Applicants should pay attention to the Minimum Safe Manning Guidelines for Certification (MMI) attached to this Form*

Vessel Details		
Name of Vessel	IMO or Carib Ship*Number (*where applicable)	Official Number (if assigned)
		<b>SKN</b>
Type of Vessel	Total Main Engine Power (kW)	Intended GMDSS Sea Areas in which the ship will sail (for ships over 300GT)
Gross Tonnage	Length (as per Tonnage Certificate) (m)	Unattended Machinery Space (UMS)
ITC		YES <input type="checkbox"/> NO <input type="checkbox"/>
National		
Trading Area: <input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> RESTRICTED (if restricted give details, including any conditions imposed by Class on the sailing area/sea conditions)		

Details of Company (as per ISM)* or where the ISM Code does not apply to this ship, the Managers if different to the Owners	
Full Name of Company:	
IMO Company Number	

PROPOSED MINIMUM COMPLEMENT					
DECK			ENGINE		
Rank	STCW reg.	No.	Rank	STCW reg.	No.
MASTER		1	CHIEF ENGINEER		1
CHIEF MATE			SECOND ENGINEER		

OFFICER IN CHARGE OF WATCH (OOW)			OFFICER IN CHARGE OF WATCH (OOW)		
DECK WATCH RATING			ENGINE WATCH RATING		
ABLE SEAFARER – DECK			ABLE SEAFARER – ENGINE		
			ELECTRO-TECHNICAL OFFICER		
OTHERS			ELECTRO-TECHNICAL RATING		

*The person signing this application confirms that he/she is either the Owner or in case of a Company, a duly authorised officer of that Company, or is the Owner's agent. In the case of an an Owner's agent, such authority the Registrar may ask for a written testimony giving such authority. By signing, he/she declares that to the best of his/her knowledge the information contained herein is correct.*

Signature of Applicant

Print Name

.....

.....

Date of Application

Title

.....

.....

**.....**  
**IMPORTANT NOTE – WHEN A CHANGE OR RENEWAL OF THE MINIMUM SAFE MANNING CERTIFICATE IS REQUIRED A CURRENT CREW LIST FOR THE SHIP MUST BE SUBMITTED**

FORM CODE	ISSUE No:	REVISED:
A12	004	20/3/13

**ANNEX 2**

**MINIMUM SAFE MANNING GUIDELINES FOR CERFTIFICATION**

**as prescribed under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers - STCW Convention 1978, as amended**

The below tables are the guidelines employed by the St. Kitts & Nevis International Ship Registry (SKANReg) for determining Minimum Safe Manning for SKAN-flagged vessels.

We have provided these guidelines for reference only. Final acceptance of the minimum safe manning level proposed by the Owner/Company is made by the office of International Registrar of Shipping and Seamen, based on the ship specific type, trading area and other considerations, and may differ from the details outlined below.

It is the responsibility of the Owners and Master to ensure compliance with the provisions of the STCW Convention 1978, as amended, in particular Regulations VIII/1 and VIII/2 and Sections A-VIII/1 and A-VIII/2 regarding Fitness for Duty and Watchkeeping and Rest Periods arrangement and principles to be observed.

**DECK DEPARTMENT: Vessels Greater Than 500 Gross Tonnage**

	500 - 999 GT				1000 - 2999 GT				3000 - 9999 GT				Over 10000 GT				Over 250 passengers			
	Restricted		Unrestricted		Restricted		Unrestricted		Restricted		Unrestricted		Restricted		Unrestricted		Restricted		Unrestricted	
	voyages		voyages		voyages		voyages		voyages		voyages		voyages		voyages		voyages		voyages	
	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade
Master	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2
Chief Mate	0		1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2	1	II/2
OOW	1*	II/1	0		0		1	1	0		1	1	1	1	2	1	1	1	2	1
Watch Rating	2	II/4	2	II/4	2	II/4	3	II/4	3	II/4	3	II/4	2	II/4	3	II/4	3	II/4	2	II/4
Able seafarer - Deck	0		0		0		0		0		1	II/5	2	II/5	2	II/5	3	II/5	3	II/5
<b>Total</b>	<b>4</b>		<b>4</b>		<b>4</b>		<b>6</b>		<b>5</b>		<b>7</b>		<b>7</b>		<b>9</b>		<b>9</b>		<b>10</b>	

\* Flag Administration may review vessel's trade and traffic area and vessel type and may request one (1) OOW be added oow-Officer in charge of Watch.

**OOW** - Officer in charge of a Navigational Watch

**Watch Rating** - Ratings forming part of a Navigational Watch certified under STCW reg. A-II/4

**Restricted Voyages:** These areas may be considered as Restricted Areas:

- All voyages which do not exceed 48 hours between ports of call;
- Voyages within 100 nm from the nearest shore;
- Enclosed areas, which may include, but are not limited to:
  - Mediterranean Sea
  - Red Sea
  - Black Sea
  - North Sea
  - Baltic Sea
  - Caribbean (restricted areas I, II and/or III, as defined in CCSS Code)
  - Caspian Sea
  - Azov Sea
  - Gulf of Aden
  - Persian Gulf

NOTE: In the above cases the geographical limits of the above sea areas may be defined in more detail by **SKANReg**

- The Administration will take into consideration additional restricted trade areas submitted by the owner/operator.

**Unrestricted Voyages:** Unrestricted International Voyages

**GMDSS: ships over 300GT**

Vessels equipped with *Radio Installations* for the following GMDSS sea areas shall carry the following number of certified Radio Personnel:

- Area A1 – at least one officer with Restricted Operator Certificate (ROC)\*
- Area A2 – at least one officer with General Operator Certificate (GOC)\* or one dedicated radio officer with GOC
- Areas A3 or A4 – at least two officers with GOC\* or one dedicated radio officer with GOC

\* may be the Master or other deck officer.

Passenger ships carrying up to 250 passengers shall follow the tables for cargo ships of the same size.

### INTERNATIONAL SHIP & PORT SECURITY (ISPS) CODE – SHIP SECURITY OFFICERS

All ship security officers and deputy security officers on board St. Kitts and Nevis flagged vessels to which the ISPS Code applies shall have a certificate issued by an administration whose certificates are recognised by St Kitts and Nevis, in accordance with regulation VI/5 of STCW 78 as amended. Recognised administrations are those on the STCW whitelist.

#### DECK DEPARTMENT: Vessels Less Than 500 Gross Tonnage

	1 - 99 GT				100 - 499 GT			
	Up to 100 NM from nearest shore		More than 100 NM from nearest shore		Up to 100 NM from nearest shore		More than 100 NM from nearest shore	
	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade
Master	1**	II/3	1	II/3	1	II/3	1	II/3
Chief Mate	0		0		0		0	
OOW	0		1**	II/3	1	II/3	1	II/3
Watch Rating	1	II/4	0	II/4	1	II/4	2	II/4
Able Seafarer Deck	0		0			II/5	1	II/5
<b>TOTAL</b>	<b>2</b>		<b>2</b>		<b>3</b>		<b>5</b>	

\*\* On ships below 24m in length trading in the Caribbean Trading Area this may be a holder of Boat Master Licence, Grade 1 under SCV Code reg. IX/3

Vessels less than 500GT but more than 300 GT equipped with GMDSS Radio Installations shall carry the number of certified Radio Personnel as indicated previously.

Vessels less than 300 GT operating in the following trading areas shall carry following number of certified Radio Personnel, who may be the Master or other deck officers:

- Up to 20 NM from shore – at least one Radiotelephone Restricted Operator (VHF)
- Over 20 NM from shore – at least one Radiotelephone General Operator (VHF/HF/MF)

**ENGINE DEPARTMENT**

	Less than 750 kW				750 - 2999 kW				3000 kW or more			
	Restricted		Unrestricted		Restricted		Unrestricted		Restricted		Unrestricted	
	voyages		voyages		Voyages		voyages		voyages		voyages	
	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade	Nbr	STCW Grade
Chief Engineer	1**	III/1	1*	III/1	1	III/3	1	III/2	1	III/2	1	III/2
Second Engineer	0		0		0***		1*	III/3	1*	III/2	1	III/2
OOW	1	III/1	1*	III/1	1*	III/1	0***		0***		1*	III/1
Watch Rating	0^	III/4	0^	III/4	1^	III/4	2*^	III/4	2*^	III/4	2*^	III/4
Able Seafarer Deck	0		0		0		0		1	III/5	1	III/5
<b>TOTAL</b>	<b>2</b>		<b>2</b>		<b>3</b>		<b>4</b>		<b>5</b>		<b>6</b>	

\* Manning may be reduced by this rank if vessel is classed with UMS

\*\* The Chief Engineer position required for vessels < 750 kW may be covered as a minimum by an OOW certified under STCW III/1

\*\*\* Flag Administration may review vessel's trade and traffic area and vessel type and may request one (1) additional Second Engineer or OOW

^ Tankers of 1000 GT or more shall add one additional Watch Rating

**Watch Rating** - Rating forming part of an Engine Room Watch or designated to perform duties in a periodically unmanned engine room and certified under STCW reg. A-III/4

**ENGINE DEPARTMENT: Vessels less than 24 m length trading in the Caribbean Trading Area**

	Protected Waters	Coastal Waters	Exposed Waters
Boat Engineer Grade 1	0	0	1
Boat Engineer Grade 2	0*	1	1
No licence	1*	1	0
<b>TOTAL</b>	<b>1</b>	<b>2</b>	<b>2</b>

\* If engine power is 350 kW or more the Administration may require that Engineer holds a Boat Engineer Grade 2 licence under SCV reg. IX/3

**Protected Waters** – an area of sheltered waters presenting no special hazards such as most rivers, harbours and lakes, designated by the Administration for the operation of small vessels and where not so designated means an area not more than 3 miles from a safe haven.

**Coastal Waters** - an area designated as such by the Administration and where this is not so designated it means an area not more than 20 miles from a safe refuge.

**Exposed Waters** – any waters that are more than 20 nautical miles from harbour or safe refuge, or those waters which are less than 20 nautical miles from a harbour or safe refuge and which are not designated coastal or protected waters.

**Caribbean Trading Area** is the area bounded by the east coasts of North, Central and South America; and a line from the east coast of the United States in latitude 32°32'N to a point 20°N: 60°W, thence to a point 10°N: 50°W, and thence south to the coast of South America.

**ELECTRO-TECHNICAL DEPARTMENT: All ships**

St. Kitts & Nevis ships should carry sufficient Electro-Technical Officers (STCW Regulation III/6) and Electro-Technical ratings (STCW Regulation III/7) to:

- 1) operate the ship's electrical and electronic equipment; and

2) maintain the safety of the ship’s electrical and electronic systems;

**COOKS – MLC 2006 provisions apply**

St. Kitts & Nevis ships should carry a cook who is qualified according to the Maritime Labour Convention, Regulation 3.2, Standard A3.2. For a prescribed manning of less than 10, this requirement may be waived by the Registrar if there is a suitable alternative arrangement.

**SCHEDULE 10 – FORM OF DISPENSATION**

*Regulation 29*

**ST KITTS & NEVIS  
INTERNATIONAL SHIP REGISTRY**

AFFIX  
PHOTO  
HERE

*Coat  
of  
Arms*

*Certificate of  
Dispensation*

DMA  
logo

The Saint Christopher & Nevis Merchant Shipping Act Cap 7.05  
Department Of Maritime Affairs

*Dispensation issued under the provisions of the Merchant Shipping Act Cap 7.05 giving effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarer’s 1978 as amended in 1995*

The Government of Saint Christopher (St. Kitts) & Nevis certifies that:

Dispensation Number .....  
 Name of Seafarer .....  
 Holder of Certificate Number .....  
 Issued by or on behalf of the Government of .....

Is duly recognised in accordance with the provisions of Regulation I/10 of the above Convention, as amended, and the lawful holder is authorised to perform the following functions, at the levels specified, subject to any limitations indicated, until the following date when on board the following ship:

Date: .....

Vessel Name .....

IMO Number .....

FUNCTION	LEVEL	LIMITATIONS (if any)

--	--	--

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Department of Maritime Affairs:

CAPACITY	LIMITATIONS (if any)

Seafarers Number	Date of issue (for this certificate)	Place of Issue (for this certificate)	Date of Expiry (for this certificate)
	DD/MM/YY		DD/MM/YY

.....  
Signature of the holder of  
this certificate

.....  
Date of birth of the  
holder of this certificate

<p><i>The original of this endorsement shall be kept available in accordance with Regulation 1/2, paragraph 9 of the Convention while serving on a ship</i></p> <p><i>(Inserted by S.R.O. 17/2012 and amended by S.R.O.s 39/2014 and 1/2016)</i></p>
--

**NINETEENTH SCHEDULE**

*(Section 456)*

**MERCHANT SHIPPING (FORMAL INVESTIGATION AND INQUIRY)  
REGULATIONS**

PART I

PRELIMINARY

**Citation.**

1. These Regulations may be cited as the Merchant Shipping (Formal Investigation and Inquiry) Regulations.

**Interpretation.**

2. In these Regulations—

“Act” means the Merchant Shipping Act, Cap. 7.05;

“allegation” means an allegation by the Director that—

- (a) an officer's fitness or conduct falls within section 122(1)(a) to (c) of the Act; or
- (b) a certificate holder is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any reason within the meaning of section 123(1) of the Act;

“certificate holder” means the holder of a certificate of competency issued under section 108, other than one certifying that a person is qualified as an officer, or under section 115 of the Act;

“Court” means the Supreme Court;

“Board” means a Board appointed pursuant to section 422(2) of the Act to hold a Formal Investigation into a shipping casualty;

“formal investigation” means a formal investigation into a shipping casualty under section 423 of the Act;

“notice of inquiry” refers to a notice served by the Director in accordance with regulations 19 and 26;

“officer” means an officer qualified for the purposes of section 108 of the Act and includes a master, skipper, mate, second hand, deck officer, marine engineer officer and radio officer;

“person appointed” means the person or persons appointed by the Director to hold an inquiry under section 122 or 124 of the Act;

“re-hearing” means a re-hearing of a formal investigation;

“shipping casualty” has the same meaning as under section 422 of the Act;

“substantial criticism” means criticism which in the opinion of the Board is substantial criticism.

(2) Any period of time specified in these Regulations by reference to days shall be exclusive of the first day and inclusive of the last day unless the last day falls on a Saturday, Sunday, Good Friday or any day appointed by law to be a public holiday in Saint Christopher and Nevis, in which case the time shall be reckoned exclusively of that day also.

## PART II

### FORMAL INVESTIGATION

#### **Application.**

3. This Part is made pursuant to section 425 of the Act and apply to any formal investigation under section 422 of the Act and to any re-hearing of such formal investigation under section 424 of the Act, which is not held by the High Court.

#### **Assessors.**

4. (1) The Minister shall maintain a list of assessors for the purposes of section 423(1) of the Act who have the qualifications set out in the Schedule 1 hereto and may, at any time, add or withdraw the name of any person to or from the list.



(2) Where any question as to the cancellation or suspension of an officer's certificate is likely to arise, the Board shall be assisted by not less than two assessors—

- (a) two of whom shall be, in the case of a master or deck officer, mercantile marine masters;
- (b) one of whom shall be, in the case of a marine engineer officer, a mercantile marine engineer, and one a mercantile marine master;
- (c) one of whom shall be, in the case of a fishing vessel officer, a mercantile marine master and one a fishing vessel skipper.

