

An Act to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests and for that purpose to establish a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping.

Be it enacted by Parliament in the Ninth Year to the Republic of India as follows:

## **PART I PRELIMINARY**

### SECTIONS

#### 1. Short title and commencement

#### 2. Application of Act

#### 3. Definitions

##### 1. Short title and commencement—

(1) This Act may be called the Merchant Shipping Act, 1958.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates<sup>2</sup> may be appointed for different provisions of this Act.

##### 2. Application of Act--

(1) Unless otherwise expressly provided, the provisions of this Act which apply to:

(a) any vessel which is registered in India; or

(b) any vessel which is required by this Act to be so registered; or

(c) any other vessel which is owned wholly by persons to each of whom any of the descriptions specified clause (a) or in clause

(b) or in clause (c), as the case may be, of section 21 applies,

shall so apply wherever the vessel may be.

(2) Unless otherwise expressly provided, the provisions of this Act which apply to vessels other than those referred to in sub-section (1) shall so apply only while any such vessel is within India; including the territorial waters thereof.

The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s.3 and Sch. and to Pondicherry by Reg.7 of 1963, s.3 and Sch.I.2. Parts I and II came into force w.e.f. 15th December, 1958, vide Notification No.S.O.2583A, dated the 10th December, 1958, see Gazette of India, 1958, Pt.II, Sec.3(ii) p.2829. Part IV came into force w.e.f. 17th March, 1959, vide Notification No S.O.627, dated the 17th March, 1959, see Gazette of India, 1959, Pt.II, Sec.3(ii), p.702. Sections 7, 405 to 414 (both inclusive) 436 (in so far as it relates to offences, mentioned against S.Nos 122 to 125), 437 to 442,447,448,456, to 460 and so much of section 461 and of Part I of the Schedule as relate to the Control of Shipping Act, 1947 (26 of 1947), came into force on the 1st

April, 1960; see Notification No.S.O. 565, dated the 26th February, 1960, Gazette of India, Pt.II, Sec.3(ii), p.886.

The remaining provisions came into force w.e.f. 1st January, 1961 vide Notification No.S.O.3127, dated the 17th December, 1960, see Gazette of India, 1960, Pt.II,Sec.3(ii), p.3766.3 Subs. by Act 12 of 1983, s.2, for s.2.

3. Definitions--- In this Act, unless the context otherwise requires,--

( 1 ) "cargo ship" means a ship which is not a passenger ship;]

(1A) "coasting ship" means a ship exclusively employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon or Burma

(2) "coasting trade of India" means the carriage by sea of passengers or goods from any port or place in India to any other port or place on the continent of India;\

(3) "collision regulations" means the regulations made under section 285 for the prevention of collisions at sea;

(4) "company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(5) "country to which the Load Line Convention applies" means—

(a) a country the Government of which has been declared 3\*\*\* under section 283 to have accepted the Load Line Convention and has not been so declared to have denounced that Convention;

(b) a country to which it has been so declared that the Load Line Convention has been applied under the provisions of 4[article thirty-two] thereof, not being a country to which it has been so declared that Convention has ceased to apply under the provisions of that article;

(6) "country to which the Safety Convention applies" means –

(a) a country the Government of which has been declared under section 283 to have accepted the Safety Convention and has not been so declared to have denounced that Convention;

(b) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that Convention has ceased to extend;

(7) "court" in relation to sections 178 to 183 (inclusive) means a civil or revenue court;

(8) "Director General" means the Director-General of Shipping appointed unde section 7

(9) "distressed seaman" means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or ship wrecked in, any ship at a place outside India, is in distress at that place;

(10) "effects", in relation to a seaman, includes clothes and documents;

(11) "equipment", in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spars, masts, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears and appliances of all kinds and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;

(11A) "family" means—

(i) in the case of male, his wife, his children, whether married or unmarried, his dependent parents and his deceased sons widow and children. Provided that if a person proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of such persons family for the purpose of this Act, unless such person subsequently intimates by express notice, in writing, to the Central Government that she shall continue to be so regarded; and

(ii) in the case of female, her husband, her children, whether married or unmarried, her dependent parents & her husbands dependent parents and her deceased sons widow and children.

Provided that if a person by notice in writing to the Central Government expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of such persons family for the purpose of this Act, unless such person subsequently cancels in writing any such notice.

Explanation—In either of the above two cases, if the child, or, as the case may be the child of a deceased son, of a person has been adopted by another person and if under the personal law of the adopter adoption is legally recognised, such a child shall be considered as excluded from the family of the first mentioned person.]

(12) "fishing vessel" means a ship fitted with mechanical means of propulsion which is exclusively engaged in sea fishing for profit;

(13) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port or place in India and any other port or place or between ports or places, outside India;

(14)"free board" means the distance measured vertically downwards, amidships, from the upper edge of the deck line to the upper edge of the related load line;

(15) "High Court", in relation to a vessel, means the High Court within the limits of whose appellate jurisdiction—

(a) the port of registry of the vessel is situate; or

(b) the vessel is for the time being; or

(c) the cause of action wholly or in part arises;

(16) "home-trade ship" means a ship not exceeding three thousand tons gross which is employed in trading between any port or place in India and any other port or place on the continent of India or between ports or places in India and ports or places in Ceylon, Maladive Islands, Federation of Malaya, Singapore or Burma;

(17) "Indian consular officer" means the consul-general, consul, vice consul, consular agent and pro-consul appointed as such by the Central Government, and includes any person authorised by the Central Government to perform the functions of consul-general, consul, vice-consul, consular agent or pro-consul;

(18) "Indian ship" means a ship registered as such under this Act and includes any ship registered at any port in India at the commencement of this Act, which is recognised as an Indian ship under the proviso to sub-section (2) of section 22;

(18A) "international voyage" means a voyage from or to a port or place in India to or from a port or place outside India;]

(19) "load line certificate" means the certificate issued under section 316 or section 321;

(20) "Load Line Convention" means the International Convention on Load Linesigned in London on the 5th day of April, 1966, as amended from time to time;]

(21) "Marine Board" means a Board of Marine Inquiry convened under section 373;

(22) "master" includes any person (except a pilot or harbour master) having command or charge of a ship;

(22A) "nuclear ship" means a ship provided with a nuclear power plant;}

(23) "owner" means—

(a) in relation to a ship, the person to whom the ship or a share in the ship belongs;

(b) in relation to a sailing vessel, the person to whom the sailing vessel belongs;

(24) "passenger" means any person carried on board a ship except—

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

(b) a person on board the ship either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the character, if any, could have prevented or forestalled;

(c) a child under one year of age;

(25) "passenger ship" means a ship carrying more than twelve passengers;

(26) "pilgrim" means a person making a pilgrimage and, in the case of a passenger on board a pilgrim ship, includes every person accompanying or travelling with the person making the pilgrimage;

(27) " pilgrimage" means pilgrimage to any holy place in the Hedjaz or to any other place declared by the Central Government to be a place of pilgrimage by notification in the Official Gazette;

(28) " Pilgrim ship" means a special trade passenger ship which makes a voyage to or from the Hedjaz, or, as the case may be, to or from any other place or pilgrimage

declared as such by the Central Government in pursuance of clause(27), during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship;]

(29) "port of registry", in relation to a ship or a sailing vessel, means the port at which she is registered or is to be registered;

(30) "prescribed" means prescribed by rules made under this Act;

31) "proceeding" in relation to sections 178 to 183 (inclusive) includes any suit, appeal or application;

(32) "proper officer" means the officer designated by the Central Government to be the proper officer at the port or place and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

(33) "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged, or the port agreed to as such by the master, seaman or apprentice, as the case may be.

(34) "radio inspector" means a person appointed as such under section 10;

35) "registrar" means the registrar referred to in section 24;

(36)(a)"repatriation expenses" means expenses incurred in returning a distressed seaman to a proper return port and in providing him with necessary clothing and maintenance until his arrival at such port, and includes in the case of a shipwrecked seaman the repayment of expenses incurred in conveying him to port after shipwreck and maintaining him while being so conveyed; and;

(b) "excepted expenses", in relation to repatriation expenses, means repatriation expenses incurred in case where the cause of the seaman being left behind is desertion or absence without leave or imprisonment for misconduct, or discharge from his ship by a Marine Board on the ground of misconduct;

(37) "Safety Convention" means the Convention for the Safety of Life at Sea signed in London on the 1[1st day of November, 1974] as amended from time to time;

(38) "safety convention certificate "means –

(i) a passenger ship safety certificate,

(ia) a special trade passenger ship safety certificate,

(ib) a special trade passenger ship space certificate,

(ii) a qualified passenger ship safety certificate,

(iii) a cargo ship safety construction certificate,

(iv) a qualified cargo ship safety construction certificate,

(v) a cargo ship safety equipment certificate.