(3) In any case in which regulation 4(2) of these Regulations applies, wherever possible at least one of the assessors appointed shall have had experience in the same capacity and in the same type of ship as the officer concerned.

**Minister to remit case to attorney general.**

5. (1) Where the Minister has directed a formal investigation to be held he shall remit the case to the Attorney General, and thereafter the preparation and presentation of the case shall be conducted under the direction of the Attorney General.

(2) The Director shall render such assistance to the Board and to the Attorney General as is in his power.

**Notice of investigation and parties to the investigation.**

6. (1) Where the Minister causes a formal investigation to be held, the Attorney General shall cause a notice, in these Regulations called a "notice of investigation" to be served on any persons, including the Director, who in the opinion of the Attorney General ought to be made a party.

(2) Any such person upon whom a notice of investigation has been served shall be a party to the formal investigation.

(3) The Attorney General shall be a party to the formal investigation.

(4) The notice of investigation shall contain—

- (a) a statement of the facts giving rise to the formal investigation; and
- (b) a statement of the questions which the Attorney General intends to raise at the formal investigation.

(5) At any time before or during the hearing of the formal investigation the Attorney General may amend, add to or omit any of the questions contained in the notice of investigation.

(6) The Attorney General shall as far as practicable cause every party to the formal investigation to be given not less than 30 days notice of the time of and the date when and the place where the hearing of the formal investigation will commence.

(7) Such notice shall not be required to be given to any person who is made a party pursuant to regulation 7 of these Regulations after the date of the hearing has been fixed.

(8) Where at any time during the preparation for the formal investigation it appears likely to the Attorney General that the conduct of any person will be in issue, the Attorney General shall cause that person to be notified to that effect.

(9) Service of any notice or other document issued under this regulation may be effected either personally or by registered post or by recorded delivery service to the person's last known address.

#### **Parties to the investigation.**

7. (1) Any person who is not already a party to a formal investigation may, with the leave of the Board, become a party to the formal investigation.

(2) An application for such leave may be made to the Board at any time before or during the formal investigation.

#### **Evidence and procedure.**

8. (1) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, statutory evidence, and other written evidence shall, unless the Board considers it unjust, be admitted as evidence at the formal investigation.

(2) A party may give to any other party notice in writing to admit any documents, saving all just exceptions, and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the results, unless the Board is of opinion that the refusal to admit was reasonable.

(3) No costs of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of an officer by whom the costs are taxed, caused a saving of expense.

(4) At any time before the date appointed for the commencement of the formal investigation the Board may hold a preliminary meeting at which any direction may be given or any preliminary or interlocutory order as to the procedure may be made.

(5) At the time and place appointed for the commencement of the formal investigation the Board may proceed with the formal investigation whether the parties upon whom a notice of investigation has been served, or a person who has applied to become a party, or any of them, are present or not, provided that where the party concerned has been served with the notice of investigation by post the Board shall not proceed with the formal investigation in his absence unless satisfied that the party has been served in accordance with the requirements of regulation 6(9) of these Regulations.

(6) The Board shall hold the formal investigation in public save to the extent to which it is of the opinion that, in the interest of justice or for other good and sufficient reason in the public interest, any part of the evidence, or any argument relating thereto, should be heard in private.

#### **Commencement procedure.**

9. (1) The formal investigation shall commence with an opening statement by the Attorney General, followed at the discretion of the Board with brief speeches on behalf of the other parties.

(2) The proceedings shall continue with the production and examination of witnesses on behalf of the Attorney General and the Attorney General may adduce documentary evidence.

(3) Witnesses may be cross-examined by the parties in such order as the Board may direct and then be re-examined on behalf of the Attorney General.

(4) The Attorney General shall then cause to be stated the questions relating to the shipping casualty and to the conduct of persons connected with the shipping casualty upon which the opinion of the Board is desired.

(5) In framing the questions for the opinion of the Board the Attorney General may make such modifications in, additions to, or omissions from, the questions as set out in the notice of investigation or subsequent notices referred to in Regulation 6(4) of these Regulations as, having regard to the evidence which has been given, the Attorney General may think fit.

#### **Further procedures.**

**10.** (1) Any other party to the formal investigation shall be entitled to make a further opening statement, to give evidence to adduce documentary evidence, to call witnesses, to cross-examine any witnesses called by any other party and to address the Board in such order as the Board may direct.

(2) The Attorney General may also produce and examine further witnesses who may be cross-examined by the parties and re-examined by the Attorney General.

(3) A party who does not appear in person at a formal investigation and is not represented may make representations in writing to the Board and such written representations may be read out at the formal investigation on behalf of the party subject to the approval of the Board.

#### **Opportunity to make defence.**

**11.** Every formal investigation shall be conducted in such manner that where substantial criticism is made against any person that person shall have an opportunity of making his defence either in person or otherwise.

#### **Closing addresses.**

**12.** (1) Any of the parties who desires so to do may, after completion of the taking of evidence, address the Board upon the evidence and the Attorney General may address the Board in reply upon the whole case.

(2) After an address in reply upon the whole case, at the discretion of the Board, an officer of whose conduct substantial criticism has been made during the formal investigation may be permitted or invited to make a final statement as to why, in the event of a finding that his conduct caused or contributed to the shipping casualty, his certificate of competency should not be cancelled or suspended, or as to why he should not be censured.

#### **Adjournment.**

**13.** The Board may adjourn the formal investigation from time to time and from place to place, and where an adjournment is asked for by any party to the formal investigation the Board may impose such terms as to payment of costs or otherwise as it thinks just as a condition of granting the adjournment.

#### **Results of formal investigation.**

**14.** At the end of the formal investigation the Board shall—

- (a) in any case where an officer's certificate is in issue, give its decision concerning the certificate in public; and

- (b) whether or not a certificate is in issue, make a report on the case to the Minister including its and the assessor's or assessors' findings as to the reasons for the shipping casualty or incident or as to any particular matter relating thereto, or as to the conduct of any person implicated therein, and the reasons for suspending or cancelling an officer's certificate.

### **Report.**

15. (1) Each assessor shall either sign the report with or without reservations, or state in writing his dissent there from and his reasons for such dissent, and such dissent and reasons (if any) shall be forwarded to the Minister with the report.

(2) The Minister shall, unless in the interests of justice or otherwise in the public interest there are good reasons to the contrary, cause each party to the formal investigation to be given a copy of the whole or, where appropriate, a relevant part of the report.

(3) Further copies of the report shall not be released until the Minister is satisfied that the parties have had reasonable time to receive their copies.

### **Cost of the formal investigation.**

16. Where the Board makes any award as to the costs of the investigation and of any of the parties at the investigation or with regard to the parties by whom these costs are to be paid, it shall state in a report the reasons for making such an award.

### **Re-hearing.**

17. Any re-hearing of a formal investigation pursuant to section 424 of the Act which is not held by the High Court shall be conducted in accordance with the provisions of these Regulations.

## PART III

### SECTION 122 INQUIRY

#### **Application of Part III.**

18. Part III of these Regulations is made pursuant to section 425 of the Act and apply to any inquiry under section 122 of the Act, and to any re-hearing of such an inquiry under section 125 of the Act which is not held by the Court.

#### **Notice of section 122 inquiry.**

19. (1) When the Director causes a section 122 inquiry to be held, he shall cause a notice of inquiry to be served on the officer concerned who shall be made a party to the inquiry.

(2) Service of a notice of inquiry shall be effected at least 30 days before the date fixed for the inquiry either by serving the officer concerned personally or by sending the notice of inquiry to his last known address by registered post or by a recorded delivery service.

(3) The notice of inquiry shall state—

- (a) the facts giving rise to the inquiry;

- (b) the allegation made against the officer to whom the notice is addressed and the grounds therefore;
- (c) the time and date when and the place where the inquiry is to be held;
- (d) the officer's rights as set out in regulation 22(2) and (3).

**Appointment of the court of section 122 inquiry.**

**20.** (1) The person appointed to hold the inquiry shall conduct it with the assistance of one or more assessors who shall be appointed by the Minister.

(2) The person appointed shall be either—

- (a) an attorney at law of not less than ten years standing before the date of his appointment; or
- (b) a person who holds or has held high judicial office not less than three years before the date of his appointment.

(3) Wherever possible at least one of the assessors appointed shall have had experience in the same capacity and in the same type of ship as the officer concerned.

**Holding of section 122 inquiry.**

**21.** (1) Subject to sub-regulation (2), at the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry in the absence of the officer upon whom the notice of the inquiry was served, any other party, or any person who has applied to become a party, or any of them.

(2) Where the officer concerned has been served with the notice of inquiry by post the person appointed shall not proceed with the inquiry in his absence unless satisfied that the officer has been served in accordance with the requirements of regulations 19(1) and (2).

(3) Any other person, not being the officer concerned, may, with the leave of the person appointed, become a party to the inquiry.

(4) The inquiry shall be held in public save to the extent to which the person appointed is properly satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

**Procedure at section 122 inquiry.**

**22.** (1) The proceedings at the inquiry shall commence with the presentation on behalf of the Director of the case against the officer concerned.

(2) (a) The officer concerned shall have the right—

- (i) to defend himself against the allegation, in person or otherwise;
- (ii) to admit before or at any time after the commencement of the inquiry the allegation or any part of it made against him.

(b) Where more than one allegation is made against an officer his admission of an allegation or any part of it pursuant to paragraph (a) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(3) Any party to the inquiry shall have the right in person or by a representative to make an opening statement, call witnesses, cross-examine witnesses

called by other parties, tender evidence other than oral evidence and address the person appointed in such order as the person appointed may direct.

(4) Where a party does not appear in person at the inquiry and is not represented by another person he may make representation in writing to the person appointed and such written representations shall be read out at the inquiry by or on behalf of the person appointed.

(5) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, statutory declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(6) The person appointed may postpone or adjourn the hearing of the inquiry for such period as he thinks fit either of his own motion or upon the application of any party.

#### **Decision of person appointed for section 122 inquiry.**

**23.** (1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public and make a report on the case to the Director pursuant to section 122(4)(c) of the Act.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and such reservations or dissent and reasons (if any) shall be forwarded to the Director with the report.

(3) The Director shall inform the officer concerned, in writing, of the decision of the person appointed if the officer was not in court when that decision was announced and make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon a request to the Director.

#### **Re-hearing of section 122 inquiry.**

**24.** A re-hearing of a section 122 inquiry pursuant to section 125(1) of the Act, which is not held by the Court, shall be conducted in accordance with the provisions of regulations 19 to 23.

### PART IV

#### SECTION 124 INQUIRY

#### **Application of Part IV.**

**25.** Part IV of these Regulations are made pursuant to section 126 of the Act and apply to any inquiry under section 124 of the Act, and to any re-hearing of such an inquiry under section 125 of the Act which is not held by the Court.

#### **Notice of section 124 inquiry.**

**26.** (1) When the Director causes an inquiry to be held, he shall cause a notice of inquiry to be served in writing on the certificate holder concerned who shall be made a party to the inquiry.

(2) Service of a notice of inquiry shall be effected at least 30 days before the date fixed for the inquiry either by serving the certificate holder concerned personally or by sending the notice of inquiry to his last known address by registered post or by a recorded delivery service.

(3) The notice of inquiry shall state—

- (a) the facts giving rise to the inquiry;
- (b) the allegation made against the certificate holder to whom the notice is addressed and the grounds therefore;
- (c) the time and date when, and the place where, the inquiry is to be held;
- (d) the certificate holder's rights as set out in regulations 29(2) and (3) of these Regulations.

#### **Appointment of the court of section 124 inquiry.**

27. (1) The person appointed to hold the inquiry shall conduct it with the assistance of one or more assessors who shall be appointed by the Minister.

(2) An assessor shall be suitably qualified to assess the competence of a seafarer to discharge the duties and responsibilities commensurate with his certificate.

#### **Holding of section 124 inquiry.**

28. (1) Subject to sub-regulation (2), at the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry in the absence of the certificate holder upon whom the notice of the inquiry was served, any other party, or any person who has applied to become a party, or any of them.

(2) Where the certificate holder concerned has been served with the notice of inquiry by post the person appointed shall not proceed with the inquiry in his absence unless satisfied that the certificate holder has been served in accordance with the requirements of Regulations 26(1) and (2).

(3) Any other person, not being the certificate holder concerned, may, with the leave of the person appointed, become a party to the inquiry.

(4) The inquiry shall be held in public except to the extent to which the person appointed is satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

#### **Procedure at section 124 inquiry.**

29. (1) The proceedings at the inquiry shall commence with the presentation on behalf of the Director of the case against the certificate holder concerned.

(2) The certificate holder concerned shall have the right—

- (a) to defend himself against the allegation, in person or otherwise;
- (b) to admit before or at any time after the commencement of the inquiry the allegation or any part of it.

(3) Where more than one allegation is made against a certificate holder his admission of an allegation or any part of it pursuant to sub-regulation (2) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(4) Any party to the inquiry shall have the right in person or by a representative to make an opening statement, call witnesses, cross-examine witnesses called by other parties or on behalf of the Director, tender evidence other than oral evidence and address the person appointed in such order as the person appointed may direct.

(5) Where a party does not appear in person at the inquiry and is not represented by another person he may make representations in writing to the person appointed and such written representations shall be read out at the inquiry by or on behalf of the person appointed.

(6) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, statutory declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(7) The person appointed may postpone or adjourn the hearing of the inquiry for such period as he thinks fit either of his own motion or upon the application of any party.

**Decision of the person appointed for section 124 inquiry.**

**30.** (1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and any such reservations or dissent and reasons shall be forwarded to the Director with the report.

(3) The Director shall inform the certificate holder concerned, in writing, of the decision of the person appointed if the certificate holder was not present when that decision was announced and make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon request to the Director.

**Re-hearing of section 124 inquiry.**

**31.** Any re-hearing of a section 124 inquiry pursuant to section 125 (1) of the Act which is not held by the Court shall be conducted in accordance with the provisions of regulations 26 to 30.

PART V

MISCELLANEOUS

**Guidelines.**

**32.** The guidelines for inquiries made pursuant to section 122, 124 and 422 of the Act are as set out in Schedule 2.

---



## SCHEDULE 1

### (Regulation 4)

#### QUALIFICATIONS OF ASSESSORS

- 1. Mercantile Marine Masters**
  - .1 Must be in possession of a Certificate of Competency (Deck Officer) (Class 1) (Master Mariner) (or its equivalent) and have had command of a vessel for at least 2 years.
  - .2 Must have a wide knowledge of all modern aids to navigation.
  - .3 Must not be more than 70 years of age.
- 2. Mercantile Marine Engineers**
  - .1 Must be in possession of a Certificate of Competency (Marine Engineer Officer) (Class 1) (or its equivalent) and have been the Chief Engineer Officer of a ship for at least 2 years.
  - .2 Must have a wide knowledge of matters relating to marine engineering.
  - .3 Must not be more than 70 years of age.
- .3 Coast Guard**
  - .1 Must have had rank of Lieutenant Commander and 2 years service in that rank in one of Saint Christopher and Nevis Guard Ships at sea; and
  - .2 Must not be more than 70 years of age.
- 4. Persons of Special Skill or Knowledge**
  - .1 Naval architects.
  - .2 Persons with special skills or knowledge, including managerial experience.

---

## SCHEDULE 2

### (Regulation 32)

#### GUIDELINES FOR INQUIRIES MADE PURSUANT TO SECTIONS 122, 124 AND 422 OF THE MERCHANT SHIPPING ACT CAP 7.05

These guidelines are intended to inform the conduct of an inquiry into a shipping accident or incident under sections 122, 124 and 422 of the Merchant Shipping Act Cap 7.05.

1. *Purpose of Inquiry*
  - 1.1 The fundamental purpose of an inquiry is to determine the circumstances and the causes of the accident or incident with the aim of improving the safety of life at sea, and the avoidance of accidents in the future.

- 1.2 It is not the purpose of an inquiry to apportion liability, nor, except so far as is necessary to achieve the fundamental purpose, to apportion blame.
2. *Conduct of Inquiry*
    - 2.1 Subject to his powers under section 414 of the Act an Inspector should conduct an inquiry at such times and places and in such manner as appear to him most conducive to achieving the fundamental purpose set out in paragraph 1.
    - 2.2 An inquiry may extend to cover all events and circumstances preceding the accident which in the opinion of the Inspector may have been relevant to its cause or outcome, and also to cover the consequences of the accident and the Inspector's power should apply accordingly.
    - 2.3 Any document or record properly required by an inspector to be produced for the purposes of an inquiry, whether on board the ship involved in the subject accident or otherwise may be retained by him until the inquiry is completed.
    - 2.4 Upon completion of an inquiry the Inspector should submit to the Director his findings as to the facts of the accident and, where the facts cannot be certainly established, his opinion as to the most probable facts.
    - 2.5 The Inspector should clearly distinguish between established facts and conjecture and should submit his analysis and his conclusions together with such observations and recommendations as he thinks fit to make.
    - 2.6 At any time during the course of an investigation the Director may determine that the inquiry should be discontinued, and in that event, no submission by the inspector need be made.
  3. *Report of the Inquiry*
    - 3.1 Subject to paragraph 3.4, where an inquiry has taken place, the Director should make a report to the Minister, in this paragraph referred to as "the Report", which should include the Inspector's findings and his own observations thereon and any recommendations which he considers appropriate.
    - 3.2 Subject to paragraphs 3.3 and 3.4, the Minister unless he orders a Formal Investigation under section 422 of the Act, may publish the Report if he thinks fit and should do so where—
      - .1 it appears to him that to do so will improve the safety of life at sea and help to prevent accidents in the future; or
      - .2 it relates to a serious casualty to a Saint Christopher and Nevis ship; unless in his opinion there is good reason to the contrary.
    - 3.3 Where the prosecution of any person in connection with the accident is under consideration, the Minister may at his discretion withhold publication until either the prosecution, including any appeal, has been concluded or it has been decided not to prosecute.
    - 3.4 Where the Minister has under consideration whether to cause an inquiry to be held under section 122 of the Act into the fitness or conduct of a certificated officer, then he may at his discretion withhold publication until proceedings, under the said section has been completed or it has been decided not to pursue such proceedings.

- 3.5 Except when a Formal Investigation has been ordered, or where paragraphs 3.3 or 3.4 apply, where in the opinion of the Director the reputation of any person is likely to be adversely affected by the Report then it should not be submitted to the Minister until—
- .1 that person or if that person be deceased then such person as appears to the Director best to represent that person's interest, is served with a copy of the Report or that part of it which affects him;
  - .2 that person or his representative has been given a period of 14 days to make representations to the Director either in person or in writing;
  - .3 the Director has considered any such representations and has notified the person concerned or his representative of his conclusions on them, and of what changes, if any, he intends to make to the Report; and
  - .4 the person or his representative has been given a further period of 14 days in which he may submit to the Director an alternative text for any passages in the Report which remain in issue.
- 3.6 No person should disclose any information furnished to him pursuant to paragraph 3.5 or permit such information to be disclosed to any other person, save with the prior consent in writing of the Director.
- 3.7 The Director should on submitting the Report to the Minister, in addition, should refer to any service of the Report under paragraph 3.5 and should set out the substance of any representations made in response, together with his conclusions and a record of any action he has taken.
- 3.8 The Director should also quote in full any alternative texts submitted under paragraph 3.5.4 and where the Minister decides to publish the Report he should publish any such texts with it as an Appendix, unless in his opinion there is good reason not to do so.

4. *Extension of Time*

The Director in respect of the periods of 14 days given in paragraphs 3.5.2 and 3.5.4 may extend the said periods, and should not unreasonably refuse to do so, and may do so notwithstanding that the period given has expired.

5. *Release of Information during Inquiry*

Notwithstanding the provisions of paragraph 6, the Director may at any time during the course of any inquiry release information as to material facts where in his opinion it is necessary or desirable to do so.

6. *Recommendations*

- 6.1 Recommendations may be made at any time during the course of an inquiry.
- 6.2 Recommendations should be addressed to those persons or bodies who in the opinion of the Director are most fitted to implement them, and may be made public where the Director considers that to do so is in the interests of safety.

7. *Procedure where Inquest or Fatal Accident Inquiry is Held*

- 7.1 Where an inquest or fatal accident inquiry is to be held following an accident which has been subject to inquiry, a report of the inquiry may be made available to the inquest or fatal accident inquiry by the Director.

7.2 Where the inquiry has taken the form of an Inquiry and the procedure in paragraph 7.1 is followed and the report has been put before the inquest or fatal accident inquiry then the Director need not comply with paragraph 3.5 but where he does not do so he should not submit his Report to the Minister until after the proceedings of the inquest or fatal accident inquiry and he should include in his Report the substance of evidence given at those proceedings as it relates to the Inspector's findings.

## 8 *Reopening of Investigations*

8.1 The Director may cause any inquiry to be reopened either generally or as to any part thereof, and should do so -

- .1 where after the completion of the inquiry in his opinion new and important evidence has been discovered, or
- .2 where for any other reason there are, in his opinion, grounds for suspecting that a miscarriage of justice has occurred.

8.2 Any inquiry reopened should be subject to and conducted in accordance with the provisions of these Regulations relating to such an inquiry.

*(Inserted by S.R.O. 18/2012)*

## TWENTIETH SCHEDULE

*(Section 456)*

### MERCHANT SHIPPING (MARITIME LABOUR CONVENTION 2006) REGULATIONS

#### **Citation.**

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention 2006), Regulations.

#### **Interpretation.**

2. In these Regulations—

“after consultation” means consultations with the concerned shipowners’ and seafarers’ organisations or, in case there are none available, appropriate employers and workers organisations;

“approved medical practitioner” has the meaning given in the Merchant Shipping (Medical Examination) Regulations;

“commercial activities” is any maritime activity undertaken for the purpose of generating revenue;

“competent authority” means, for Saint Christopher and Nevis, the Department of Maritime Affairs;

“Convention” means the Maritime Labour Convention, 2006;

“Court” has the meaning given in section 2 of the Merchant Shipping Act;

“Director” has the meaning given in section 2 of the Merchant Shipping Act;

“Director General” means the Director General of the ILO;

“ILO” means the International Labour Organization;

“IMO” means the International Maritime Organization;

“Registrar” has the meaning given in section 2 of the Merchant Shipping Act;

“Seafarer” has the same meaning as “Seaman” in the Merchant Shipping Act and for the purposes of these regulations includes the “Master” of any ship to which these Regulations apply.

“Shipowner” means the owner of the ship or another organisation or person, such as the manager, agent or bareboat charterer, who has assumed responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Convention, regardless of whether any other organisations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watch Keeping for Seafarers, 1978 as amended;

“WHO” means the World Health Organization.

### **Application.**

3. (1) These Regulations shall apply to all Seafarers.

(2) For the purposes of these Regulations, if there is a doubt as to whether a category of persons should be regarded as a seafarer, the matter will be determined by the Director, after consultation with the concerned shipowners and seafarers’ organisations.

(3) These Regulations apply to every ship that flies the flag of Saint Christopher and Nevis, whether publicly or privately owned, ordinarily engaged in commercial activities other than—

- (a) Ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- (b) Ships engaged in fishing or in similar pursuits;
- (c) Ships of traditional build such as dhows and junks; and
- (d) Warships or naval auxiliaries.

(4) In the event of doubt as to whether these Regulations apply to a ship or a particular category of ships, the question will be determined by the Director, after consultation with the concerned shipowners’ and seafarers’ organisations.

### **Medical Certificate.**

4. (1) Seafarers shall hold a valid medical certificate attesting that they are medically fit to perform the duties that they are to carry out at sea.

(2) The medical certificate referred to in sub-regulation (1) shall have been issued prior to commencing work on a ship.

(3) A valid medical certificate issued to a seafarer in accordance with the requirements of the Merchant Shipping (Medical Examination) Regulations, 2012 or

any amendments to or replacements thereof will be considered as meeting the requirements of sub-regulation (1).

(4) A medical examination in accordance with the requirements of the Merchant Shipping (Medical Examination) Regulations, 2012 or any amendments to or replacements thereof, will satisfy the requirements of the Convention or the Director may, after consultation with the shipowners' and seafarer's organisations, prescribe the nature of the medical examination and certificate

(5) For the purposes of sub-regulation (4), the Director shall give due consideration to the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers and any other applicable international guidelines published by the International Labour Organization, the International Maritime Organization or the World Health Organization.

(6) A medical certificate—

(a) shall be issued by an approved medical practitioner recognized by the Director for the purposes of issuing seafarer's medical certificates or, in the case of a certificate solely concerning eyesight, by a person recognized by the Director as qualified to issue such a certificate.

(b) A person referred to in paragraph (a) shall be qualified under the Medical Act or other relevant legislation in Saint Christopher and Nevis or the equivalent National legislation in the practitioner's home country.

(c) shall state that—

(i) the hearing and sight of the seafarer, and the colour vision (in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision) are all satisfactory; and

(ii) the seafarer is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

(7) Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, have the right to a further examination by another independent medical practitioner or by an independent medical referee.

(8) Unless a shorter period is required by reason of the specific duties to be performed by the seafarer or is required under the STCW Convention the validity of a medical certificate shall be—

(a) in respect of seafarers under 18 years of age, one year;

(b) in respect of seafarers 18 years of age and over, two years;

(c) in respect of colour vision certificates for a maximum of six years.

(9) In urgent cases the Director may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, notwithstanding—

(a) the period of such permission shall not exceed three months; and

(b) the seafarer concerned is in possession of an expired medical certificate of recent date.

(10) If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.

#### **Training and Qualifications.**

5. (1) Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

(2) All seafarers shall have successfully completed training for personal safety on board ship.

(3) Training and certification shall be in accordance with the Merchant Shipping (Training, Certification, Safe Manning, Hours of Work and Watch Keeping) Regulations, 2012 or any amendments to or replacements thereof.

#### **Recruitment and Placement.**

6. (1) All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.

(2) Any public seafarer recruitment and placement service that may be operated in St Christopher and Nevis shall be operated in an orderly manner that protects and promotes seafarer's employment rights as provided in the Convention.

(3) Any private seafarer recruitment and placement services operating in Saint Christopher and Nevis whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers shall be operated only in conformity with these Regulations.

(4) The Director shall establish modify or change the system of licensing or certification only after consultation with the ship-owners' and seafarer's organisations.

(5) In the event of doubt as to whether these Regulations apply to a private recruitment and placement service, the question shall be determined by the Director after consultation with the ship-owners' and seafarer's organisations.

(6) The Director shall closely supervise and control all seafarer recruitment and placement services operating in the territory of Saint Christopher and Nevis.

(7) Any licences or certificates or similar authorizations for the operation of private services in Saint Christopher and Nevis may be granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of these Regulations.

(8) The Director shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of ship-owners and seafarers.

(9) The Director shall, in so far as practicable, advise nationals of Saint Christopher and Nevis on the possible problems of signing on a ship that flies the flag of state which has not ratified the Convention are being applied.

(10) A shipowner of a ship that flies the flag of Saint Christopher and Nevis, who makes use of seafarer recruitment and placement services based in a country or territory that has not ratified the Convention shall provide information to the Director regarding the regulation of those services to ensure that they are operated in conformity with the standards required by these Regulations.

(11) Private seafarer recruitment and placement services shall be operated in accordance with the following requirements—

- (a) any means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified are prohibited;
- (b) no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers may be borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarers obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner; in particular, procedures shall be adopted to prevent opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement services and for clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;
- (c) an up-to-date Register of all seafarers recruited or placed through them, shall be maintained and available for inspection by the Director, in particular, information regarding the medical examinations, seafarer's identity documents and such other items as may be required for the seafarer to gain employment; the services shall maintain, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which shall include but is not limited to—
  - (i) the seafarer's qualifications;
  - (ii) record of employment;
  - (iii) personal data relevant to employment; and
  - (iv) medical data relevant to employment.
- (d) seafarers shall be informed of their rights and duties under their employment agreements prior to or in the process of engagements and proper arrangements shall be made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;
- (e) services shall ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowners policies relating to their employment;
- (f) seafarers recruited or placed shall be qualified and hold the document necessary for the job concerned, and the seafarer's employment shall be in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;
- (g) the services shall have procedures—
  - (i) to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up-to-date and have not been fraudulently obtained and that employment references are verified;



- (ii) to verify that labour conditions on the ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarer's organisation; and
  - (iii) to supply seafarers, as a matter of policy, only to shipowners that offer terms and conditions of employment to seafarers who comply with applicable laws or regulations or collective agreements;
  - (h) the services shall make sure as far as practicable that shipowners have the means to protect seafarers from being stranded in a foreign port;
  - (i) the services shall maintain up-to-date lists of the ships for which they provide seafarers, ensuring that there is a means by which the service can be contacted in an emergency at all hours;
  - (j) procedures shall be in place to ensure that the requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost;
  - (k) the services shall examine and respond to any complaint concerning their activities and advise the Director of any unresolved complaint;
  - (l) the services shall have procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;
  - (m) the services shall assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements, concluded with seafarers, including establishing a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.
- (12) In the case of any public seafarer recruitment and placement service, the Director shall consider—
- (a) taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;
  - (b) the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form the part of the ship's crew that is responsible for the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;
  - (c) making suitable arrangements for the cooperation of representative shipowners' and seafarers' organisations in the organisation and operation of the public seafarer recruitment and placement services, where they exist;
  - (d) determining, with due regards to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by seafarers recruitment and placement

services, including the collection, storage, combination and communication of such data to third parties;

- (e) maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank and qualifications, and the industry's requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;
- (f) ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate training, including approved sea-service experience, and have relevant knowledge of the maritime industry, including the relevant maritime international instruments on training, certification and labour standards;
- (g) prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services;
- (h) exercising supervision of the licensing or certification system on the basis of a system of quality standards.