- (vi) a qualified cargo ship safety equipment certificate,
- (vii) a cargo ship safety radio telegraphy certificate,
- (viii) a cargo ship safety radio telephony certificate,
- (ix) an exemption certificate,
- (x) a nuclear passenger ship safety certificate,
- (xi) a nuclear cargo ship safety certificate, issued under Part IX or, as the case may be, Part IX A;]

(39) "sailing vessel" means any description of vessel provided with sufficient sail area for navigation under sails alone, whether or not fitted with mechanical means of propulsion, and includes a rowing boat or canoe but does not include a pleasure craft;

(40) "salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

(41) "sea-going", in relation to a vessel, means a vessel proceeding to sea beyond inland waters or beyond waters declared to be smooth or partially smooth waters by the Central Government by notification in the Official Gazette;

(42) "seaman" means every person (except a master, pilot or apprentice) employed or engaged as a member of the crew of a ship under this Act, but in relation to sections 178 to 183 (inclusive) means a master ;

(43) "seaman's employment office" means the seamen's welfare officer referred to in section 13;

(44) "seamen's welfare officer" means the seamen's welfare officer referred to in section 13;

(45) "Ship" does not include a sailing vessel

(46) "Shipping master" means the shipping master referred to in section 11; but in relation to any seaman for the purposes of sections 178 to 183 (inclusive) means a shipping master appointed—

(i) for the port at which the seamen entered into or is believed to have entered into an agreement , or

(ii) where the seamen did not enter into his agreement in India for the port to which the seamen has returned, or is expected to return, on the completion of his last voyage

(47) "Shipping office," means the shipping office referred to in section 11;

(47A) "special trade" means the conveyance of large number of passengers by sea within prescribed sea areas;

(47B) "Special trade passenger" means a passenger carried in special trade passenger ship in spaces on the weather deck or upper deck or between decks which accommodate more than eight passengers and includes a pilgrim or a person accompanying a pilgrim;

(47C) "Special trade passenger ship" means a mechanically propelled ship carrying more than thirty special trade passengers;]

(48) "surveyor" means the surveyor referred to in section 9;

(48A) "tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;]

(49) "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour;

(50) "tindal" means the person in command or charge of a sailing vessel.

53) "valid international load line certificate" means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(54) "valid safety convention certificate" means a certificate purporting to have been Issued in accordance with the Safety Convention in respect of a ship, other than an Indian ship, by the Government of the country in which the ship is registered;

(55) "vessel" includes any ship, boat, sailing vessel, or other description of vessel used in navigation;

(56) "voyage" for the purposes of Part VIII, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(57) "wages" includes emoluments;

(58) "wreck" includes the following when found in the sea or in tidal water or on the shores thereof—

(a) goods, which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

(c) goods, which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a vessel abandoned without hope or intention of recovery;

(59) "young person" means a person under eighteen years of age.

## **PART II National Shipping Board**

### 4. Establishment of National Shipping Board

### 5. Functions of National Shipping Board

### 6. Power to make rule in respect of matters in this Part

### 4. Establishment of National Shipping Board♦(

(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in his behalf, there shall be established a Board to be called the National Shipping Board (hereinafter in this Part referred to as the Board).

(2) The Board shall consist of the following members, namely:--

a) six members elected by Parliament, four by the House of the People from among its members and the other two by the Council of States from among its members;

(b) such number of other members, not exceeding sixteen as the Central Government may think fit to appoint to the Board, to represent♦

(i) the Central Government,

ii) shipowners,

(iii) seamen, and

(iv) Such other interests as, in the opinion of the Central Government, ought to be represented on the Board; Provided that the Board shall include an equal number of persons representing the shipowners and seamen

3) The Central Government shall nominate one of the members of the Board to be the Chairman of the Board.

(4) The Board shall have power to regulate its own procedure.

5. Functions of National Shipping Board -- The Board shall advise the Central Government--

(a) on matters relating to Indian shipping, including the development thereof; and

b) on such other matters arising out of this Act as the Central Government may refer to it for advice.

### 6. Power to make rules in respect of matters in this Part

(1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--



- (a) the term of office of members of the Board and the manner of filling casual vacancies in the Board;
- (b) the appointment of officers and other employees to enable the Board to discharge its functions under section 5 and the terms and conditions of their service;
- (c) the travelling and other allowances payable to members of the Board.

### **PART III General Administration**

7. Director - General of Shipping

8. Mercantile Marine Department

9. Surveyors

10. Radio Inspectors.

11. Shipping Offices

12. Seamen's employment Offices

13. Seamen's welfare officers

7. Director General of Shipping--

(1) The Central Government may, by notification in the Official Gazette, appoint a person to be the Director-General of Shipping for the purpose of exercising or discharging the powers, authority or duties conferred or imposed upon the Director-General by or under this Act.

(2) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act as may be specified in the order shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General or by such other officer as may be specified in the order.

(3) The Director-General may, by general or special order, and with the previous approval of the Central Government, direct that any power or authority conferred upon or delegated to, and any duty imposed upon, the Director-General by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercised or discharged also by such officer or other authority as he may specify in this behalf.

8. Mercantile Marine Department-- (1) the Central Government may establish and maintain at each the ports of Bombay, Calcutta and Madras and at such other port in India as it may consider necessary an office of the Mercantile Marine Department for the administration of this Act and the rules and regulations thereunder.

(2) The Office of the Mercantile Marine Department at the port of Bombay, Calcutta or Madras shall be in the charge of a principal officer, and the office at any other port shall be in the charge of such officer as the Central Government may appoint in this behalf.

(3) In the discharge of their duties, the principal officer and other officers shall be subject to the control of the Director-General.

9. Surveyors—(1) The Central Government may, by notification in the Official Gazette, appoint at such ports as it may consider necessary as many persons as it may think fit to be surveyors for the purposes of this Act.

(A) Without prejudice to the provisions of sub-section (1), the Central Government, in the case of cargo ships, may, by notification in the Official Gazette authorise any person or body of persons, on such terms and conditions as may be specified therein, to be surveyor or surveyors for the purposes of this Act.]

(2) The surveyors may be nautical surveyors, ship surveyors or engineer and ship surveyors.

(3) At any port at which no surveyor appointed under this section is available, the Central Government may, by notification in the Official Gazette, appoint any qualified person to perform the functions of a surveyor under this Act.

(4) All acts done under this Act by a Principal Officer of the Mercantile Marine Department or a person appointed under sub-section (3) relating to matter within the competence of a surveyor shall have the same effect as if done by a surveyor for the purposes of this Act.

10. Radio inspectors— The Central Government may, by notification in the Official Gazette, appoint as many radio inspectors as it may consider necessary for the purpose of securing that the requirements of this Act and the rules and regulations thereunder relating to radio telegraphy, radio telephony and direction finders are complied with.

11. Shipping Offices – (1) The Central Government may, by notification in the Official Gazette, establish a shipping office at every port in India in which it thinks it necessary so to do and shall appoint thereto a shipping master and as many deputy shipping masters and assistant shipping masters as it may consider necessary.

(2) Shipping masters, deputy shipping masters and assistant shipping masters shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

(3) The Central Government may direct that any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house or at the office of the port officer or at such other office as the Central Government may specify, and thereupon the same shall be conducted accordingly.

(4) All acts done by or before a deputy shipping master, and assistant shipping master and the officer to whom any business of the shipping office is committed under sub-section (3) shall have the same effect as if done by or before a shipping master of the purposes of this Act.

12. Seamen's employment offices-- (1) The Central Government may, by notification in the Official Gazette, establish at every port in India in which it thinks it necessary so to do, a seamen's employment office and shall appoint thereto a director and as many deputy directors and assistant directors as it may consider necessary.

(2) The directors, deputy directors and assistant directors shall exercise their powers and discharge their duties subject to general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

(3) All acts done by or before a deputy or assistant director shall have the same effect as if done by or before a director for the purposes of this Act.

(4) The Central Government may, by notification in the Official Gazette, direct that at any port at which no separate seamen's employment office is established, the functions of the seamen's employment office in that port shall be discharged by such person or body of persons as it may specify in the notification, and thereupon the office of the person or body of persons so specified shall be deemed to be the seamen's employment office established at that port for the purposes of this Act.

13. Seamen's welfare officers— (1) The Central Government may appoint seamen's welfare officers at such ports in or outside India as it may consider necessary.

(2) A seamen's welfare officer appointed under sub-section (1) shall perform—

(b) in the case of any such officer appointed at any port outside India, such functions in relation to welfare of seamen and such functions of an Indian consular officer under Part VII as may be assigned to him by the Central Government.

(a) in the case of any such officer appointed at any port in India, such functions in relation to welfare of seamen as may be assigned to him by the Central Government.

(3) If any seamen's welfare officer appointed at any port outside India performs any functions assigned to an Indian consular officer under Part VII, such functions shall have the same effect as if they had been performed by an Indian consular officer for the purposes of that Part.

## **PART IV Shipping Development Fund**

Part IV, Section Nos 14 to 19 referring to "Shipping Development Fund" is repealed as per Amendment No.66 of 1986.

## **PART V Registration Of Indian Ships**

20. Application of Part

21. Indian Ships

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23. Ports of registry

24. Registrars of Indian ships

25. Register book

26. Application for registry

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66. Indian ships to hoist proper national colours in certain cases

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71. Liability of owners

72. Evidence of register book, certificate of registry and other documents

73. Power to register Government ship under this Part

74. Power to make rule in respect of matters in this Part

20. Application of Part– This Part applies only to sea-going ships fitted with mechanical means of propulsion.

21. Indian Ships– For the purposes of this Act, a ship shall not be deemed to be an Indian ship unless owned wholly by persons to each of whom 3[any] of the following descriptions applies:--

(a) a citizen of India; or

(b) a company or a body established by or under any Central or State Act which has its principal place of business in India;

or

(c) a cooperative society which is registered or deemed to be registered under the Cooperative Societies Act, 1912 (2 of 1912), or any other law relating to cooperative societies for the time being in force in any State.