#### **Seafarers' employment agreements.**

7. (1) Seafarers working on board a ship shall have a valid written agreement, referred to in these Regulations as a seafarers employment agreement, which shall be signed by both the seafarer and the shipowner or a representative of the shipowner or, where the seafarers are not employees, evidence of contractual or similar arrangements and shall provide them with decent working and living conditions on board the ship as required by these Regulations.

(2) Seafarers shall be given an opportunity to examine and seek advice on the seafarers' employment agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities; the shipowner and seafarer concerned shall each have a signed original of the seafarers' employment agreement.

(3) Shipowners shall ensure that clear information as to the conditions of employment can be easily obtained on board by the seafarers concerned, including the ship's master, and that such information, including a copy of the seafarer's employment agreement, is also accessible for review by inspectors, surveyors or the Director, including those in ports to be visited.

(4) Seafarer's employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

(5) Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement shall be available on board.

(6) Seafarers' employment agreements shall in all cases contain the following particulars—

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the shipowner's name and address;

- (c) the place where and date when the seafarer's employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or the formula used for calculating them;
- (f) the amount of paid annual leave or the formula used for calculating it;
- (g) the termination of the agreement and the conditions thereof, including—
  - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
  - (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
  - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
- (h) the health and social security protection benefits to be provided to the seafarer by the shipowner, including information, where applicable, of any mandatory social security contributions;
- (i) the seafarer's entitlement to repatriation;
- (j) a reference to the collective bargaining agreement, if applicable;
- (k) any other particulars which the Director may, after consultation with the shipowners' and seafarer's organisations, require to be included.

(7) The minimum notice period to be given by the seafarers and shipowners for the early termination of a seafarer's employment agreement is seven days.

(8) A notice period shorter than the minimum may be given by the seafarer, without penalty, for compassionate or urgent reasons or in other circumstances that are recognised under employment law or practices or in applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice.

(9) Seafarers shall be given a document containing a record of their employment on board the ship.

(10) The document referred to in sub-regulation 7 (9) shall not contain any statement as to the quality of the seafarers' work or as to their wages. A seafarers' discharge book satisfies the requirements of sub-regulation 7(9).

(11) The document referred to in sub regulation (9) shall contain sufficient information, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion.

(12) A seafarers' discharge book shall be designated by the Director.

### **Wages.**

**8.** (1) Seafarers shall be paid at no greater than monthly intervals and in accordance with their seafarers' employment agreements and any applicable collective agreement.

(2) Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.

(3) Shipowners shall establish a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means and allotments shall be remitted in due time and directly to the person or persons nominated by the seafarers.

(4) Any charge for the service under sub-regulation 8(3) shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer and shall comply with any other relevant requirements that may be established by law.

### **Hours of work and hours of rest.**

9. (1) For the purpose of these provisions, the term—

- (a) “hours of work” means time during which seafarers are required to do work on account of the ship;
- (b) “hours of rest” means time outside hours of work; this term does not include short breaks of one hour or less or a break for a meal.

(2) In accordance with these provisions, a minimum number of hours of rest shall be observed for seafarers.

(3) The normal working hours standard for seafarers, like that for other workers, is based on an eight-hour day with one day of rest per week and rest on public holidays and the Director may authorise a collective agreement which determines seafarer’s normal working hours on a basis no less favourable than set out in this regulation.

(4) The minimum hours of rest shall be ten hours in any 24-hour period and 77 hours in any seven-day period; taking into account the dangers posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship, the Director may, after consulting the shipowners’ and seafarer’s organisations, make appropriate increases to the minimum hours of rest.

(5) Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

(6) Musters, fire fighting and lifeboat drills and mandatory drills, shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

(7) When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

(8) If no collective agreement or arbitration award exists or if the Director determines that the provisions in the agreement or award in respect of sub-regulation 9(6) and (7) are inadequate, the Director shall determine such provisions to ensure the seafarers concerned have sufficient rest.

(9) A table with the shipboard working arrangements shall be posted in an easily accessible place on-board the ship and the table shall contain for every position at least—

- (a) the schedule of service at sea and in port; and
- (b) the minimum hours of rest required under sub-regulation 9(4) or sub-regulation 9(12).

(10) The table referred to in sub-regulation 9(9) shall be in a form approved by the Director.

(11) Shipowners shall maintain records of seafarer's daily hours of work and of their daily hours of rest in accordance with the form approved by the Director and each seafarer shall receive a copy of the record pertaining to him or her which shall be endorsed by the master, or a person authorised by the master and by the seafarer.

(12) The Director may authorise or Register collective agreements permitting exceptions to the limits set out in these Regulations and any exceptions shall, as far as possible, follow the standards set out in these Regulations but may take account of more frequent or longer leave periods or the granting of compensatory leave for watch-keeping seafarers or seafarers working on board ships on short voyages.

(13) Nothing in sub-regulations 9(2) to 9(12) shall be deemed to impair the right of the master of ship to require a seafarer, including a young seafarer, to perform any hours of work necessary for the immediate safety of the ship, person on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea; the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored; as soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a schedule rest period are provided with an adequate period of rest.

(14) Notwithstanding the general obligation on all seafarers to work during any emergency as provided for in sub-regulation 9(13) while at sea and in port the following provisions apply to all young seafarers under the age of 18—

- (a) working hours shall not exceed eight hours per day and 40 hours per week and overtime shall be worked only where unavoidable or for safety reasons;
- (b) sufficient time shall be allowed for all meals, and a break of at least one hour for the main meal of the day shall be assured; and
- (c) a 15-minute rest period as soon as possible following each two hours of continuous work shall be allowed.

(15) The provisions in sub-regulation 9(14) need not be applied where—

- (a) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watch-keeping duties or working on a rostered shift-work system; or
- (b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.

(16) Any exceptional situations under sub-regulation 9(15) shall be recorded, with reasons, and signed by the master.

**Entitlement to Leave.**

**10.** (1) Seafarers shall be given paid annual leave, as provided in sub-regulation 10(3).

(2) Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

(3) Subject to any collective agreement providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment.

(4) Any agreement to forgo the minimum annual leave with pay as set out in Regulation 10(3), except in cases provided for by the Director, is prohibited.

(5) Length of service is to be calculated on the following basis—

(a) Absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity shall be counted as part of the period of employment.

(b) Service off-articles shall be counted as part of the period of employment.

(6) Annual leave with pay entitlements shall be calculated on the basis set out in sub-regulation 10(7) and 10(8); justified absences from work shall not be considered as annual leave.

(7) The following are not to be counted as part of annual leave with pay—

(a) public and customary holidays, whether or not they fall during the annual leave with pay;

(b) periods of incapacity for work resulting from illness or injury or from maternity;

(c) temporary shore leave granted to a seafarer while under an employment agreement;

(d) compensatory leave of any kind, under conditions as determined by the Director or through established machinery;

(e) time spent awaiting repatriation and repatriation travel time.

(8) The level of pay during annual leave shall be at the seafarer's normal level of remuneration provided in the applicable seafarers' employment agreement; for seafarers employed for a period shorter than one year or in the event of termination of the employment relationship, entitlement to leave shall be calculated on a pro-rata basis.

(9) The time at which annual leave is to be taken shall, unless otherwise fixed by regulation, collective agreement, arbitration award or other means, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.

(10) In principle, seafarers have the right to take annual leave in the place with which they have a substantial connection, which is normally the same as the place to which they are entitled to be repatriated; Seafarers shall not be required without their consent to take annual leave due to them in another place except under the provisions of a seafarer's employment agreement.

(11) If seafarers are required to take their annual leave from a place other than that permitted by sub-regulation 10(10), they shall be entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home; subsistence and other cost directly involved shall be for the account of the shipowner and the travel time involved shall not be deducted from the annual leave with pay due to the seafarer.

(12) A seafarer taking annual leave may only be recalled in cases of extreme emergency and with the seafarer's consent.

(13) The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, may be authorised by the Director.

(14) Subject to sub-regulation 10(13) and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, a seafarer's annual leave with pay shall consist of an uninterrupted period.

(15) Seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage shall be repatriated at no expense to themselves, to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.

### **Repatriation.**

**11.** (1) Seafarers have a right to be repatriated at no cost to themselves in the following circumstances—

- (a) if the seafarers' employment agreement expires while they are abroad;
- (b) when the seafarers' employment agreement is terminated—
  - (i) by the shipowner; or
  - (ii) by the seafarer for justified reasons;
- (c) when the seafarers are no longer able to carry out their duties under their employment agreements or cannot be expected to carry them out in the specific circumstances;
- (d) in any event after serving a period not to exceed twelve (12) months on board.

(2) The following are deemed to be circumstances covered by sub-regulation 11(1)—

- (a) illness or injury or other medical condition which requires the seafarer's repatriation when found medically fit to travel;
- (b) shipwreck;
- (c) the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
- (d) the ship being bound for a war zone to which the seafarer does not consent to go; and

- (e) termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

(3) Shipowners are prohibited from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarers have been found, in accordance with the Merchant Shipping Act or these Regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.

(4) All ships that fly the flag of Saint Christopher and Nevis shall provide the Director with evidence of financial security to ensure that seafarers are duly repatriated.

(5) Shipowners are responsible, as a minimum, for the following cost of seafarer's repatriation entitlements—

- (a) passage to the destination selected for repatriation in accordance with sub-regulation 11(7);
- (b) accommodation and food from the moment that seafarers leave the ship until they reach the repatriation destination;
- (c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination;
- (d) transportation of 30 kg of the seafarer's personal luggage to the repatriation destination; and
- (e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

(6) If, after young seafarers under the age of 18 have served on a ship that flies the flag of Saint Christopher and Nevis for at least four months during their first foreign- going voyage, it becomes apparent that they are unsuited to life at sea, they shall be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of Saint Christopher and Nevis or the state of nationality or residence of the young seafarer; notification of any such repatriation, with the reasons therefor, shall be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

(7) The shipowner's duty to cover the cost of repatriation continues until the seafarers concerned are landed at a destination as required under sub-regulation 11(8) or are provided with suitable employment on board a ship proceeding to one of those destinations.

(8) Shipowners are responsible for repatriation arrangements by appropriate and expeditious means; the normal mode of transport is by air; seafarers have the right to be repatriated, at their choice to one of the following destinations with which the seafarers have a substantial connection—

- (a) the place at which the seafarer agreed to enter into the engagement;
- (b) the place stipulated by collective agreement;
- (c) the seafarer's country of residence; or
- (d) such other place as may be mutually agreed at the time of engagement.



(9) The entitlement to repatriation may lapse if the seafarers concerned do not claim it within two years or within a reasonable period of time determined by an applicable collective agreement; the provisions in these Regulations do not prevent right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.

(10) If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated—

- (a) the Director shall arrange for repatriation of the seafarers concerned;
- (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner concerned;
- (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided in sub-regulation 11(3);
- (d) the ship or other ships of the shipowner concerned may be detained by the Director until the reimbursement has been made.

(11) A copy of the present provisions regarding repatriation, written in the English language, shall be carried on board a ship that flies the flag of Saint Christopher and Nevis and shall be available to seafarers.

(12) Every possible practical assistance shall be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, where foreign seafarers are stranded in a port of Saint Christopher and Nevis, the Director shall ensure that the consular or local representative of the flag State and the seafarer State of nationality or State of residence, as appropriate, are informed immediately.

#### **Seafarer compensation for the ship's loss or foundering.**

**12.** (1) Shipowners shall pay each seafarer employed on board, in every case of loss or foundering of a ship, an indemnity as provided under sub-regulation 12(2), against unemployment resulting from the ship's loss or foundering.

(2) The indemnity shall be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the seafarers' employment agreement; the total indemnity payable to any seafarer is limited to two (2) months' wages.

(3) The requirement in sub-regulation 12(1) is without prejudice to any other rights a seafarer may also have for losses or injuries arising from a ship's loss or foundering.

(4) Seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

#### **Manning levels.**

**13.** (1) Ships shall have a sufficient number of seafarers on board to ensure that they are operated safely, efficiently and with due regard to security according to the Merchant Shipping (Training, Certification, Safe Manning, Hours of Work and Watch Keeping) Regulations 2012 or any amendments to or replacements thereof; every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to—

- (a) ensure the safety and security of the ship and its personnel, under all operating conditions in accordance with a safe manning document issued or designated by the Director; and

(b) comply with the standards provided for in these Regulations.

(2) The Director shall determine, approve or revise manning levels taking into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels, and all the requirements concerning food and catering as set out in Regulation 16.

(3) Complaints concerning manning levels on a ship shall be investigated; the Director shall maintain, or be satisfied that there is maintained efficient machinery for the investigation and settlement of complaints and arrange for representatives of shipowners' and seafarer's organisations to participate, with or without other persons or authorities, in the operation of such machinery.

#### **Career and skill development and opportunities for seafarers' employment.**

**14.** (1) The Director shall develop national policies to promote employment in the maritime sector and to encourage career and skill development and employment opportunities for seafarers domiciled in Saint Christopher and Nevis, in order to provide the maritime sector with a stable and competent workforce.

(2) The aim of these policies shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

#### **Accommodation and recreational facilities.**

**15.** (1) Ships shall provide and maintain decent accommodation and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.

(2) (a) The requirements which relate to ship construction and equipment apply only to ships constructed on or after the date when the Convention comes into force for Saint Christopher and Nevis;

(b) For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date;

(c) A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

(3) Ships shall—

(a) meet the minimum standards for on board accommodation and recreational facilities in these Regulations, including the provisions on health and safety protection and accident prevention, to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent and in accordance with the relevant provisions of these Regulations;

(b) be inspected in accordance with the provision of sub-regulations 15(1) and to ensure initial and ongoing compliance with those standards.

(4) Frequent inspections shall be carried out on board ships by, or under the authority of, the master, to ensure that seafarer accommodation is clean, decently

habitable and maintained in a good state of repair; the results of each such inspection shall be recorded and be available for review.

(5) Where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the Director may, after consultation with the shipowners' and seafarers' organisations, permit fairly applied variations in respect of the requirements in these provisions on condition that such variations do not result in overall facilities less favourable than those which would result from the application of those requirements.

(6) The Director may, after consultation with the shipowners' and seafarers' organisations, exempt ships of less than 200 gross tonnage from certain requirements provided that all of the following conditions are met—

- (a) the exemption shall be expressly permitted with respect to the requirement concerned;
- (b) the exemption shall be reasonable, taking account of the size of the ship and the number of persons on board;
- (c) the exemption relates to requirements such as air conditioning, washbasin and laundry facilities in each sleeping room;
- (d) the exemption is subject to the need to protect the seafarers' health and safety.