22. Obligation to register– (1) Every Indian Ship, unless it is a ship which does not exceed fifteen tons net and is employed solely in navigation on the coasts of India, shall be registered under this Act.

(2) No ship required by sub-section (1) to be registered shall be recognised as an Indian ship unless she has been registered under this Act.

Provided that any ship registered at the commencement of this Act at any port in India under any enactment repealed by this Act, shall be deemed to have been registered under this Act and shall be recognised as an Indian ship.

(3) A ship required by this Act to be registered may be detained until the master of ship, if so required, produces a certificate of registry in respect of the ship.

Explanation– For the purposes of this section “ship” does not include a fishing vessel.

Procedure for registration

23. Ports of registry – (1) The ports at which registration of ships shall be made shall be the ports of Bombay, Calcutta and Madras and such other ports in India as the Central Government may, by notification in the Official Gazette, declared to be ports of registry under this Act.

(2) The port at which an Indian ship is registered for the time being under this Act, shall be deemed to be her port of registry and the port to which she belongs.

24. Registrar of Indian ships---- At each of the ports of Bombay, Calcutta and Madras, the Principal Officer of the Mercantile Marine Department, and at any other port such authority as the Central Government may, by notification in the Official Gazette, appoint, shall be the registrar of Indian ships at that port.

Provided that subject to such order as the Central Government may issue in this behalf, when the office of registrar Indian ships at any port is vacant or the holder of such office is on leave or is not available, for any reason, at the port to exercise and discharge the powers, duties and functions of the office, the senior most surveyor at that port may act as, and exercise and discharge the powers, duties and functions of, the registrar of Indian ships at that port.]

25. Register book– Every register shall keep a book to be called the register book and entries in that book shall be made in accordance with the following provisions:--

(a) the property in a ship shall be divided into ten shares:

(b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than ten 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 interest of any number of persons 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 and shall not be entitled to dispose in severalty of any interest in a ship or any share therein respect of which they are registered.

(e) a company 1[or a co-operative society] may be registered as owner by its name.

26. Application for registry– An application for the registry of an Indian ship shall be made–

(a) in the case of an individual, by the person requiring to be registered as owner or by his agent;

(b) in the case of more than one individual requiring to be so registered, by some one or more of the persons so requiring or by his or their agent; and

(c) in the case of a company [or a co-operative society] requiring to be so registered, by its agent;

and the authority of the agent shall be testified by writing, if appointed by an individual under the hand of the person appointing him and, if appointed by a company 2[or a co-operative society], under its common seal.

27. Survey and measurement of ships before registry– (1) The owner of every Indian ship in respect of which an application for registry is made shall cause such ship to be surveyed by a surveyor and the tonnage of the ship ascertained in the prescribed manner.

(2) The surveyor shall grant a certificate specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may be prescribed and the certificate of the surveyor shall be delivered to the registrar before registry.

28. Marking of ship- (1) The owner of an Indian ship who applies for registry under this Act shall, before registry, cause her to be marked permanently and conspicuously in the prescribed manner and to the satisfaction of the registrar and any ship not so marked may be detained by the registrar.

(2) Subject to any other provision contained in this Act and to that provisions of any rules made thereunder, the owner and the master of an Indian ship shall take all reasonable steps to ensure that the ship remains marked as required by this section, and the said owner or master shall not cause or permit any alterations of such marks to be

made except in the event of any of the particulars thereby denoted being altered in the manner provided in this Act or except to evade capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

29. Declaration of ownership on registry– A person shall not be registered as the owner of an Indian ship or of a share therein until he or, in the case of a company <sup>1</sup>[or a co-operative society], the person authorised by this Act to make declarations on its behalf has made and signed a declaration of ownership in the prescribed form referring to the ship as described in the certificate of the surveyor and containing the following particulars:--

(a) a statement whether he is or is not a citizen of India; [or in the case of a company or a co-operative society, whether the company or the co-operative society satisfies the requirements specified in clause (b) or, as the case may be, clause (c) of section 21];

(b) a statement of the time when and the place where the ship was built or if the ship is built outside India and the time and place of building is not known, a statement to that effect; and in addition, in the case of a ship previously registered outside India a statement of the name by which she was so registered;

(c) the name of her master;

(d) the number of shares in the ship in respect of which he or the company [or the co-operative society], as the case may be; claims to be registered as owner; and

(e) a declaration that the particulars stated are true to the best of his knowledge and belief.

Explanation– In respect of a ship or share owned by more than one person, a declaration may be made by such one of them as may be authorised by them.

30. Evidence on first registry--- On the first registry of an Indian ship, the following evidence shall be produced in addition to the declaration of ownership:-

(a) in the case of a ship built in India, a builder's certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and the tonnage of the ship as estimated by him and the time when and the place where she was built, and the name of the person, if any, on whose account the ship was built; and if there has been any sale, the instrument of sale under which the ship or the share therein has become vested in the applicant for registry;

(b) in the case of a ship built outside India, the same evidence as in the case of a ship built in India unless the declarant who makes the declaration of ownership declares that the time and place of her building are not known to him, or that the builder's certificate cannot be procured, in which case there shall be required only the instrument of sale under which the ship or a share therein has become vested in the applicant for registry.

31. Entry of particulars in register book– As soon as the requirements of this Act preliminary to registry have been complied with, the registrar shall enter in the register book the following particulars in respect of the ship:--

(a) the name of the ship and the name of the port to which she belongs;

(b) the details contained in the surveyor's certificate;



- (c) the particulars respecting her origin stated in the declaration of ownership; and
- (d) the name and description of her registered owner or owner's, and if there are more owners than one, the number of shares owned by each of them.

32. Documents to be retained by registrar--- On the registry of the ship, the registrar shall retain in his custody the following documents---

- (a) the surveyors certificate
- (b) the builders certificate
- (c) any instrument of sale by which the ship was previously sold ;
- (d) all declaration of ownership.

33. Power of Central Government to inquire into title of Indian ship to be so registered--  
(1) Where it appears to the Central Government that there is any doubt as to the title of any Indian ship to be registered as an Indian ship, it may direct the registrar of her port of registry to require evidence to be given to his satisfaction within such time, not being less than thirty days as the Central Government may fix, that the ship is entitled to be registered as an Indian ship.

(2) If within such time as may be fixed by the Central Government under sub-section (1) evidence to the satisfaction of the registrar that the ship is entitled to be registered as an Indian ship is not given, the ship shall be liable to forfeiture.

#### Certificate of registry

34. Grant of certificate of registry-- On completion of the registry of an Indian ship, the registrar shall grant a certificate of registry containing the particulars respecting her as entered in the register book with the name of her master.

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

(2) No person, whether interested in the ship or not, who has in his possession or under his control the certificate of registry of a ship, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship or to any registrar, customs collector or other person entitled by law to require such delivery.

(3) Any person refusing or omitting to deliver the certificate as required by sub-section (2) may, by order, be summoned by [any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be,] to appear before him and to be examined touching such refusal; and if the person is proved to have absconded so that the order of such Magistrate cannot be served on him, or if he persists in not delivering up the certificate, [the said Magistrate] 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.

(4) If the master or owner of an Indian ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence under this sub-section and the ship shall be liable to forfeiture.

36. Power to grant new certificate when original certificate is defaced, lost, etc.–

(1) In the event of the certificate of registry of an Indian ship being defaced or mutilated, the registrar of her port of registry may, on the delivery to him of that certificate, grant a new certificate in lieu of her original certificate.

(2) In the event of the certificate of registry of an Indian ship being mislaid, lost or destroyed or of the person entitled thereto being unable to obtain it from the custody of any other person, the registrar of her port or registry shall grant a new certificate in lieu of her original certificate.

(3) If the port at which the ship is at the time of the event referred to in sub-section (2) or first arrives after the event is outside India, then the master of the ship or some other person having knowledge of the facts of the case shall make a declaration stating such facts and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief to the nearest available Indian consular officer who may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.

(4) The provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in India, be delivered by the master to the registrar of her port of registry and the registrar shall thereupon grant a new certificate of registry.

(5) If the certificate of registry stated to have been mislaid, lost or destroyed shall at any time afterwards be found, or if the person entitled to the certificate of registry obtains it any time afterwards, the said certificate shall forthwith be delivered to the registrar of her port of registry to be cancelled.

37. Endorsement on certificate of change of master-- Where the master of an Indian ship is changed, each of the following persons, that it to say,--

(a) if the change is made in consequence of the removal of the master by a Marine Board or by a court under this Act, the presiding officer of the Marine Board or of the court, as the case may be;

(b) if the change occurs from any other cause--

(i) in India, the registrar or any other officer authorised by the Central Government in this behalf at the port where the change occurs;

(ii) outside India, the Indian consular officer at the port where the change occurs;

shall endorse and sign on the certificate of registry a memorandum of the change;

and any customs collector at any port in India may refuse to permit any person to do any act there as master of an Indian ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

38. Endorsement on certificate of change ownership– (1) Whenever a change occurs in the registered ownership of an Indian ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of registry or by

the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry.

(2) The master shall, for the purposes of such endorsement by the registrar of the ship's port of registry, deliver the certificate of registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her return, then, upon her first return to that port.