(7) With respect to general requirements for design and construction—

- (a) there shall be adequate headroom in all seafarer accommodation; the minimum permitted headroom where full and free movement is necessary shall be not less than 203 centimetres; the Director may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction—
  - (i) is reasonable; and
  - (ii) will not result in discomfort to the seafarers;
- (b) the accommodation shall be adequately insulated;
- (c) in ships other than passenger ships, as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention), sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;
- (d) in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions (hereinafter called "special purpose ships"), the Director may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;
- (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently

- constructed of steel or other approved substance and be watertight and gas-tight;
- (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;
  - (g) external bulkheads of sleeping rooms and mess rooms shall be adequately insulated;
  - (h) all machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced shall be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways; measures shall also be taken to provide protection from heat effects of steam or hot-water service pipes or both;
  - (i) sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space shall be adequately insulated to prevent condensation or overheating;
  - (j) the bulkhead surfaces and deckheads shall be of material with a surface easily kept clean; no form of construction likely to harbour vermin shall be used, the bulkhead surfaces and deckheads in sleeping rooms and mess rooms shall be capable of being easily kept clean and light in colour with a durable, nontoxic finish;
  - (k) the decks in all seafarer accommodation shall be of approved material and construction and shall provide a non-slip surface impervious to damp and easily kept clean, where the floorings are made of composite materials, the joints with the sides shall be profiled to avoid crevices;
  - (l) proper lighting and sufficient drainage shall be provided; and
  - (m) accommodation and recreational and catering facilities shall meet the requirements set out in Regulation 19, on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and on-board living environment for seafarers, in particular—
    - (i) accommodation and recreational and catering facilities shall be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus;
    - (ii) acoustic insulation or other appropriate sound-absorbing materials shall be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces;
    - (iii) engine rooms and other machinery spaces shall be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel; working spaces, such as the machine shop, shall be insulated, as far as practicable, from the general engine-room noise and measures shall be taken to reduce noise in the operation of machinery;

- (iv) the limits for noise levels for working and living spaces shall be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled “Ambient factors in the workplace, 2001”, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships; a copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers;
  - (v) no accommodation or recreational or catering facilities shall be exposed to excessive vibration;
  - (vi) ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices for protection against mosquitos; screening which shall be made of rust-proof wire or other suitable material shall be fitted to or provided for all sidescuttles and windows and skylights which are capable of being opened and all natural ventilators and all doors leading to an open deck; any screening door which is fitted pursuant to this regulation and leads directly into a permanent or temporary hospital shall be of a self-closing type; in crew accommodation which is fitted with an air-conditioning system screening need not be provided for any sidescuttles or windows which are fitted with special locking arrangements and which (except where the sidescuttles and windows are used for escape purposes) can be unlocked only with the consent of the master if all door leading from that crew accommodation to the open deck are of the self-closing type.
- (8) With respect to requirements for ventilation and heating—
- (a) sleeping rooms and mess rooms shall be adequately ventilated; the system of ventilation for sleeping rooms and mess rooms shall be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate;
  - (b) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air-conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room; in particular, air-conditioning systems, whether of a centralized or individual unit type, shall be designed to—
    - (i) maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations; and
    - (ii) facilitate easy cleaning and disinfection to prevent or control the spread of disease;
  - (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation;

- (d) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates; furthermore—
- (i) the system of heating the seafarer accommodation shall be in operation at all times when seafarers are living or working on board and conditions require its use;
  - (ii) in all ships in which a heating system is required, the heating shall be by means of hot water, warm air, electricity, steam or equivalent except that within the accommodation area, steam shall not be used as a medium for heat transmission;
  - (iii) the heating system shall be capable of maintaining the temperature in seafarer accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged;
  - (iv) radiators and other heating apparatus shall be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants; and
- (e) power for the operation of the air-conditioning and other aids to ventilation required by the preceding subparagraphs shall be available at all times when seafarers are living or working on board and conditions so require; however, this power need not be provided from an emergency source.

(9) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation 15(6), be exempted from the requirement in sub-regulation 15(8)(b).

(10) With respect to requirements for lighting, subject to such special arrangements as may be permitted by the Director for passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light; in particular—

- (a) electric light shall be provided in seafarers' accommodation;
- (b) if there are not two independent sources of electricity for lighting, additional lighting shall be provided by properly constructed lamps or lighting apparatus for emergency use;
- (c) in seafarer's sleeping rooms an electric reading lamp shall be installed at the head of each berth;
- (d) all seafarer accommodation shall comply with the standards of natural and artificial lighting according to the Fourth Schedule.

(11) When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply—

- (a) in ships other than passenger ships, an individual sleeping room shall be provided for each seafarer; in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the Director after consultation with the shipowners' and seafarers' organisations;
- (b) subject to the minimum floor area requirements set out in sub-regulation 15(12)—

- (i) on ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers;
  - (ii) on passenger ships, sleeping rooms may be occupied by a maximum of four seafarers not carrying out the duties of ships' officers; in the case of seafarers performing the duty of petty officers, there shall be no more than two persons per sleeping room;
  - (iii) on special purpose ships sleeping rooms may accommodate more than four persons;
- (c) separate sleeping rooms shall be provided for men and for women;
- (d) as far as practicable, sleeping rooms of seafarers shall be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers;
- (e) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness; accordingly—
- (i) where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms shall be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness;
  - (ii) for each occupant, the furniture, which shall be of smooth, hard material not liable to warp or corrode, shall include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;
  - (iii) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary;
  - (iv) sleeping rooms shall be fitted with curtains or equivalent for the Sidelights; as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks;
- (f) berths shall meet the following standards—
- (i) a separate berth for each seafarer shall in all circumstances be provided;
  - (ii) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
  - (iii) there shall be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer;
  - (iv) berths shall not be arranged in tiers of more than two; in the case of berths placed along the ship's side, there shall be only a single tier where a sidelight is situated above a berth;

- (v) the lower berth in a double tier shall be not less than 30 centimetres above the floor; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams;
- (vi) the framework and the lee-board, if any, of a berth shall be of approved material, hard, smooth, and not likely to corrode or to harbour vermin;
- (vii) if tubular frames are used for the construction of berths, they shall be completely sealed and without perforations which would give access to vermin;
- (viii) each berth shall be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress; the mattress and cushioning material used shall be made of approved material;
- (ix) stuffing of material likely to harbour vermin shall not be used;
- (x) when one berth is placed over another; a dust-proof bottom shall be fitted beneath the bottom mattress or spring bottom of the upper berth;
- (xi) clean good quality bedding shall be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers shall be responsible for their return at times specified by the master and on completion of service in the ship.

(12) Unless otherwise provided, sleeping rooms shall have the minimum floor areas set out in this regulation (space occupied by berths and lockers, chests of drawers and seats shall be included in the measurement of the floor area; small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture shall be excluded)—

- (a) in single berth seafarers' sleeping rooms the floor area shall not be less than—
  - (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
  - (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
  - (iii) 7 square metres in ships of 10,000 gross tonnage or over;
- (b) in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the Director may allow a reduced floor area;
- (c) in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, where sleeping rooms are occupied by two seafarers, the floor area of such sleeping rooms shall not be less than 7 square metres;
- (d) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers shall not be less than—
  - (i) 7.5 square metres in rooms accommodating two (2) persons;
  - (ii) 11.5 square metres in rooms accommodating three (3) persons;
  - (iii) 14.5 square metres in rooms accommodating four (4) persons;



- (e) on special purpose ships sleeping rooms where more than four (4) seafarers are accommodated, the floor area shall not be less than 3.6 square metres per person;
  - (f) on ships other than passenger ships and special purpose ships, for seafarers who perform the duties of ships' officers where no private sitting room or day room is provided, the floor area per person shall not be less than—
    - (i) 7.5 square metres in ships of less than 3,000 gross tonnage;
    - (ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
    - (iii) 10 square metres in ships of 10,000 gross tonnage or over.
  - (g) on passenger ships and special purpose ships, the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers shall not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;
  - (h) the master, the chief engineer and the chief navigating officer, and where practicable the second engineer officer, shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the Director from this requirement after consultation with the shipowners' and seafarer's organisations;
  - (i) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation 15(6), be exempted by the Director from the requirements of Regulation 15(12)(a) and (c) in so far as those subparagraphs relate to floor area.
- (13) Mess rooms shall comply with the following standards—
- (a) they shall be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the Director from this requirement after consultation with the shipowners' and seafarers' organisation;
  - (b) they shall be of adequate size and comfort and properly furnished and equipped (including ongoing facilities for refreshment), taking account of the number of seafarers likely to use them at any one time;
  - (c) provision shall be made for separate or common mess room facilities as appropriate: the decision in this respect shall be taken after consultation with seafarers' and shipowners' representatives and subject to the approval of the Director; account should be taken of factors such as the size of the ship and the distinctive cultural, religious and social needs of the seafarers;
  - (d) where separate mess room facilities are to be provided to seafarers, then separate mess rooms shall be provided for the master and officers and for petty officers and other seafarers;
  - (e) on ships other than passenger ships, the floor area of mess rooms for seafarers shall be not less than 1.5 square metres per person of the planned seating capacity;

- (f) in all ships, mess rooms shall be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time;
  - (g) the tops of tables and seats shall be of damp-resistant material;
  - (h) there shall be available at all times when seafarers are on board—
    - (i) a refrigerator, which shall be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
    - (ii) facilities for hot beverages and cool water;
    - (iii) where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils shall be provided;
    - (iv) mess utensils, including plates, cups and other mess utensils, of approved material which can be easily cleaned, shall be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers shall be responsible for their return at times specified by the master and on completion of service in the ship.
- (14) With respect to requirements for sanitary facilities—
- (a) all seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;
  - (b) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the Director from this requirement after consultation with the shipowners' and seafarers' organisations;
  - (c) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location;
  - (d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided; ships of less than 200 gross tonnage may, subject to the conditions set out in these Regulation, be exempted from this requirement;
  - (e) where separate facilities for engine department personnel to change their clothes are provided, they shall be located outside the machinery space but with easy access to it; and shall be fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water;
  - (f) in passenger ships normally engaged on voyages of not more than four hours' duration, the Director may approve special arrangements or a reduction in the number of facilities required;
  - (g) hot and cold running fresh water shall be available in all wash places;

- (h) washbasins and tub baths shall be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode;
- (i) all toilets shall be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable;
- (j) sanitary accommodation intended for the use of more than one person shall comply with the following—
  - (i) floors shall be of approved durable material, impervious to damp, and shall be properly drained;
  - (ii) bulkheads shall be of steel or other approved material and shall be watertight up to at least 23 centimetres the level of the deck;
  - (iii) the accommodation shall be sufficiently lit, heated and ventilated;
  - (iv) toilets shall be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four (4) seafarers;
  - (v) where there is more than one toilet in a compartment, they shall be sufficiently screened to ensure privacy;
  - (vi) towels, soap and toilet paper for all seafarers shall be provided by the shipowner.

(15) Ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes and complying with the following requirements—

- (a) hospital accommodation shall, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention; in particular—
  - (i) it shall be designed so as to facilitate consultation and the giving of medical first-aid and to help prevent the spread of infectious diseases;
  - (ii) the arrangement of the entrance, berths, lighting, ventilation, heating and water supply shall be designed to ensure the comfort and facilitate the treatment of the occupants;
  - (iii) the number of hospital berths required will be prescribed by the Director.
- (b) sanitary accommodation shall be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto; such sanitary accommodation shall comprise a minimum of one toilet, one washbasin and one tub or shower.

(16) Appropriately situated and furnished laundry facilities shall be available; The laundry facilities shall include—

- (a) washing machines;

- (b) drying machines or adequately heated and ventilated drying rooms;  
and
- (c) irons and ironing boards or their equivalent.

(17) Ships of less than 200 gross tonnage may, subject to the conditions set out in sub-regulation 15(6), be exempted by the Director from the requirement in sub-regulation 15(15).

(18) Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who shall live and work on ships, shall be provided on board for the benefit of all seafarers, taking into account the provisions on health and safety protection and accident prevention in regulation 19; recreational facilities and services shall be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry; in particular, ships shall—

- (a) have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board;
- (b) be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the Director from this requirement after consultation with the shipowners' and seafarer's organisations concerned;
- (c) provide furnishings for recreational facilities that as a minimum include a bookcase and facilities for reading, writing and, where practicable, games, and where appropriate, a canteen;
- (d) include the following facilities at no cost to the seafarer, where practicable—
  - (i) a smoking room;
  - (ii) television viewing and the reception of radio broadcasts;
  - (iii) showing of films, the stock of which shall be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
  - (iv) sports equipment including exercise equipment, table games and deck games;
  - (v) facilities for swimming;
  - (vi) a library containing vocational and other books, the stock of which shall be adequate for the duration of the voyage and changed at reasonable intervals;
  - (vii) facilities for recreational handicrafts;
  - (viii) electronic equipment such as a radio, television, video recorders, DVD/ CD player, personal computer and software and cassette recorder/player;
  - (ix) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs;  
and

- (x) reasonable access to ship-to-shore telephone communications, and e-mail and internet facilities, where available, with any charges for the use of these services being reasonable in amount.
- (e) ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible; efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.
- (f) whenever possible and reasonable, expeditiously grant seafarers permission to have their partners, relatives and friends as visitors on board their ship when in port; such measures shall meet any concerns for security clearances.
- (g) allow seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable; such partners shall carry adequate insurance cover against accident and illness; the shipowners shall give every assistance to the seafarer to effect such insurance.

**Food and catering.**

**16.** (1) Ships shall, carry on board and serve food and drinking water that is of appropriate quality, nutritional value and quantity and adequately covers the requirements of the ship.

(2) Seafarers on board a ship shall be provided with food free of charge during the period of engagement.

(3) The following minimum standards for food and catering apply—

- (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;
- (b) the organisation and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions;
- (c) catering staff shall be properly trained or instructed for their positions, and any seafarers engaged as ships' cooks shall have completed a training course approved or recognized by the Director, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.

(4) Seafarers shall only be qualified as ships' cooks if they are at least eighteen years old and—

- (a) have served at sea for a minimum period of 12 months of which 6 months must have been in the capacity of second cook or cooks assistant, which sea service could be varied to take into account existing relevant qualifications or experience;
- (b) have passed an examination prescribed by the Director or passed an equivalent examination at an approved training course for cooks or hold a certificate of qualification as a ships cook issued by countries which have ratified the Maritime Labour Convention, 2006, or the

Certification of Ships' Cooks Convention, 1946 (No. 69), or other approved body.

(5) On ships operating with a prescribed manning of less than ten (10) which, by virtue of the size of the crew or the trading pattern, may not be required by the Director to carry a fully qualified cook, anyone processing food in the galley shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.

(6) In circumstances of exceptional necessity, the Director may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.

(7) Frequent documented inspections shall be carried out on board ships, by or under the authority of the master, with respect to—

- (a) supplies of food and drinking water;
- (b) all spaces and equipment used for the storage and handling of food and drinking water;
- (c) galley and other equipment for the preparation and service of meals.

(8) The Director shall—

- (a) in cooperation with other relevant agencies and organisations, collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship; this information shall be made available, free of charge or at reasonable cost, to manufacturers of and traders in ship's food supplies and equipment, masters, stewards and cooks, and to shipowners' and seafarers' organisations concerned; appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals should be used for this purpose;
- (b) issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of hygiene, and ensure the maximum practicable convenience in working arrangements;
- (c) work with relevant agencies and organisations to develop educational materials and on-board information concerning methods of ensuring proper food supply and catering services;
- (d) work in close cooperation with the shipowners' and seafarers' organisations and with other national or local authorities dealing with questions of food and health; and may, where necessary, utilize the services of such authorities.

#### **Medical care on board ship and ashore.**

17. (1) All seafarers working on board a ship shall be covered by adequate measures for the protection of their health and shall have access to prompt and adequate medical care that is as comparable as possible to that which is generally available to onshore workers in Saint Christopher and Nevis.

(2) The protection and care under sub-regulation 17(1) shall, in principle, be provided at no cost to the seafarers.

(3) Shipowners shall adopt measures to provide for health protection and medical care, including essential dental care, for seafarers working on board; these measures shall—

- (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;
- (b) ensure that seafarers are given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;
- (c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
- (d) ensure that, to the extent consistent with national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers; and
- (e) not be limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.

(4) A standard medical report form, adopted by the Director, in order to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury, shall be used by ships' masters and relevant onshore and on-board medical personnel; when completed, the form and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

(5) The following minimum requirements for on-board hospital and medical care facilities and equipment and training on ships apply—

- (a) all ships shall carry a medicine chest, medical equipment and a medical guide, which shall be subject to regular inspection by the Director, taking into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards; in particular—
  - (i) the medicine chest shall conform to the recommendations of the most recent edition of the International Medical Guide for Ships issued by the WHO;
  - (ii) the medicine chest and its contents, as well as the medical equipment and medical guide carried on board, shall be properly maintained and inspected at intervals, not exceeding 12 months, by responsible persons designated by the Director, who shall ensure that the labelling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required;
  - (iii) as a minimum the approved medical guides that shall be kept on board are the most recent editions of the—
    - (a) WHO International Medical Guide for Ships;

- (b) WHO/ILO/IMO Medical First-Aid Guide for Use in Accidents Involving Dangerous Goods;
- (c) The medical section of the International Code of Signals,

where a cargo, which is classified dangerous, has not been included in the most recent edition of the Medical First-aid Guide for Use in Accidents Involving Dangerous Goods, the necessary information on the nature of the substances, the risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes shall be provided by the shipowner and made available to the seafarers; the antidotes and personal protective devices shall be on board whenever dangerous goods are carried; this information shall be integrated with the ship's policies and programmes on occupational safety and health;

- (b) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care; the Director may require that other ships carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;
- (c) ships which do not carry a medical doctor shall have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first-aid; persons in charge of medical care on board who are not medical doctors shall have satisfactorily completed training in medical care that meets the requirements of the STCW Convention; seafarers designated to provide medical first-aid shall have satisfactorily completed training in medical first-aid that meets the requirements of the STCW Convention; without prejudice to any further standards that may be adopted by the Director taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board—
  - (i) ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours shall have at least one designated seafarer with the approved medical first-aid training required by the STCW Convention which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board a ship and to make use of medical advice by radio or satellite communication; and
  - (ii) all other ships shall have at least one designated seafarer with approved training in medical care required by the STCW Convention, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board;
- (d) the medical training referred to in subparagraph (c) shall be based on the contents of the most recent editions of the medical guides referred to in subparagraph (a)(ii);
- (e) persons referred to in subparagraph (c)(i) and (ii) and such other seafarers as may be required by the Director shall undergo, at



approximately five-year intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments;

- (f) the Director shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, being available free of charge to all ships irrespective of the flag that they fly; in addition—
  - (i) all ships shall carry a complete and up-to-date list of radio stations through which medical advice can be obtained and, if equipped with a system of satellite communication, carry an up-to-date and complete list of coast/ earth stations through which medical advice can be obtained;
  - (ii) seafarers with responsibility for medical care or medical first-aid on board shall be instructed in the use of the ships medical guide and the medical section of the most recent edition of the International Code of Signals so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

(6) The Director may adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in Saint Christopher and Nevis pending the development of a medical care service which would include within its scope workers generally and their dependants where such services do not exist and should inform the International Labour Office concerning measures taken for this purpose.

(7) Seafarers on board foreign ships in the territory of Saint Christopher and Nevis who are in need of immediate medical care shall be given access to medical facilities on shore including—

- (a) outpatient treatment for sickness and injury;
- (b) hospitalization when necessary;
- (c) facilities for dental treatment in cases of emergency.

(8) Suitable measures shall be taken to facilitate the treatment of seafarers suffering from disease; in particular, seafarers shall be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements shall be made to ensure, when necessary, continuation of treatment to supplement the medical facilities available to them.

(9) The Director may participate in international cooperation activities, based on bilateral or multilateral agreements or consultations among countries, in the area of assistance, programmes and research in health protection and medical care for seafarers, including—

- (a) developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on Maritime Search and Rescue, 1979, as amended, and the

- International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual;
- (b) making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
  - (c) compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;
  - (d) landing seafarers ashore for emergency treatment;
  - (e) repatriating seafarers hospitalized abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
  - (f) arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
  - (g) endeavouring to set up health centres for seafarers to—
    - (i) conduct research on the health status, medical treatment and preventive health care of seafarers; and
    - (ii) train medical and health service staff in maritime medicine;
  - (h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities of seafarers and integrating and harmonizing the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;
  - (i) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working group;
  - (j) providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services; and
  - (k) arranging for the repatriation of the bodies or ashes of deceased seafarers, in accordance with the wishes of the next of kin and as soon as practicable.

### **Shipowners' liability.**

**18.** (1) Seafarers working on board a ship have a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

(2) The right under sub-regulation 18(1) does not affect any other legal remedies that a seafarer may seek.

(3) Shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in this regulation or in the seafarers' employment agreement or any applicable collective agreement.

(4) Shipowners are responsible for health protection and medical care of all seafarers working on board and are liable for the costs for all seafarers working on

their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates to the extent provided in this regulation—

- (a) shipowners shall defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character;
- (b) shipowners shall pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement; these expenses may be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation;
- (c) where the sickness or injury results in incapacity for work, shipowners shall—
  - (i) pay full wages (exclusive of bonuses) as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with regulation 11 of these Regulations;
  - (ii) pay wages in whole or in part as prescribed in this regulation or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or if earlier, until they are entitled to cash benefits under the applicable social security legislation.

(5) The liability of the shipowner under sub-regulation 18(4) is limited to sixteen weeks from the day of the injury or the commencement of the sickness and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

(6) The liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board is limited to sixteen weeks from the day of the injury or the commencement of the sickness and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.

(7) Shipowners are not liable in respect of—

- (a) injury incurred otherwise than in the service of the ship;
- (b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer;
- (c) sickness or infirmity intentionally concealed when the engagement is entered into.

(8) Shipowners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

**Health and safety protection and accident prevention.**

**19.** (1) Seafarers shall be provided with occupational health protection consistent with their right to live, work and train on board ship in a safe and hygienic environment.

(2) After consultation with the seafarers' and shipowners' organisations, the Director shall - in accordance with the national occupational safety and health - set and maintain standards for occupational safety and health protection and accident prevention to be observed on board.

(3) The Director shall, after consultation with the seafarers' and shipowners' organisations, adopt and keep under continuous review, guidelines for the management of seafarer occupational safety and health on board; these guidelines shall be based on the basic national occupational safety and health policy and programme for ships; relevant provisions or recommendations adopted by the appropriate national authorities or organisations or international organisations should be taken into account by those preparing texts of occupational safety and health protection and accident prevention measures or recommended practices; in formulating occupational safety and health protection and accident prevention programmes, the Director should have due regard to any code of practice concerning the safety and health of seafarers which may have been published by the International Labour Organization.

(4) The guidelines shall take account of Guidelines B4.3.2 to B4.3.10 of the Convention as well as the ILO code of practice entitled 'Accident prevention on board ship at sea and in port, 1996', and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify; the guidelines shall give priority to the following matters, in particular—

- (a) structural features of the ship, including means of access and asbestos-related risks;
- (b) machinery;
- (c) the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;
- (d) the effects of noise in the workplace and in shipboard accommodation;
- (e) the effects of vibration in the workplace and in shipboard accommodation;
- (f) the effects of ambient factors, other than those referred to in subparagraphs (d) and (e), in the workplace and in shipboard accommodation, including tobacco smoke;
- (g) special safety measures on and below deck;
- (h) loading and unloading equipment;
- (i) fire prevention and fire-fighting;
- (j) anchors, chains and lines;
- (k) dangerous cargo and ballast;
- (l) personal protective equipment for seafarers;
- (m) work in enclosed spaces;

- (n) physical and mental effects of fatigue;
- (o) the effects of drug and alcohol dependency;
- (p) HIV/AIDS protection and prevention; and
- (q) emergency and accident responses.

(5) The assessment of risks and reduction of exposure on the matters referred to in sub-regulation 19(4) shall take account of the physical occupational health effects, including manual handling of loads, noise and vibration, the chemical and biological occupational health effects, the mental occupational health effects, the physical and mental health effects of fatigue, and occupational accidents; the necessary measures shall take due account of the preventive principle according to which, among other things, combating risk at the source, adapting work to the individual, especially as regards the design of workplaces, and replacing the dangerous by the non-dangerous or the less dangerous, have precedence over personal protective equipment for seafarers.

(6) In addition, the Director shall ensure that the implications for health and safety are taken into account, particularly in the following areas—

- (a) emergency and accident response;
- (b) the effects of drug and alcohol dependency; and
- (c) HIV/AIDS protection and prevention.

(7) In adopting and implementing occupational safety and health policies, guidelines and other measures, every effort shall be made to comply with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships' occupational safety and health policies and programmes will be considered as meeting the requirements set out in sub-regulations 18(3) to 18(7).

(8) Shipowners shall adopt and promote on-board occupational safety and health management policies and programmes, consistent with the guidelines referred to in these Regulations, that—

- (a) include reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships;
- (b) include training and instruction of seafarers and other on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, that involve seafarer's representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment; the curriculum for the training shall be reviewed periodically and brought up to date in the light of development in types and sizes of ships and in their equipment, as well as changes in manning practices, nationality, language and the organisation of work on board ships;
- (c) require the inspection, reporting and correcting of unsafe conditions and provide for the investigation and reporting of on-board

occupational accidents and occupational injuries and diseases; all such events shall be reported so that they can be investigated and comprehensive statistics can be kept, analysed and published, taking account of protection of the personal data of the seafarers concerned; reports shall not be limited to fatalities or to accidents involving the ship; due regard should be had to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organization;

- (d) provide special attention to the safety and health of seafarers under the age of 18;
- (e) specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programmer;
- (f) specify the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee; such a committee shall be established on board a ship on which there are five or more seafarers;
- (g) include risk evaluation in relation to management of occupational safety and health that refer to appropriate statistical information from their ships and from general statistics provided by the Director.

(9) With respect to young seafarers referred to under sub-regulation 19(8), except where they are recognized as fully qualified in a pertinent skill by the Director, the measures referred to in sub-regulation 19(8) shall specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill; in determining the types of work to be restricted by the regulations, the Director might consider in particular work involving—

- (a) the lifting, moving or carrying of heavy loads or objects;
- (b) entry into boilers, tanks and cofferdams;
- (c) exposure to harmful noise and vibration levels;
- (d) operating hoisting and other power machinery and tools, or acting as signallers to operators of such equipment;
- (e) handling mooring or tow lines or anchoring equipment;
- (f) rigging;
- (g) work aloft or on deck in heavy weather;
- (h) nightwatch duties;
- (i) servicing of electrical equipment;
- (j) exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;
- (k) the cleaning of catering machinery; and
- (l) the handling or taking charge of ships' boats.

*(Amended by S.R.O. 17/2014)*

**Access to shore-based welfare facilities.**

**20.** (1) The Director shall promote the development of welfare facilities in appropriate ports and or other areas of Saint Christopher and Nevis, after consultation with the shipowners' and seafarers' organisations, to ensure that adequate welfare facilities and services are provided, that take into account the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities; including—

- (a) meeting and recreation rooms as required;
- (b) facilities for sports and outdoor facilities, including competitions;
- (c) educational facilities;
- (d) where appropriate, facilities for religious observances and for personal counselling.

(2) The Director shall use best efforts to secure financing for the welfare facilities referred to in sub-regulation 20(1).

(3) The welfare facilities and services shall be provided, in accordance with national conditions and practice, by one or more of the following—

- (a) public authorities;
- (b) shipowners' and seafarers' organisations concerned under collective agreements or other agreed arrangements; and
- (c) voluntary organisations.

(4) These facilities under sub-regulation 20(1) may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.

(5) Seafarers' welfare facilities shall be available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work; without in any way infringing this principle, it may be necessary in certain ports to permit the use of several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.

(6) The Director shall take the necessary measures to encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

(7) The welfare boards shall, wherever possible, be established, at the port, regional and national levels, as appropriate, with supervisory functions including the participation of shipowners' and seafarer's organisations; their functions shall include—

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities; and
- (b) assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.

(8) Welfare boards shall, when established, in particular, be responsible for ensuring that—

- (a) information is disseminated among seafarers concerning facilities open to the general public, particularly transport, welfare, entertainment and educational facilities and places of worship, in ports of call and or other areas of Saint Christopher and Nevis, as well as facilities provided specifically for seafarers’;
  - (b) shipowners and seafarers entering port are aware of any special laws and customs, the contravention of which may jeopardize their freedom;
  - (c) adequate means of transport at moderate prices are available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port;
  - (d) port areas and access roads have adequate lighting and signposting and regular patrols for the protection of seafarers;
  - (e) hotels or hostels suitable for seafarers are available where there is need for them with facilities equal to those found in a good-class hotel; they should, wherever possible be located in good surroundings away from the immediate vicinity of the docks, be properly supervised and reasonably priced; where necessary and possible, provision should be made for accommodating seafarers’ families;
  - (f) measures are taken to expedite a free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore;
  - (g) technically competent persons are, as necessary, employed fulltime in the operation of seafarers’ welfare facilities and services, in addition to any voluntary workers.
- (9) As appropriate, consuls of maritime States and local representatives of foreign welfare organisations may be associated with the work of welfare boards.
- (10) For the protection of foreign seafarers in ports of Saint Christopher and Nevis, the Director shall take measures to facilitate—
- (a) access to consuls of their State of nationality or State of residence; and
  - (b) effective cooperation between consuls and the local or national authorities.
- (11) Foreign seafarers who are detained in a port shall be dealt with promptly under due process of law and with appropriate consular protection.
- (12) Whenever a foreign seafarer is detained for any reason, the Director shall, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer; the Director shall promptly inform the seafarer of the right to make such a request; the Director shall allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.
- (13) The Director shall take measures, whenever necessary, to ensure the safety of foreign seafarers from aggression and other unlawful acts while ships are in this country’s territorial waters and especially in approaches to ports.
- (14) The Director shall ensure that every effort is made by those responsible in port and on board a ship to facilitate shore leave for seafarers as soon as possible after a ship’s arrival in port.



(15) The Director shall cooperate with other countries in promoting the welfare of seafarers at sea and in port; such cooperation may include the following—

- (a) consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;
- (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
- (c) organisation of international sports competitions and encouragement of the participation of seafarers in sports activities;
- (d) organisation of international seminars on the subject of welfare of seafarers at sea and in port.

#### **Flag State responsibilities.**

**21.** (1) The Director shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with sub-regulations 22(2) and 22(3), on ships that fly the flag of Saint Christopher and Nevis.

(2) The Director may, where appropriate in accordance with sub-regulation 22(1), authorize public institutions or other organisations which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both.