(3) The registrar of any port, not being a ship's port of registry, who is required to make an endorsement under this section may, for that purpose, require the master of the ship to deliver to him the ship's certificate of registry so that the ship need not thereby be detained and the master shall deliver the same accordingly.

## **PART VI Certificates Of Officers**

Masters, mates, engineers, skippers, etc.]

75. Application of Part

75A. Definitions

76. Certificates of competency to be held officers of ships

77. When Officers deemed duly certificate

78. Grades of certificates of competency

79. Examination for, and grant of, certificates

80. Certificates of service of naval officers

81. Form of certificates

82. Record of orders affecting certificates

83. Loss of certificates

84. Production of certificates of competency to shipping master

85. Power to cancel or suspend certificate obtained false or erroneous information

86. Recognition of certificate of competency or service granted in other countries

86A. Foreign ships not to sail without certificated officers.

87. Power to make rule as grant, cancellation or suspension of certificate of competency

75. Application of Part— This part applies to—

(a) every seagoing Indian ship fitted with mechanical means of propulsion wherever it is; and

(b) every foreign ship while it is at a port or place in India.

75A.Definitions- In this part , unless the context otherwise requires-- (a) "contiguous such for the time being under Section 5 of the Territorial Waters, Continental zone" means the contiguous zone of India described, or notified as Self, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(b) "convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, signed at London on the 7th day of July, 1978, as amended from time to time.

76. Certificates of competency to be held by officers of ships—

(1) Every Indian ship, other than a home-trade ship of less than two hundred tons gross engaged in coasting trade of India, when going to sea from any port or place, shall be provided with officers duly certified under this Act according to following scale, namely:--

(a) in every case, with a duly certified master;

(b) if the ship is a foreign-going ship, with an officer holding a certificate not lower than that of—

(i) first mate;

(ii) second mate; and

(iii) navigational watchkeeping officer;

(c) in the case of a home-trade ship, with an officer holding a certificate not lower than that of—

(i) a mate; and

(ii) a navigational watchkeeping officer.

(2) Every home-trade ship of less than two hundred tons gross and engaged in the coasting trade of India, when going to sea, shall be provided with officers duly certificated under this Act according to the following scale, namely:--

(a) with a duly certificated master; and

(b) with an officer holding a certificate not lower than that of a navigational watchkeeping officer.

(3) Every Indian ship when going to sea from any port or place shall be provided with engineers or engine drivers duly certificated under this Act according to the following scale, namely:--

(a) if the ship has a propulsion power of 3000 KW or more, with at least one marine engineer officer Class I designated as chief engineer, one marine engineer officer Class II designated as second engineer and one marine engineer officer Class IV;

(b) if the ship has a propulsion power of 750 KW or more but less than 3000 KW, with at least one marine engineer officer Class II having service endorsement on his certificate of competency in such form and manner as may be prescribed, and designated as chief

engineer, one marine engineer officer Class III designated as second engineer and one marine engineer officer Class IV;

(c) if the ship has a propulsion power of 350 KW or more but less than 750 KW, with at least one marine engineer officer Class III designated as chief engineer and one marine engineer officer class IV or engine driver of a sea-going ship designated as second engineer:

(d) if the ship has a propulsion of less than 350 KW, with atleast engine driver of a sea going ship designated as engineer-in-charge.

(4) Every Indian fishing vessel when going to sea from any port or place in India, shall be provided—

(a) if the vessel is of twenty-four metres or more in length and is operating beyond the contiguous zone, with a certificated skipper Grade I and a certificated mate of a fishing vessel;

(b) if the vessel is of twenty-four metres or more in length and is operating within the contiguous zone, with a certificated skipper Grade II and a certificated mate of a fishing vessel;

(c) if the vessel is of less than twenty-four metres in length and is operating beyond the contiguous zone, with a certificated skipper Grade II and a certificated mate of a fishing vessel;

(d) if the vessel is less than twenty-four metres in length and is operating within the contiguous zone, with a certificated skipper Grade II;

(e) if the vessel has a propulsion power of 750 KW or more, with at least one engineer of a fishing vessel, who shall be designated as chief engineer and one engine driver of a fishing vessel;

(f) if the vessel has a propulsion power of 350 KW, with at least on engine driver of a fishing vessel who shall be designated as engineer-in-charge.

(g) if the vessel has a propulsion power of less than 350 KW, with at least one engine driver of a fishing vessel who shall be designated as engineer - in - charge. (5) Every ship, whether at sea or in any port or place, shall engage such number of persons and with such qualifications as may be prescribed for maintaining watches.

Explanations – For the purposes of clauses (e) and (f) of sub-section (4), any person holding a certificate of competency as a marine engineer officer Class I or Class II shall be deemed to be a duly certificated engineer of a fishing vessel and for the purposes of clause

(g) of that sub-section, a person holding a certificate of competency as engine driver of a sea-going ship shall be deemed to be a duly certificated engine driver of a fishing vessel.

77. When officers deemed duly certificated— Subject to the provisions contained in section 86, an officer shall not be deemed to be duly certificated under this Act unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade granted in accordance with this Act.

78. Grades of certificates of competency— (1) Certificates of competency shall be granted in accordance with the provisions of this Act for each of the following grades, namely:--

extra Master;

master of a foreign-going ship;

first mate of a foreign-going ship;

second mate of a foreign-going ship;

master of a home-trade ship;

mate of a home-trade ship;

navigational watchkeeping officer;

extra first class engineer;

marine engineer officer class I;

marine engineer officer class II;

marine engineer officer class III

marine engineer officer class IV;

engine driver of a sea-going ship;

skipper grade I of a fishing vessel;

skipper grade II of a fishing vessel;

mate of a fishing vessel;

engineer of a fishing vessel;

engine driver of a fishing vesse;

dredger master grade I;

dredger master grade II;

dredger mate grade I;

dredger mate grade II;

dredger engineer grade I;

dredger engineer grade II;

dredger driver grade I;

dredger driver grade II. (2) A certificate of competency granted for any grade of engineer or engine drivers shall state whether it entitles the holder to act as engineer of ships or fishing vessels fitted with steam or motor engines or with any other type of engines and the holder shall not be entitled to act as engineer of a ship fitted with a type of engine not stated in the certificate (3) Certificates issued to masters, mates and engineers who have to work on board ships carrying dangerous goods shall require endorsement as to the additional qualifications that may be prescribed. (4) if it appears to the Central Government that certificates of competency for grades, other than those referred to in sub-section (1) may be granted, it may, by notification in the Official Gazette, specify the other grades in respect of which certificates of competency may be granted. (5) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate of a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such home-trade ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship. (6) A certificate of competency as extra master shall be deemed to be of a higher grade than any other certificate of competency as master or mate of a foreign-going ship or a home-trade ship or navigational watchkeeping officer . (7) A certificate of competency as extra first class engineer shall be deemed to be of a higher grade than any other certificate of competency as marine engineer officer, engineer or engine driver of a fishing vessel or engine driver of a sea-going ship.

79. Examinations for and grant of certificates – (1) The Central Government or a person duly authorised by it in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under section 78. (2) The Central Government or such authorised person shall grant to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires. Provided that the Central Government may, in any case in which it has reason to believe that the report has been unduly, made require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character. (3) Every certificate granted under sub-section (2), shall be valid for such period as may be prescribed.

80. Section 80 has been omitted Vide Merchant Shipping (Amendment), Act, 1986 (No. 33 of 1986).

81. Form of certificates— Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner

82. Record of orders affecting certificates— A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept under section 81.

83. Loss of certificates— Whenever a person holding a certificate granted under this Act proves to the satisfaction of the Central Government that he has, without fault on his part, lost or been deprived of such certificate, the Central Government shall, on payment of the prescribed fee, cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

84. Production of certificates of competency to shipping master—

(1) The master of a foreign-going ship or the master of a home-trade ship of two hundred tons gross or more—

(a) on signing the agreement with his crew, shall produce to the shipping master before whom the same is signed, the certificates of competency which the [master and mate] of the ship are by this Act required to hold;

(b) in the case of a running agreement, shall, also before the second and every subsequent voyage, produce to the shipping master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(c) who is not required to sign the agreement with the crew, shall submit before commencing the first voyage from any port to the Mercantile Marine Department having jurisdiction over such port, a list of crew with the particulars of grades of certificates of master, mates and engineers and shall also report to that Department of any later change in the list of the crew before any subsequent voyage.

(2) Upon production of the certificates of competency, the shipping master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(3) The master shall, before proceeding to sea, produce the certificate given to him by the shipping master to the customs collector.

(4) No customs collector shall clear any such ship outwards without the production of such certificate; and, if any ship attempts to go to sea without a clearance, the customs collector may detain her until the certificate is produced.

85. Power to cancel or suspend certificates obtained on false or erroneous information—  
If it appears to the Central Government that the holder of a certificate granted under this Act has obtained it on false or erroneous information, it may cancel or suspend such certificate. Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

86. Recognition of certificates of competency granted in other countries—

(1) If provision is made by the laws in force in any country other than India for the grant of certificates of competency similar to those referred to in this Act, and the Central Government is satisfied—

(a) that the conditions under which any such certificates are granted in that country require standards of competency not lower than those required for the grant under this Act of corresponding certificates; and (b) that certificates granted under this Act are accepted in that country in lieu of the corresponding certificates granted under the laws of that country; the Central Government may, by notification in the Official Gazette, declare that any certificate of competency granted under the laws in force in that country and specified in that notification, shall for the purposes of this Act be recognised as equivalent to the corresponding certificate of competency granted under this Act and specified in this notification.

(2) Whenever the provisions of this Act require that a person employed in any capacity on board any ship shall be the holder of a specified certificate of competency granted



under this Act, any person employed in that capacity shall, if he is the holder of a certificate recognised under sub-section (1) as equivalent to the first-mentioned certificate or to a certificate of higher grade granted under this Act, and still in force, be deemed to be duly certificated under this Act.

#### 86A. Foreign ships not to sail without certificated officers—

(1) Every master of a foreign ship shall, before proceeding to sea from any port or place in India, ensure that the ship has the requisite number of officers and engineers of appropriate grades as specified by the Convention.

(2) A surveyor or any person authorised in this behalf by the Central Government may, at any reasonable time, go on board a ship to which any of the provisions of this Part applies for the purposes of ensuring that the officers holding certificates issued in accordance with the Convention are actually appointed and are present and satisfy himself about the adequacy of such officers for the watchkeeping duties in ports and at sea.

(3) If any report made under sub-section (2) by a surveyor or any person authorised in this behalf by the Central Government, reveals any deficiency in a foreign ship in relation to the requirements of the Convention and the Central Government is satisfied that it will be unsafe for such ship to proceed to sea, that ship may be detained by the officer authorised for this purpose till such requirements are fulfilled.

#### 87. Power to make rules—

(1) The Central Government may make rules to carry out the provisions of this Part .

(2) In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the form and manner in which a service endorsement shall be made on the certificate of competency of a marine engineer officer class II;

(b) the number of persons and the qualifications they may possess for maintaining watches by a ship at sea or in any port or place;

(c) the conduct of the examination of persons desirous of obtaining certificates of competency and endorsements thereon for the grades falling under Section 78;

(d) the qualifications to be required to persons desirous of obtaining certificates of competency for the grades falling under Section 78;

(e) the fees to be paid by applicants for examination;

(f) the period for which certificate granted under sub-section (2) of Section 79 shall be valid;

(g) the form of such certificates and the manner in which copies of certificates are to be kept and recorded;

(h) the circumstances or cases in which certificates of competency may be cancelled or suspended.]

## **PART VI A - Obligation of certain Certificate Holder To Serve Government Or In Indian Ships**

87A. Definition

87B. Holders of certificates to serve the Government or in Indian ships for a certain period

87C. Exemption from section 87B

87D. Particulars of certificate, etc. to be furnished

87A. Definitions— In this Part, unless the context otherwise requires,--

(a) "appointed day" means the date on which the Merchant Shipping (Amendment) Act, 1979 (20 of 1979), comes into force;

(b) "certificate" means –

(i) a certificate of competency referred to in section 78; or

(ii) a certificate of competency referred to in section 86, which has been obtained by any person by availing of training facilities in any of the merchant navy training establishments in India or experience of sea service on board any Indian ship ;

(c) "Government" includes—

(i) a Board of Trustees constituted under the Major Port Trusts Act, 1963 (38 of 1963), for any port.

(ii) a corporation established by or under a Central, Provincial or State Act,

(iii) a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and

(iv) a Merchant Navy Training Institution financed wholly or mainly by Government;

(d) "suitable employment", in relation to the holder of any certificate, means employment in a capacity for which the holding of such certificate is an essential qualification.

87B. Holders of certificates to serve the Government or in Indian ships for a certain period.—

(1) Every citizen of India who obtains, on or after the appointed day, a certificate shall be liable to serve the Government, or in any Indian ship, for such period not extending beyond four years from the date on which he obtains such certificate or for such shorter period as the Central Government may by a general or special order published in the Official Gazette, specify.

(2) No citizen of India who has obtained, on or after the appointed day a certificate shall accept any employment other than an employment under the Government or in any Indian ship, before the expiry of the period during which he is liable to serve the Government or in any Indian ship in accordance with the provisions of sub-section (1) and the orders made thereunder.

(3) Notwithstanding anything obtained in sub-section (1) or sub-section (2), a citizen of India who has obtained, on or after the appointed day, two or more certificates shall not be liable to serve under the Government or in any Indian ship for any period or periods exceeding, or, as the case may be, exceeding in the aggregate, seven years or such shorter period as the Central Government may, by a general or special order published in the Official Gazette, specify.

#### 87C. Exemption from section 87B—

(1) When any person referred to in section 87B has failed to secure suitable employment within a reasonable period from the date on which he applied for the same, he may make an application to the Director-General for exempting him from the requirements of sub-section (1) and (2) of that section and if the Director General is satisfied that the grounds stated in the application justify the exemption sought for, he shall, by order, exempt such persons from the requirements of those sub-sections.

(2) the Director General may, either on his own motion or on an application made by any person referred to in section 87B by order in writing exempt from the requirements of sub section (1) and (2) of that section, if the Director General is satisfied---

(a) that it is necessary to do for compliance with any request made by the Government of any foreign country to make available the services of Indian personnel for meeting shortage of qualified personnel in its ships or shore establishments, or for compliance with any request made by any agency of the United Nations Organisation for making available Indian personnel for providing consultancy services on its behalf in technical co-operation or technical assistance programme in any country; or

(b) that such person is likely to suffer undue hardship if he is not so exempted.

(3) An application for exemption under sub-section (1) or sub-section (2) shall set out clearly all the particulars on the basis of which such exemption is applied for.

(4) Every such application shall be disposed of by the Director-General as expeditiously as possible and where the Director-General refuses to grant the exemption applied for, he shall record his reasons therefor and communicate the same to the applicant.

(5) Where, within a period of forty-five days of the date of receipt of any such application, the Director-General does not refuse to grant the exemption applied for, or does not communicate the refusal to the applicant, the Director-General shall be deemed to have granted the exemption applied for

(6) Where the Director-General refuses to grant the exemption applied for, the applicant may prefer an appeal against such refusal to the Central Government within thirty days of the receipt of the order of the Director-General refusing the exemption and the Central Government may make such orders as it deems fit.

Provided that the Central Government may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time. Provided further that no order confirming the order of the Director-

General shall be made under this sub-section without giving the appellant an opportunity to represent his case.

87D. Particulars of certificate, etc. to be furnished— Every citizen of India who obtains, on or after the appointed day, a certificate shall furnish, in such form and at such intervals as may be prescribed, particulars of the certificate or certificates obtained by him and of his employment.]

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141. Wages on termination of service by wreck, illness, etc.

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218. Functions of National Welfare Board for Seafarers

Classification of seamen and prescription of minimum manning scale.

88. Power to classify seamen—

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Shipping Masters

89. Duties of shipping masters— It shall be the duty of shipping masters—

(a) to superintend and facilitate the engagement and discharge of seamen in the manner provided in this Act;

(b) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

(c) to facilitate the making of apprenticeship to the sea service;

(d) to hear and decide disputes under section 132 between a master, owner or agent, of a ship and any of the crew of the ship;

(e) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act.

(f) to transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director-General, International Labour Organisation office.

90. Fees to be paid –

(1) The central Government may, by notification in the Official Gazette, fix the fees which shall be payable upon all engagements and discharges effected before a shipping master.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping offices, and a shipping master may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may for the purpose of reimbursing himself in part, deduct in respect of each such engagement or

discharge from the wages of all person (except apprentices) so engaged or discharged, and retain any sums not exceeding such sums as the Central Government may, by notification in the Official Gazette, fix in this behalf.

Provided that, if in any case the sums which may be so deducted exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign- going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

### **Apprenticeship to the sea services**

91 Assistance for apprenticeship to sea services--- All shipping masters shall give to persons desirous of apprenticing boys not under fifteen years of age to the sea service or requiring apprentices not under that age for the sea service such assistance as may be in their power, and may receive from those persons such fees as the Central Governments may fix.

92 Special provisions as to apprenticeship to the sea services

(1) the apprenticeship of any boy to the sea service shall be by contract in writing between the apprentice or on his behalf by his guardian, if the boy is a minor, and the master or owner of the ship requiring the apprentice.

(2) Every such contract shall be executed in duplicate in the prescribed form and in accordance with the rules made by the Central Government in this behalf;

(3) Every such contract shall be executed in the presence of, and shall be attested by the shipping master of the port, who shall, before the execution of the contract, satisfy himself—

(a) that the intended apprentice—

(i) understands the contents and provisions of the contract;

(ii) freely consents to be bound;

(iii) has attained the age of fifteen years; and

(iv) is in possession of a certificate to the effect that the physically fit for sea service;

(b) if the intended apprentice is a minor, that his guardian's consent has been obtained to his being bound as an apprentice.

(4) Every such contract made in India and every assignment, alteration or cancellation thereof, and where the apprentice bound dies or deserts, the fact of the death or desertion shall be recorded in the manner specified in section 93.

93. Manner in which contract is to be recorded— For the purpose of the record—

(a) the master or owner of the ship to whom an apprentice to the sea service is bound shall transmit the contract executed in duplicate within seven days of the execution thereof, to the shipping master, who shall record one copy and endorse on the other the fact that it has been recorded and redeliver it to the master or owner;

(b) the master or owner shall notify any assignment or cancellation of the contract and the death or desertion of the apprentice to the shipping master, within seven days of the occurrence, if it occurs within India, or, as soon as circumstances permit, if it occurs elsewhere.