(3) The Director shall establish clear objectives and standards covering the administration of the inspection and certification system referred to sub-regulation 22(1), as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

(4) Ships which fly the flag of Saint Christopher and Nevis shall have a copy of the Convention available on board.

#### **Authorization of recognized organisations.**

**22.** (1) The Director may recognise public institutions or other organisations as competent and independent, for the purpose of carrying out inspections or certification of ships to determine compliance with the provisions of these Regulations.

(2) Before recognising an organisation under sub-regulation 22(1), the Director shall review the competency and independence of the organisation concerned and determine whether the organisation has demonstrated, to the extent necessary for carrying out the activities covered by the authorisation conferred on it, that the organisation—

- (a) has the necessary knowledge of the requirements of the Convention as well as of applicable national laws and regulations and relevant international instruments; and has the necessary expertise in the relevant aspects of the Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;
- (b) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorisation; the

organisation seeking recognition shall demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality; in this respect, the Director shall determine whether the organisation—

- (i) has adequate technical, managerial and support staff;
  - (ii) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;
  - (iii) has proven ability to provide a timely service of satisfactory quality;
  - (iv) is independent and accountable in its operations;
- (c) has the ability to maintain and update the expertise of its personnel; recognized organisations shall develop a system for the qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

(3) The Director shall conclude a written agreement with any organisation that it recognizes for purposes of an authorisation; the agreement shall include the following elements—

- (a) scope of application;
- (b) purpose;
- (c) general conditions;
- (d) the execution of functions under authorisation;
- (e) legal basis of the functions under authorisation;
- (f) reporting to the Director;
- (g) specification of the authorisation from the Director to the recognised Organisation; and
- (h) the Director's supervision of activities delegated to the recognised organisation.

(4) Any authorisations granted with respect to inspections shall, as a minimum, empower the recognised organisation to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.

(5) Recognised organisations shall maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services.

(6) The Director shall establish—

- (a) a system to ensure the adequacy of work performed by recognised organisations, which includes information on all applicable national laws and regulations and relevant international instruments; and
- (b) procedures for communication with and oversight of such organisations, that take into account the Guidelines for the Authorisation of Organisations Acting on Behalf of the Administration, adopted in the framework of the International Maritime Organisation.

(7) The Director shall make appropriate arrangements to promote effective cooperation between public institutions and other organisations concerned with seafarers' shipboard working and living conditions.

(8) The Director shall provide the International Labour Organisation with a current list of any recognised organisations authorised to act on its behalf and shall keep the list up to date; the list shall specify the functions that the recognised organisations have been authorized to carry out.

**Maritime labour certificate and declaration of maritime labour compliance.**

**23.** (1) Regulation 23 applies to every ship that flies the flag of Saint Christopher and Nevis and is engaged in commercial activity and is—

- (a) 500 gross tonnage or over and engaged in international voyages;
- (b) 500 gross tonnage or over and operates from a port, or between ports, in a country other than Saint Christopher and Nevis.

(2) Regulation 23 also applies to a ship not covered by sub-regulation 23(1) (a) or (b), at the request of the shipowner to the Director.

(3) Every ship to which Regulation 23(1) applies shall carry and maintain a current valid maritime labour certificate issued to the ship by the Director, or by a recognised organisation duly authorised for this purpose, which shall complete the form for this certificate, and affix to the form their signature and the seal or stamp of the competent authority—

- (a) Part I summarises, in accordance with Standard A5.1.3, paragraph 10 (a) of the Convention, the requirements of Saint Christopher and Nevis laws or regulations or other measures implementing the requirements of the Convention regarding the working and living conditions of seafarers on ships; it is drawn up by the competent authority using the form contained in the First Schedule to these Regulations;
- (b) Part II identifies the measures adopted by the shipowner to ensure ongoing compliance on the ship with the national requirements and the measures proposed to ensure that there is continuous improvement; it shall be drawn up by the shipowners based on the form contained in the First Schedule to these and certified by the Director or recognised organisation duly authorized for this purpose; the following requirements apply—
  - (i) the measures drawn up by the shipowner, shall, in particular, indicate the occasions on which ongoing compliance with particular national requirements will be verified, the persons responsible for verification, the records to be taken, as well as the procedures to be followed where non-compliance is noted;
  - (ii) Part II may take a number of forms and may make reference to other more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector, for example documents required by the International Safety Management (ISM) Code or the information required by Regulation 5 of the SOLAS Convention, Chapter XI- I relating to the ship's Continuous Synopsis Record;
  - (iii) the measures to ensure ongoing compliance shall include general international requirements for the shipowner and master to keep themselves informed of the latest advances in technology and

scientific findings concerning workplace design, taking into account the inherent dangers of seafarers' work, and to inform the seafarers' representatives accordingly.

(4) A maritime labour certificate, complemented by a declaration of maritime labour compliance, constitutes *prima facie* evidence that the ship has been duly inspected and that the requirements of the Convention relating to working and living conditions of the seafarers have been met to the extent so certified.

(5) The maritime labour certificate may be issued only where the Director or a recognised organisation duly authorised for this purpose has ascertained through inspection, as provided for in regulations 24, that the ship concerned meets the standards of these Regulations.

(6) The list of the matters that shall be inspected and found to meet national laws and regulations or other measures implementing the requirements of the Convention regarding the working and living conditions of seafarers on ships shall be the 14 items listed in the declaration of maritime labour compliance.

(7) The maritime labour certificate is issued for a period of five years or any shorter period that may be considered appropriate by the Director or recognised organisation in a particular case.

(8) The validity of the maritime labour certificate is subject to an intermediate inspection by the Director, or by a recognized organisation duly authorised for this purpose, to ensure continuing compliance; if only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall take place between the second and third anniversary dates of the certificate; anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate; the scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the certificate; a certificate shall be endorsed following satisfactory intermediate inspection.

(9) The maritime labour certificate may be renewed subject to a new inspection in accordance with sub-regulation 23(8) to ascertain that the ship concerned continues to meet the standards of these Regulations; when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate is valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate; when the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate is valid for a period not exceeding five years starting from the date of completion of the renewal inspection.

(10) A maritime labour certificate may be issued on an interim basis—

- (a) to new ships on delivery;
- (b) when a ship changes flag;
- (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

(11) An interim maritime labour certificate may be issued for a period not exceeding six months by the Director or a recognised organisation duly authorized for these purposes following verification that—

- (a) the ship has been inspected, as far as reasonable and practicable, for the matters covered by the 14 items listed in the declaration of

maritime labour compliance, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;

- (b) the shipowner has demonstrated to the Director or recognised organisation that the ship has adequate procedures to comply with the standards of these Regulations;
- (c) the master is familiar with the requirements of these Regulations and the responsibilities for implementation; and
- (d) relevant information has been submitted to the Director or recognised organisation to produce a declaration of maritime labour compliance.

(13) An inspection in accordance with regulation 23(11) shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate; no further interim certificate may be issued following the initial six months; a declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

(14) The results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification shall be recorded, together with the date when the deficiencies were found to have been remedied; this record shall be appended to the declaration of maritime labour compliance or made available in some other way to seafarers, flag State inspectors, authorised officers in port States and shipowners' and seafarers' representatives.

(15) A current valid maritime labour certificate and declaration of maritime labour compliance shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers; a copy shall be made available upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.

(16) A maritime labour certificate, including an interim certificate where applicable, will cease to be valid in any of the following cases—

- (a) if the relevant inspections are not completed within the periods specified under regulation 23(11);
- (b) if the certificate is not endorsed in accordance with sub-regulation 23(11);
- (c) when a ship changes flag;
- (d) when a shipowner ceases to assume the responsibility for the operation of a ship;
- (e) when substantial changes have been made to the structure or equipment covered in regulations 15.

(17) In the case referred to in sub-regulation 23(15)(c), (d) or (e), a new certificate may only be issued when the Director or a recognised organisation issuing the new certificate is fully satisfied that the ship is in compliance with the requirements set out in these Regulations.

(18) A maritime labour certificate shall be withdrawn by the Director or a recognized organisation duly authorized for this purpose, if there is evidence that the ship is not in compliance with the requirements of these Regulations and any required corrective action has not been taken.

(19) When considering whether a maritime labour certificate should be withdrawn in accordance with sub-regulation 23(17), the Director or the recognized

organisation shall take into account the seriousness or the frequency of the deficiencies.

(20) For the purpose of this Regulation, “international voyage” means a voyage from a country to a port outside such a country.

### **Inspection and enforcement.**

**24.** (1) The Director shall maintain a system of inspection of the conditions for seafarers on ships that fly the flag of Saint Christopher and Nevis including verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed.

(2) The Director shall develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to these Regulations; copies of this policy shall be provided to all inspectors and relevant law-enforcement officials and shall be made available to the public and shipowners and seafarers.

(3) Inspections shall take place at the intervals required under sub-regulations 23(4) to 23(18) and 24(1) to (3), where applicable; intervals shall in no case exceed three years; inspections of seafarer accommodation shall be carried out when—

- (a) a ship is registered or re-registered; or
- (b) the seafarer accommodation on a ship has been substantially altered.

(4) If the Director receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies the flag of Saint Christopher and Nevis does not conform to the requirements of these Regulations or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Director shall investigate the matter and ensure that action is taken to remedy any deficiencies found.

(5) The Director shall establish simple procedures to enable it to receive information in confidence concerning possible breaches of these Regulations presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including—

- (a) enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary; and
- (b) supplying technical information and advice to shipowners and seafarers and organisations concerned as to the most effective means of complying with the requirements of these Regulations and of bringing about a continual improvement in seafarers’ on-board conditions.

(6) The Director shall appoint a sufficient number of qualified inspectors to fulfil the responsibilities in sub-regulation 24(1).

(7) The Director shall adopt adequate rules that are effectively enforced to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

(8) Inspectors shall not undertake duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties; in particular, inspectors—

- (a) are prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
  - (b) subject to appropriate sanctions or disciplinary measures, shall not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.
- (9) Inspectors shall have the resources necessary to fulfil their functions; in particular—
- (a) duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of an inspector; and
  - (b) inspectors shall be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.
- (10) Inspectors shall have qualifications and adequate training to perform their duties and where possible shall have a maritime education or experience as a seafarer; they shall have adequate knowledge of seafarers' working and living conditions and of the English language and shall be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to—
- (a) the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships subject to inspection and the number and complexity of the legal provisions to be enforced;
  - (b) the resources placed at the disposal of the inspectors; and
  - (c) the practical conditions under which inspections shall be carried out in order to be effective.
- (11) Inspectors, with proper credentials acting in accordance with the policy referred to in sub-regulation 24(2) have the following power—
- (a) to board a ship that flies the flag of Saint Christopher and Nevis freely and without previous notice; when commencing the ship inspection, inspectors shall provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;
  - (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the standards are being strictly observed, including the following—
    - (i) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the requirements under laws and regulations, in the presence of any witness that the person may have requested;
    - (ii) to require the production of any books, log books, Registers, certificates or other documents or information directly related to matters subject to inspection, in order to verify compliance;
    - (iii) to enforce the posting of notices as required;
    - (iv) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled; when a sample is being taken or removed, the shipowner or the shipowner's representative, and

where appropriate a seafarer, shall be notified or shall be present at the time the sample is taken or removed and the quantity of such a sample shall be properly recorded by the inspector;

- (c) to require that any deficiency is remedied and, where they have grounds to believe that deficiencies constitute a serious breach of the requirements of these Regulations, or represent a significant danger to seafarer's safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.

(12) Inspectors shall also at a minimum have the power—

- (a) following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;
- (b) to alert the Director and, if applicable, the recognized organisation to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to them for the improvement of the laws or regulations; and
- (c) to notify the Director of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by laws and regulations.

(13) Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of these Regulations that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.

(14) Inspectors shall treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

(15) Inspectors shall submit a report of each inspection to the Director; one copy of the report in English or in the working language of the ship shall be provided to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.

(16) The Director shall maintain records of inspections of the conditions for seafarers on ships of Saint Christopher and Nevis.

(17) The annual report on inspection activities will be published within a reasonable time, not exceeding six months after the end of the year; it will contain the following information—

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into effect during the year;
- (b) details of the organisation of the system of inspection;
- (c) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;
- (d) statistics on all seafarers subject to the laws and regulations of Saint Christopher and Nevis;
- (e) statistics and information on violations of legislation, penalties imposed and cases of detention of ships;



- (f) statistics on reported occupational injuries and diseases affecting seafarers.

(18) In the case of an investigation pursuant to a major incident, the report shall be submitted to the Director as soon as practicable, but not later than one month following the conclusion of the investigation.

(19) When an inspection is conducted or when measures are taken, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

(20) The following penalties and other corrective measures for breaches of the requirements of these Regulations and for obstructing inspectors in the performance of their duties shall apply; not exceeding level 5 of the standard scale of fines set out in Schedule 5 of the Act or to a term of imprisonment not exceeding one year or both.

(21) Any action taken pursuant to sub-regulation 24(11)(c) is subject to a right of appeal to the Court.

#### **On-board complaint procedures.**

**25.** (1) Ships shall have an approved on-board complaint procedures for the fair, effective, well-documented and expeditious handling of seafarer complaints alleging breaches of the requirements of these Regulations.

(2) Any adverse action taken by any person with respect to a seafarer for lodging a complaint, which is not manifestly vexatious or maliciously made, is prohibited.

(3) Shipowners shall provide all seafarers working on a ship with a copy of the approved on-board complaint procedures applicable on the ship.

(4) On-board complaint procedures that are approved by the Director shall—

- (a) seek to resolve complaints at the lowest level possible; however, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities;
- (b) include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization of seafarers for filing complaints; in order to help avoid problems of victimization of seafarers making complaints, the procedures should encourage the nomination of a person on board who can advise seafarers on the procedures available to them and, if requested by the complainant seafarer, also attend any meetings or hearings into the subject matter of the complaint;
- (c) include contact information for the Director and, where different, the Director's equivalent in the seafarers' country of residence, as well as the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.

(5) Subject to any relevant provisions of an applicable collective agreement, the Director shall, in close consultation with shipowners' and seafarers' organisations, develop a model for fair, expeditious and well documented on-board complaint-handling procedures; the following procedures shall, at a minimum, be among those discussed during this consultative process—

- (a) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's superior officer;
- (b) the head of department or superior officer shall then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;
- (c) if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer, the latter may refer it to the master, who shall handle the matter personally;
- (d) seafarers shall at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;
- (e) all complaints and the decisions on them shall be recorded and a copy provided to the seafarer concerned;
- (f) if a complaint cannot be resolved on board, the matter shall be referred ashore to the shipowner, who shall be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative; and
- (g) in all cases seafarers shall have a right to file their complaints directly with the master and the shipowner and competent authorities.

(6) Any contravention of regulation 25(2) shall constitute an offence and the offender shall be liable to a fine not exceeding level 5 of the standard scale of fines set out in Schedule 5 of the Merchant Shipping Act or to a term of imprisonment not exceeding one year or both.