#### 94. Production of contracts to authorised person before voyage in ship—

(1) The master of a ship shall, before carrying an apprentice to sea from a port in India, cause the apprentice to appear before the shipping master before whom the crew are engaged, and shall produce to him the contract by which the apprentice is bound, and every assignment thereof.

(2) The name of the apprentice, with the date of the contract and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew Seamen's employment offices

#### 95. Business of seamen's employment offices—

(1) It shall be the business of the seamen's employment offices--

(a) to regulate and control—

(i) the supply of such categories of seaman and for such class of ships as may be prescribed;

(ii) the recruitment of persons for employment as seamen and the retirement of seamen from such employment;

(iii) the promotion of seamen or changes of their categories;

(b) to maintain registers of seamen in respect of the categories prescribed under sub-clause(I) or clause (a);

(c) to perform such other duties relating to seamen and merchant ships as are, from time to time, committed to them by or under this Act.

(2) Where there is in existence at any part a seamen's employment office, then, notwithstanding anything to the contrary contained in any other provision of this Act, no person shall receive or accept to be entered on board any ship of the class prescribed under sub-section, unless such seaman has been supplied by such seamen's employment office.

(3) The Central Government may make rules for the purpose of enabling seamen's employment offices effectively to exercise their powers under this Act; and in particular and, without prejudice to the generality of such power, such rules may provide for—

(a) consultation with respect to any specified matter by seamen's employment offices with such advisory boards or other authorities as the Central Government may think fit to constitute or specify in this behalf;

(b) the levy and collection of such fees as may be specified for any seamen's employment office for registering the name of any seaman in any register maintained by it;

(c) the issue of directions by the Central Government to any seamen's employment office with reference to the exercise of any of its powers;

(d) the supersession of any seamen's employment office which fails to comply with any such direction.<sup>96</sup> Supply or engagement of seamen in contravention of Act prohibited—

(1) A person shall not engage or supply a seaman to be entered on board any ship in India unless that person is the owner, master or mate of the ship, or is the agent of the owner or is bonafide the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master.

(2) A person shall not employ for the purpose of engaging or supplying a seaman to be entered on board any ship in India, any person, unless that person is the owner, master or mate of the ship or is the agent of the owner or is bonafide the servant and in the constant employ of the owner, or is a director of a seamen's employment office, or a shipping master.

(3) A person shall not receive or accept to be entered on board any ship any seaman, if that person knows that the seaman has been engaged or supplied in contravention of this section or section 95.

97. Receipt of remuneration from seamen for shipping them prohibited— A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, other than the fees authorised by this Act.

## **PART VIII - Passenger Ships**

### **Survey of Passenger ship**

219. Application of Part 220. No ship to carry passengers without a certificate of survey

221. Power of surveyor

222. Fees in respect of survey

223. Declaration of survey

224. Sending of declaration by owner, agent or master to Central Government

225. Grant of certificate of survey by Central Government

226. Power of central Government to Order a second survey

227. Duration of certificates of survey

228. Cancellation or suspension of certificate of survey by Central Government

229. Alterations in ships subsequent to grant of certificate of survey and additional surveys

230. Power to require delivery of expired or cancelled certificate of survey

231. Certificate of survey to be affixed in conspicuous part of ship

232. Ship not to carry passengers in contravention of Act

### **Keeping order in passenger ship**

233. Offences in connection with passenger ships

234. Power to exclude drunken passengers from passenger ship

235. Ships with certificates of survey or certificate of partial survey granted outside India.

236. Power to make rules as to surveys

### **Special trade passenger ships and pilgrim ships**

237. Ports or places where special trade passengers or pilgrims may embark or be discharged

238. Notice to be given of day of sailing

239. Power to enter on and inspect ship

240. Ship not to sail without certificates A and B

241. Contents of certificate A

242. Contents of certificate B

243. Officers entitled to grant certificates

244. Survey of ship

245. Discretion as to grant of certificate B

246. Copy of certificate A to be exhibited

247. Special trade passengers or pilgrims to be supplied with prescribed provisions

248. Number of passengers on board not to exceed that allowed by or under this part

249. Special trade Passenger or Pilgrim not to be landed at a place other than that at which he has contracted to land

250. Forwarding of passengers by Indian consular officers

251. Recovery of expenses incurred in forwarding passengers

- 252. Ship not to make voyage in contravention of contract
- 253. Information to be sent to ports of embarkation and discharge
- 254. Reports, etc. under section 253 to be admissible in evidence
- 255. Destination of ship, time of sailing, etc., to be advertised
- 256. Ship taking additional passengers at intermediate place
- 257. Statements concerning passengers
- 258. Death of special trade passengers on voyage
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- 260. Bringing passengers from foreign port in excess of authorised number prohibited
- 261. Passenger welfare
- 261A. Bunks to be provided for passengers
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- 261C. Airing space to be provided for passengers.
- 262. Power to make rule as special trade passenger ship
- 263. [Repealed.]
- 264. Hospital accommodation
- 265. [Repealed.]
- 266. [Repealed.]
- 267. [Repealed.]
- 268. [Repealed.]
- 269. [Repealed.]
- 270. Bond where pilgrim ship proceeds on outward voyage
- 271. Medical inspection and permission required before embarkation of pilgrims
- 272. Medical Inspection after embarkation in certain cases
- 273. Pilgrims to arrange return passages
- 274. Issue or production of tickets
- 275. Refund of passage money and deposits

276. Disposal of unclaimed passage money and deposit

277. Cost of return journey of pilgrims on ship other than those for which return ticket is available

278. [Repealed.]

279. Compensation for delay in sailing

280. Substitution of ships

281. Sanitary taxes payable by master of pilgrim ship

282. Power to make rules relating to pilgrim ships

219. Application of Part-- This part applies only to sea-going passenger ships fitted with mechanical means of propulsion but the provisions of this Part relating to [special trade passenger ships] shall not apply--

(a) to any such ship not carrying more than thirty [special trade passengers]; or

(b) to any such ship not intended to carry [special trade passengers] to or from any port or place in India.

220. No ship to carry passengers without a certificate of survey--

(1) No ship shall carry more than twelve passengers between ports or places in India or to or from any port or place in India from or to any port or place outside India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

Provided that nothing in this section shall apply to any ship which has been granted a certificate under section 235, unless it appears from the certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient.

(2) No customs collector shall grant a port clearance, nor shall any pilot be assigned, to any ship for which certificate of survey is required by this Part until after the production by the owner, agent or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed for the service on which she is about to be employed.

(3) If any ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any customs collector or any pilot on board the ship may detain her until she obtains a certificate.

221. Power of surveyor-- (1) The owner or agent of every passenger ship for which a certificate of survey is required under this Part shall cause it to be surveyed in the prescribed manner.



(2) For the purpose of a survey under this Part, a surveyor may, at any reasonable time, go on board a ship, and may inspect the ship and any part thereof, and the machinery, equipment or articles on board thereof.

Provided that he does not unnecessarily hinder the loading or unloading of the ship, or unnecessarily detain or delay her from proceeding on any voyage.

(3) The owner, agent, master and every officer of the ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the ship and her machinery and equipment, or any part thereof, respectively, as the surveyor reasonably requires.

222. Fees in respect of survey-- Before a survey under this Part is commenced, the owner, agent or master of the ship to be surveyed shall pay to such officer as the Central Government may appoint in this behalf--

(a) a fee calculated on the tonnage of the ship according to the prescribed rates;

(b) when the survey is to be made in any port of survey other than Bombay, Calcutta or Madras, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Central Government may by order direct.

223. Declaration of survey-- When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, deliver to the owner, agent or master of the ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:--

(a) that the hull and machinery of the ship are sufficient for the service intended and in good condition;

(B) that the equipment of the ship is in such condition and that the certificates of the master, mates, engineers or engine-drivers and of the radio telegraphy operators, are such, as are required by this Act or any other law for the time being in force and applicable to the ship;

(c) the time ( if less than one year ) for which the hull, machinery and equipment of the ship will be sufficient;

(d) the voyages or class or voyages on which, as regards construction machinery and equipment, the ship is in the surveyor's opinion fit to ply;

(e) the number of passengers which the ship is, in the opinion of the surveyor, fit to carry, distinguishing, if necessary; between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and

(f) any other prescribed particulars.

224. Sending of declaration by owner, agent or master to Central Government-- (1) The owner, agent or master to whom a declaration of survey is given shall, within fourteen days after, the date of the receipt thereof, send the declaration to such officer as the Central Government may appoint in this behalf.

(2) If the owner, agent or master fails to do so he shall forfeit a sum not exceeding Rs.5 for every day during which the sending of the declaration is delayed and shall pay any sum so forfeited on the delivery of the certificate of service.

225. Grant of certificate of survey by Central Government-- (1) Upon receipt of a declaration of survey, the Central Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the ship was surveyed as the Central Government may appoint in this behalf, to the owner, agent or master of the ship surveyed, on his applying and paying the sums (if any) mentioned in section 224 as payable on the delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall also set forth--

(a) the particulars concerning the ship which clauses (c), (d) and (e) of section 223 require the declaration of survey to contain; and

(b) any other prescribed particulars.

226. Power of Central Government to order a second survey-- (1) If a surveyor making a survey under this Part refuses to give a declaration of survey under section 223 with regard to any ship, or gives a declaration with which the owner or agent or master of the ship surveyed is dissatisfied, the Central Government may, on the application of the owner, agent or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Central Government may require, direct any other surveyor to survey the ship.

(2) The surveyor so directed shall forthwith survey the ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to him proper, and his decision shall, save as otherwise provided in this Act, be final.

227. Duration of certificates of survey-- (1) A certificate of survey granted under this Part shall not be in force :

(a) after the expiration of one year from the date of issue; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipment have been stated in the certificate to be sufficient; or

(c) after notice has been given by the Central Government to the owner, agent or master of the ship to which the certificate relates that the Central Government has cancelled or suspended it.

(2) If a passenger ship is absent from India at the time when her certificate expires, the provisions of this Part relating to certificate of survey shall not be deemed to be contravened unless she first begins to ply with passengers after her next return to India.

228. Cancellation or suspension of certificate of survey by Central Government -- (1) Any certificate of survey granted under this Part may be cancelled or suspended by the Central Government if it has reason to believe--

(a) that the declaration by the surveyor of the sufficiency of the hull, boilers, engines or any of the equipment of the ship has been fraudulently or erroneously made; or

(b) that the certificate has otherwise been issued upon false or erroneous information.

(2) Before any certificate of survey is cancelled or suspended under sub-section (1), the holder of the certificate shall be given a reasonable opportunity of showing cause why the certificate should not be cancelled or suspended, as the case may be.

Provided that this sub-section shall not apply where the Central Government is satisfied that for some reason to be recorded in writing it is not reasonably practicable to give to the holder of the certificate an opportunity of showing cause.

## **PART IX Safety**

283. Countries to which Load Line Convention applies

284. Construction rules

Prevention of Collisions

285. Collision regulations

286. Observance of collision regulations

287. Inspectors of lights and shapes and fog and distress signals

Life Saving appliances and fire appliance

288. Power to make rules as to life saving appliance

289. Rules relating to fire appliance

290. Inspection of life saving appliance and fire appliance

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291. Radio requirements

292. Radio direction finding apparatus

293. Radio log

294. Power of radio inspectors

295. Application of this part to ship other than Indian ships

296. Power to make rules

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297. Signaling lamps

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298. Information about ships stability

Safety certificate, safety equipment certificates, safety radio telegraphy

Certificates, safety radio telephony certificates, exemption certificate, etc.

299. Safety certificate and qualified safety certificate for passenger ships

299A. Safety construction certificates and construction certificates for cargo ships

299B. Power to make rules

300. Cargo ship safety equipment and cargo ship equipment certificate for ships other than passenger ships

301. Cargo ship radio telegraphy and telephony certificates

302. Exemption certificates

303. Duration of certificates

304. Modification of safety convention certificates as respects life saving appliances

305. Recognition of certificates issued outside India

306. Issue of certificate to foreign ships in India and Indian ships in foreign countries

307. Prohibition on proceeding to sea without certificates

308. Production of certificates by ships other than Indian ships

309. Application of certain sections to certificates

309A. Alteration pending issue of a safety convention certificate

Load Lines

310. Ship exempt from provision relating to load lines

311. Power to make rules as to load lines

312. Marking of deck line and load line

312 A. Alteration after survey

313. Submersion of load lines

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316. Issue of load line certificates and effect thereof

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319. Publication of load line certificate and particulars relating to depth of loading

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323. Inspection and control of Load Line Convention ship other than Indian ships

324. Certificate of Load Line Convention ship other than Indian ship to be produced to customs

325. Marking of deck line and load line of ship other than Indian ships

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327. Inspection of ships other than Indian ships belonging to non-Convention countries

328. Load line certificates and international load line exemption certificate of ship other than Indian ships

329. Certificates to be produced to customs by ships other than Indian ship registered in non-Convention countries

Loading of timber

330. Power to make rules as to timber cargo

Dangerous goods and grain cargoes

331. Carriage of dangerous goods

331A. Grain-loading plan

332. Carriage of grain

Sub-division load lines

333. Submersion of sub-division load lines in case of passenger ship

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334. Unseaworthy ship not to be sent to sea

335. Obligation of owner to crew with respect to seaworthiness

Detention of unsafe ships by the Central Government

336. Power to detain unsafe ship and procedure for detention

Cost of detention and damages incidental thereto

337. Liability of Central Government for costs and damage when ship wrongly detained

338. Liability of shipping owners for cost when ship rightly detained

339 Method of calculating costs of detention and survey

340. Power to require from complainant security for costs, etc.

341. Coasts, etc. payable by Central Government recoverable from complainant

342. Application to ships other than Indian ships of provisions as to detention

343. Exemption of ships from certain provisions of this part

344. Power to make rules respecting certificate under this Partition

283. Countries to which Load Line Convention or Safety Convention applies- The Central Government, if satisfied,--

(a) that the Government of any country has accepted or denounced the Load Line convention or, as the case may be, the Safety convention; or

(b) that the Load Line Convention or, as the case may be, the Safety Convention extends, or has ceased to extend to any territory;

may, by notification in the Official Gazette, make a declaration to that effect. \* \* \* \* \*

[283A. Definitions -- (1) In this Part, unless the context otherwise requires--

(a) "existing ship" or "existing vessel" means a ship or vessel which is not a new ship or a new vessel,

(b) "new ship" or "new vessel" means a ship or vessel whose keel is laid or which is at a similar stage of construction on or after the material date as defined in sub-section (2).

(2) For the purposes of sub-section (1) "material date",--

(i) in relation to an Indian ship, means the 21st July, 1968;

(ii) in relation to a foreign ship belonging to a country to which the Load Line Convention applies, means the date as from which it is declared under section 283 that the Government of such country has accepted the Load Lines Convention or, as the case may be, that the said Convention has been applied to such country.]

284. Construction rules-- (1) The Central Government may make rules (in this Act called the construction rules), prescribing the requirements that the hull, equipment and machinery of Indian 1[passenger or cargo ships] shall comply with,

(2) The rules made under sub-section (1) shall include such requirements as appear to the Central Government to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of [passenger or cargo ships] shall comply with, except so far as those provisions are implemented by the rules for life saving appliances, the radio rules, the rules for direction finders or the collision regulations. Provided that different requirements may be specified for special trade passenger ships.

(3) The powers conferred on the Central Government by this section shall be in addition to the power conferred by any other provision enabling it to prescribe the requirements that [passenger or cargo ships] shall comply with.

#### Prevention of collisions

285. Collision regulations-- (1) The Central Government may make regulations for the prevention of collisions at sea, and may thereby regulate the lights and shapes to be carried and exhibited, the fog and distress signals to be carried and used, and the steering and sailing rules to be observed by Indian ships and sailing vessels registered in India.

(2) The collision regulations, together with the provisions of this Part relating thereto or otherwise relating to collisions, shall be observed by all foreign ships and sailing vessels within Indian jurisdiction, and in any case arising in any court in India concerning matters arising within Indian jurisdiction, such ships and sailing vessels shall, so far as respects the collision regulations and the said provisions of this Act, be treated as if they were Indian ships or sailing vessels registered in India, as the case may be.

286. Observance of collision regulations-- (1) The owner or master of every ship and the owner or master of every sailing vessel to which section 285 applies shall obey the collision regulations, and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than those required by the said regulations.

(2) If any damage to person or property arises from the non-observance by any such ship or sailing vessel of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the ship or the sailing vessel, as the case may be, at the time unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.

287. Inspectors of lights and shapes and fog and distress signals-- (1) The Central Government may appoint persons to inspect in any port ships or sailing vessels to which the collision regulations apply, for the purpose of seeing that such ships or sailing vessels are properly provided with lights and shapes and with the means of making fog and distress signals, in pursuance of such regulations.

(2) If an inspector appointed under sub-section (1) finds that any ship or sailing vessel is not so provided, he shall give to the owner, master or tindal, notice in writing pointing out the deficiency, and also what, in his opinion, is requisite in order to remedy the same.

(3) Every notice so given shall be communicated in the prescribed manner to the customs collector at any port from which such ship or sailing vessel may seek to clear; and no customs collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship or sailing vessel is properly provided with lights and shapes and with the means of making fog and distress signals in pursuance of the said regulations.

#### Life saving appliances and fire appliances

288. Power to make rules as to life saving appliances-- (1) The Central Government may, subject to the condition of previous publication, make rules prescribing the life saving appliances to be carried by every Indian ship going to sea from any port or place in India.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the arranging of ships into classes, having regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried;

(b) the number, description and mode of construction of the boats, liferafts, line throwing appliances, life-jackets and life-buoys to be carried by ships according to the classes in which the ships are arranged;

(c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life saving appliances into the water, including oil for use in stormy weather;

(d) the provision in ships of a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(e) the quantity, quality and description of buoyant apparatus to be carried on board ships either in addition to or in substitution for boats, life-rafts, life-jackets and life-buoys;

(f) the position and means of securing the boats, life-rafts, life-jackets, life-buoys and buoyant apparatus;

(g) the marking of boats, life-rafts. and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;

(h) the meaning of life-boats and qualifications and certificates of lift-boatmen;

1[(hh) the training of crew in launching and using life-rafts;]

(i) the provision to be made for mustering the persons on board and for embarking them in the [boats or rafts] (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);



(j) the provision of suitable means situated outside the engine room whereby any discharge of water into the [boats or rafts] can be prevented;

(k) the assignment of specific duties to each member of the crew in case of emergency;

(l) the manner in which a notice given under section 287 or section 290 shall be communicated to the customs collector;

(m) the practice in ships of boat drills, and fire drills;

(n) the provision in the ships of means of making effective distress signals by day and by night;

(o) the provision in ships, engaged on voyages in which pilots are likely to be embarked, of suitable pilot ladders, and or ropes, lights and other appliances designed to make the use of such ladders safe;

(p) the periodical examination of any appliances or equipment required by any rules made under this Act to be carried by ships; and

(q) the fees to be charged for the grant of any certificate under sub-section (3) of section 290.