(7) Nothing contained in regulation 25 shall prejudice a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

#### **Marine casualties.**

**26.** (1) The Director shall ensure that an inquiry into any serious marine casualty, leading to injury or loss of life that involves a ship that flies the flag of Saint Christopher and Nevis, is held in accordance with the provisions of the Merchant Shipping Act; the final report of an inquiry shall normally be made public.

(2) The Director shall cooperate with the competent authorities in other countries to facilitate the investigation of serious marine casualties.

#### **Port State responsibilities.**

**27.** (1) Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of Saint Christopher and Nevis may be subject to an inspection, carried out by authorized officers, to review compliance with the requirements of the Convention including seafarers' rights relating to the working and living conditions of seafarers on the ship pursuant to the Third Schedule.

(2) A valid maritime labour certificate and declaration of maritime labour compliance shall be accepted as *prima facie* evidence of compliance with the requirements of the Convention including seafarers' rights; accordingly, inspection in ports shall, except in the circumstances specified in these Regulations, be limited to a review of the certificate and declaration.

(3) The Director shall establish an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers

on foreign ships entering a port of Saint Christopher and Nevis meet the requirements of the Convention including seafarers' rights; in particular, the Director shall develop an inspection policy, for authorized officers carrying out inspections under these Regulations; the objective of the policy shall be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of the Convention including seafarer's rights and shall provide authorized officers with guidance, as to the kinds of circumstances justifying detention of a ship under these Regulations; copies of this policy shall be provided to all authorised officers and shall be available to the public and to shipowners and seafarers.

(4) Where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that—

- (a) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by the Convention or are otherwise invalid; or
- (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the Convention; or
- (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the Convention; or
- (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the Convention; a more detailed inspection may be carried out to ascertain the working and,

living conditions on board the ship; such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of the Convention including seafarers' rights.

(5) Where a more detailed inspection is carried out on a foreign ship in the circumstances set out in regulation 27(4)(a), (b) or (c), it shall as far as possible cover the matters listed which correspond to the 14 items listed in the declaration of maritime labour compliance.

(6) In the case of a complaint under regulation 27(4) (d) the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with these Regulations; for the purpose of regulation 27(4)(d) complaint means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

(7) Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of the Convention, the authorised officer shall forthwith bring the deficiencies to the attention of the master of the ship, with required deadlines for their rectification; in the event that such deficiencies are considered by the authorised officer to be significant, or if they relate to a complaint made in accordance with regulation 219 (d) the authorised officer shall bring the deficiencies to the attention of the seafarers' and shipowners' organisations and may—

- (a) notify a representative of the flag State;

- (b) provide the competent authorities of the next port of call with the relevant information.

(8) A copy of the officer's report, which shall be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, may be transmitted to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.

(9) Where, following a more detailed inspection by an authorised officer, the ship is found not to conform to the requirements of the Convention and—

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the non-conformity constitutes a serious or repeated breach of the requirements of the Convention including seafarers' rights,

the authorised officer shall take steps to ensure that the ship does not proceed to sea until any non-conformities that fall within the scope of subparagraph (a) or (b) of this paragraph have been rectified, or until the authorised officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner; if the ship is prevented from sailing, the authorised officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline; the authorised officer shall also inform forthwith the shipowners' and seafarer's organisations.

(10) All possible efforts shall be made to avoid a ship being unduly detained or delayed; if a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered; the burden of proof in each case shall be on the complainant.

#### **Onshore seafarer complaint-handling procedures.**

**28.** (1) Seafarers on foreign ships who allege a breach of the requirements of the Convention including seafarers' rights have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

(2) A complaint by a seafarer alleging a breach of the requirements of the Convention including seafarer's rights may be reported to an authorized officer at a port in Saint Christopher and Nevis at which the seafarer's ship has called; in such cases, the authorised officer shall undertake an initial investigation, taking account of the following—

- (a) the authorized officer should first check whether the complaint is of a general nature which concerns all seafarers on the ship, or a category of them, or whether it relates only to the individual case of the seafarer concerned;
- (b) if the complaint relates to an individual case, the authorized officer shall ascertain whether the ship's on board complaint procedures required under Regulation 25 and the Code of the Convention have been explored and an examination of the results of any on board complaint procedures for the resolution of the complaint concerned should be undertaken;

- (c) if such procedures have not been explored, the authorized officer should suggest that the complainant take advantage of any such procedures available; there should be good reasons for considering a complaint before any on-board complaint procedures have been explored; such reasons would include the inadequacy of or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint;
- (d) if the complaint is of a general nature, the authorised officer should consider conducting a more detailed inspection in accordance with sub-regulation 27(1).

(3) In any investigation of a complaint, the authorised officer shall give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.

(4) The authorised officer shall, where appropriate, seek to promote a resolution of the complaint at the ship board level.

(5) In the event that the investigation or an inspection reveals a non-conformity that falls within the scope of regulation 27(9) of these Regulations, the provisions of that regulation shall apply.

(6) Where the provisions of regulation 28(5) shall not apply, and the complaint has not been resolved at the ship-board level, the authorised officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.

(7) In the event that the flag State demonstrates, that it will handle the matter, and that it has in place effective procedures for this purpose and has submitted an acceptable plan of action, the authorised officer may refrain from any further involvement with the complaint.

(8) Where the complaint has not been resolved following action taken in accordance with regulation 28(6), the port State shall transmit a copy of the authorized officer's report to the Director-General; the report shall be accompanied by any reply received within the prescribed deadline from the Director of the flag State; the seafarers' and shipowners' organisations in accordance shall be similarly informed; in addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the Director to the Director-General; both such submissions are provided in order that, the basis of such action as may be considered appropriate and expedient, a record is kept of such information and is brought to the attention of parties, including shipowners' and seafarers' organisations, which might be interested in availing themselves of relevant recourse procedures.

(9) Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

#### **Labour-supplying responsibilities.**

**29.** The Director shall establish an effective system for enforcing the requirements of these Regulations applicable to the operation and practice of seafarer recruitment and placement services established on its territory, through inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for under regulation 6 of these Regulations.

**Exemptions.**

**30.** Exemptions from any of the provisions of these Regulations may be granted by the Director after consultation with the concerned shipowners' and seafarers' organisations or, in case there are none available, appropriate employers and workers organisations or again, in case there are none available, by the Director, in accordance with the powers contained within section 445 of the Merchant Shipping Act, on such terms, if any, as he may specify, for classes of cases or individual cases, as necessary after consultation, as required, with the Special Tripartite Committee of the ILO.

**Delegation.**

**31.** The Director may delegate, in whole or in part, any of the duties carried out by him according to these Regulations, to the Registrar.

**SCHEDULE 1 TO THE REGULATIONS***(Regulation 23(4))*

MARITIME LABOUR CONVENTION, 2006

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART I

(NOTE: THIS DECLARATION MUST BE ATTACHED TO THE SHIP'S MARITIME LABOUR CERTIFICATE)

ISSUED UNDER THE AUTHORITY OF:

DIRECTOR OF MARITIME AFFAIRS, SAINT CHRISTOPHER AND NEVIS

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

<b>Name of ship</b>	<b>IMO number</b>	<b>Gross tonnage</b>

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that—

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below>(strike out the statement which is not applicable):
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and

- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.
- (f) Regulations in parentheses reference the Maritime Labour Convention, 2006.

**1. Minimum age (Regulation 1.1)**

Section 116 of the Merchant Shipping Act

Regulation 40 of the Merchant Shipping (Training Certification, Safe Manning Hours of Work and Watch Keeping) Regulations, 2012 or any amendments to or replacements thereof.

**2. Medical certification (Regulation 1.2)**

Regulation 4(1) of the Merchant Shipping (Medical Examination) Regulations, 2012 or any amendments to or replacements thereof.

Regulation 4(1) of the Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013.

**3. Qualifications of seafarers (Regulation 1.3)**

Regulation 5(1) of the Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**4. Seafarers' employment agreements (Regulation 2.1)**

Regulation 7 of the Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)**

Regulation 6 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**6. Hours of work or rest (Regulation 2.3)**

Regulation 9 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

Regulation 30 of Merchant Shipping (Training Certification, Watchkeeping and Manning) Regulations 2012 or any amendments to or replacements thereof.

**7. Manning levels for the ship (Regulation 2.7)**

Regulation 13 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013.

Regulations 28 of Merchant Shipping (Training Certification, Watchkeeping and Manning) Regulations 2012 or any amendments to or replacements thereof.

**8. Accommodation (Regulation 3.1)**

Regulation 15 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**9. On-board recreational facilities (Regulation 3.1)**

Regulation 15(18) of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**10. Food and catering (Regulation 3.2)**

Regulation 16 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

*(Amended by S.R.O. 17/2014)*

**11. Health and safety and accident prevention (Regulation 4.3)**

Regulation 19 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**12. On-board medical care (Regulation 4.1)**

Regulation 17 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**13. On-board complaint procedures (Regulation 5.1.5)**

Regulation 25 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013

**14. Payment of wages (Regulation 2.2)**

Regulation 8 of Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2013.

Name: .....

Title: .....

Signature: .....

Place: .....

Date: .....

(Seal or stamp of the authority, as appropriate)

Substantial Equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4 of the Convention, except where stated above, are noted (insert description if applicable):

.....  
.....

No equivalency has been granted.

Name: .....

Title: .....

Signature: .....

Place: .....

Date: .....

(Seal or stamp of the authority, as appropriate)



Exemptions

(Note: strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....  
.....

No exemption has been granted.

Name: .....

Title: .....

Signature: .....

Place: .....

Date: .....

(Seal or stamp of the Director of Maritime Affairs, authorized authority or recognised organisation).

DECLARATION OF MARITIME LABOUR COMPLIANCE - PART II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections—

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) .....
2. Medical certification (Regulation 1.2) .....
3. Qualifications of seafarers (Regulation 1.3) .....
4. Seafarers' employment agreements (Regulation 2.1) .....
5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) .....
6. Hours of work or rest (Regulation 2.3) .....
7. Manning levels for the ship (Regulation 2.7) .....
8. Accommodation (Regulation 3.1) .....
9. On-board recreational facilities (Regulation 3.1) .....
10. Food and catering (Regulation 3.2) .....
11. Health and safety and accident prevention (Regulation 4.3) .....
12. On-board medical care (Regulation 4.1.) .....
13. On-board complaint procedures (Regulation 5.1.5) .....
14. Payment of wages (Regulation 2.2) .....

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner: .....

Company address: .....

.....

Name of authorised signatory: .....

Title: .....

Name of authorised signatory: .....

Date: .....

(Seal or stamp of shipowner)

The above measures have been reviewed by (insert name of competent authority or duly recognized organisation) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name: .....

Title: .....

Address: .....

.....

Signature: .....

Place: .....

Date: .....

(Seal or stamp of the Director of Maritime Affairs, authorised authority or recognised organisation).

## SCHEDULE 2 TO THE REGULATIONS

*(Regulation 23(10) and (11))*

### INTERIM MARITIME LABOUR CERTIFICATE

ISSUED UNDER THE PROVISIONS OF ARTICLE V AND TITLE 5 OF THE MARITIME LABOUR

CONVENTION, 2006 (REFERRED TO BELOW AS “THE CONVENTION”) UNDER THE  
AUTHORITY OF THE GOVERNMENT OF:

SAINT CHRISTOPHER AND NEVIS

.....  
(FULL DESIGNATION OF THE STATE WHOSE FLAG THE SHIP IS ENTITLED TO FLY)

By

.....  
(Director of Maritime Affairs,)

Particulars of the ship

Name of ship:

.....  
Distinctive number or letters:

.....  
Port of registry:

.....  
Date of registry:

.....  
Gross tonnage:

.....  
IMO number:

.....  
Type of ship:

.....  
Name and address of the shipowner:

.....  
This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that—

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-1 to the Convention, taking into account verification of items under (b), (c) and (d) below:
- (b) the shipowner has demonstrated to the competent authority or recognized organisation that the ship has adequate procedures to comply with the Convention:
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognised organisation to produce a Declaration of Maritime Labour Compliance.

This Certificate is valid until ..... subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was .....

Issued at ..... on .....

Signature of the duly authorised official

Issuing the interim certificate .....

(Seal or stamp of issuing authority, as appropriate)

---

### SCHEDULE 3 TO THE REGULATIONS

*(Regulation 27)*

General areas that are subject to a detailed inspection by an authorized officer in a port of a Member carrying out a port State inspection pursuant to Regulation 27—

Minimum age

Medical certification

Qualifications of Seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

---

### SCHEDULE 4 TO THE REGULATIONS

*(Regulation 15(10))*

#### LIGHTING STANDARDS

##### **Natural Light**

Natural light is that which is bright enough in day time in clear weather to enable a person with normal sight to read an ordinary newspaper in those parts of the room or other space which are available for free movement.

##### **Artificial Light**

*Definition:* "General measurement points" means, in relation to any space, those points which, measured at a height of 850 millimetres above the floor, fall on an imaginary line drawn vertically through the following points—

- (a) every point mid-way between every 2 adjacent lamps in that space;

- (b) every point mid-way between any lamp and any position on the boundary of that space to which that lamp is nearer than any other lamp; and
- (c) where any part of the space available for free movement is shielded from the direct rays of a lamp by a re-entrant angle formed in the boundary of that space, the central point of the space so shielded.

**A) Sleeping Rooms and Day Rooms**

- (1) At general measurement points 50 lux.
- (2) At every mirror 200 lux.
- (3) At every seat at a writing desk or table 150 lux.
- (4) At not less than half the seats (other than those mentioned in (3) above in a sleeping room provided for use of more than one person 150 lux.

**B) Mess Rooms**

- (1) At general measurement points 100 lux.
- (2) At every table and sink 150 lux.

**C) Recreation Rooms (including rooms for watching films and television, hobbies and games rooms)**

- (1) At general measurement points 50 lux.
- (2) At every recreational table 100 lux.
- (3) At every seat at a writing desk or table 150 lux.
- (4) At not less than half the seats other than those mentioned in (3) above 150 lux.

**D) Hospital Wards**

- (1) At general measurements points 50 lux.
- (2) At any washbasin 100 lux.

At least one fixed lamp shall be installed in addition to the electric reading lamp required by regulation 99(c) of these Regulations to be provided at the head of each bed.

**E) Offices and Studies**

- (1) At general measurement points 100 lux.
- (2) At every seat at a writing desk or table 200 lux.

**F) Sanitary Accommodation (including sanitary accommodation in hospitals)**

- (1) At general measurement points 100 lux.
- (2) At any mirror 200 lux.

**G) Laundries**

At general measurement points 100 lux.

**H) Drying Rooms**

At the centre of the space 50 lux.

**I) Galleys (including bakeries and pantries)**

At working positions 300 lux.

The lights shall be so disposed as to ensure that food preparation tables, range tops, serving tables and washing up sinks receive the maximum amount of light.

**J) Dry provision store rooms and cold store rooms**

At general measurement points 100 lux.

The lights shall be so disposed as to ensure that shelves and cupboards receive the maximum of light.

**K) Passageways, companionways and covered deck recreation spaces**

At general measurements points 50 lux.

A light shall be placed (1) at the head of each stairway, ladder and hatchway and (2) at or near the doors of lockers provided for oilskins or working clothes

*(Inserted by S.R.O. 27/2013 and amended by S.R.O. 17/2014)*

---