289. Rules relating to fire appliances-- The Central Government may make rules prescribing the methods to be adopted and the appliances to be carried by every Indian ship going to sea from any port or place in India for the prevention, detection and extinction of fire on the ship (hereinafter referred to as fire appliances).

290. Inspection of life saving appliances and fire appliances-- (1) A surveyor may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life saving and fire appliances in conformity with the rules made under this Act..

(2) If the said surveyor finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3) Every notice so given shall be communicated in the prescribed manner to the customs, collector of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life saving and fire appliances in conformity with the said rules.

Installation of radio telegraphy, radio telephony and direction finders

291. Radio requirements-- [(1) Every Indian passenger ship and every Indian cargo ship of three hundred tons gross tonnage or more, shall in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators as may be prescribed].

(2) The radio installation required under the said rules to be provided for a passenger ship or for [any cargo ship of sixteen hundred tons gross or more shall be a radio telegraph installation; and that required to be provided for a cargo ship of less than sixteen hundred tons gross] shall be either a radio telegraph installation or a radio telephone installation at the option of the owner.

3[(3) The Central Government may, having regard to the length of the voyage or voyages on which a ship or a class of ships is engaged and the maximum distance such ship or class of ships will be from the shore during such voyage or voyages, exempt by order in writing and subject to such conditions and restrictions as may be specified therein, any ship or class of ships from compliance with all or any of the obligations imposed by or under this section, if that Government is satisfied that such compliance would be unreasonable or unnecessary.

Provided that an exemption from the obligation to provide with radio telegraph installation in respect of any passenger ship or in respect of any cargo ship of sixteen hundred tons gross tonnage or more shall be subject to the condition that she shall have on board a radio telephone installation.

Provided further that no exemption shall be granted under this section, if it will have an adverse effect on the general efficiency of the distress service for the safety of ships.]

292. Radio direction finding apparatus-- [(1) Every Indian ship of sixteen hundred tons gross or more shall be provided with a radio direction finder of the prescribed description.

[(2) The Central Government may, by order in writing and subject to such conditions and restrictions as may be specified therein, exempt any ship under five thousand tons gross tonnage from the obligation imposed by sub-section (1), if that Government is satisfied, having regard to the area or areas in which the ship is engaged on a voyage or voyages and the value of radio direction finder as a navigational instrument and as an aid to locating ships, aircraft or survival craft, that such compliance would be unreasonable or unnecessary.

293. Radio log-- (1) Every ship compulsorily equipped under the provisions of section 291 with a radio telegraph or radio telephone installation shall maintain in the radio telegraph or radio telephone room a radio log in which shall be entered such particulars relating to the operation of the radio telegraph or radio telephone installation and as to the maintenance of the radio telegraph or radio telephone service as may be prescribed.

(2) The provisions of section 215 shall apply to the radio log kept under this section as if it were an official log.

## **PART IX A Nuclear Ships**

344A. Application of Act to nuclear ships344B. Nuclear passenger ship safety certificates and nuclear cargo ship safety certificates

344A. Application of Act to nuclear ships-- (1) This part applies only to nuclear ships.

(2) Notwithstanding anything contained in this Act, a nuclear ship shall not be required to obtain or produce any certificate referred to in sub-clauses (i) to

(ix) of clause (38) of section 3 or, as the case may be, any like valid safety convention certificate.

(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act (other than the provisions of this Part and the provisions of section 456) specified in the notification--

(a) shall not apply to nuclear ships; or

(b) shall apply to nuclear ships, only with such expectations, modifications and adaptations as may be specified in the notification.

(4) A copy of every notification proposed to be issued under sub-section (3) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are in session and it shall not be issued until it has been approved, whether with or without modification, by each House of Parliament.

344B. Nuclear passenger ship safety certificates and nuclear cargo ship safety certificates-- (1) If in respect of any Indian nuclear passenger or cargo ship the Central Government is satisfied that the ship has been surveyed in accordance with this Act and has been inspected by a person appointed in this behalf by the Central Government and has complied with such special requirements, if any, as that person has, after such inspection, specified, the Central Government may issue--

(a) in the case of a passenger ship, a nuclear passenger ship safety certificate;

(b) in the case of a cargo ship, a nuclear cargo ship safety certificate.

(2) A certificate issued under sub-section (1) shall be in force for a period of twelve months from the date of issue or for such shorter period as may be specified in the certificate.

344C. Prohibition of proceeding to sea without certificates-- (1) No Indian nuclear ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship--

(a) a nuclear passenger ship safety certificate, if she is a passenger ship;

(b) a nuclear cargo ship safety certificate, if she is a cargo ship.

(2) The master of a ship to which the section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate required by sub-section (1) when the ship proceeds to sea and the port clearance shall not be granted and the ship may be detained until the said certificates is so produced.

344D. Safety assesment and operating manual-- (1) Every Indian nuclear ship shall have on board a safety assessment and an operating manual in such form and containing such particulars and approved by such authority as may be prescribed.

(2) The safety assessment and the operating manual shall be prepared, maintained and kept up-to-date in such manner as may be prescribed.

344E. Foreign nuclear ships to give advance notice of arrival-- (1) No nuclear ship, other than an Indian ship shall enter the territorial waters of India unless the master, owner or agent thereof has given such advance notice of the ship's intended arrival in India as may be prescribed, to such authority as may be specified by the Central Government, and has forwarded along with the notice a true copy of the ship's safety assessment to that authority.

(2) If on the examination and evaluation of the ship's safety assessment the authority referred to in sub-section (1) is of opinion that the entry of the ship will involve unreasonable radiation or other hazards to the crew, passengers, members of the public,

waterways, food or water resources, he may direct the nuclear ship not to enter the territorial waters of India and the ship shall comply with such direction.

344F. Control on arrival of nuclear ships-- (1) The master of every nuclear ship shall, on arrival at a port in India, give notice of the ship's arrival in the prescribed form to such authority as the Central Government may specify in this behalf.

(2) Any person authorised in this behalf (hereinafter referred to as the authorised person), by general or special order of the Central Government, may go on board such ship for the purpose of verifying that she has on board a valid nuclear passenger ship safety certificate or, as the case may be, nuclear cargo ship safety certificate and for the purpose of satisfying himself after examining the safety assessment and operating manual and such other things as he deems fit that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources.

(3) If the authorised person is satisfied after such examination that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may issue a certificate to that effect.

344G. Notice of accidents to nuclear ships-- (1) Where an Indian nuclear ship meets with an accident and such accident is likely to lead to environmental hazards, the master of the ship shall forthwith give notice of the accident--

(a) to such officer or authority as may be specified in this behalf by the Central Government; and

(b) if the ship is in or intends to enter the territorial waters of a foreign State, also to the appropriate Government authority of the State.

(2) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) while she is in the territorial waters of, or at a port in, India, the master of the ship shall forthwith give notice of the accident to the officer or authority specified under clause (a) of sub-section (1).

(3) On receipt of a notice under sub-section (1) or sub-section (2), the officer or authority specified under clause (a) of sub-section (1) shall issue such directions as he thinks necessary and expedient in the circumstances of the case and investigate into the causes of the accident in such manner as may be prescribed.

(4) A copy of the directions issued under sub-section (3) and a report of the findings of the investigation shall be sent to the Central Government within such times as may be prescribed.

(5) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) at any port or place outside India and intends to enter the territorial waters of India in a damaged condition, the master of such ship shall give notice of the nature of the accident and the condition of the ship in such form as may be prescribed to the officer or authority specified under clause (a) of sub-section (1) and shall comply with such directions as that officer or authority may give.

(6) The provisions of this section are in addition to and not in derogation of the provisions of Part XII of this Act.

344H. Application of certain sections to or in relation to certain certificates under section 344B-- (1) The provisions of sections 228 to 231 (inclusive) shall, so far as may be, apply to and in relation to every certificate issued by the Central Government under section 344B in the same manner as they apply to and in relation to a certificate of survey.

(2) The provisions of section 309A shall apply to and in relation to a nuclear ship surveyed for the purpose of issue of a certificate under section 344B as they apply to and in relation to a ship surveyed for the purpose of issue of a safety convention certificate under Part IX.

344I. Power to make rules-- (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely--

(a) the design, construction and standards of inspection and assembly of the reactor installations of nuclear ships;

(b) the standards of safety of nuclear ships;

(c) the manner of survey of nuclear ships;

(d) the forms in which certificates under this Part may be issued;

(e) the form and manner in which the safety assessment and operating manual of a nuclear ship are to be prepared, maintained and kept up-to-date and the particulars to be contained therein;

(f) the form of notices under this Part and the time when such notices should be given;

(g) the manner in which investigations may be made into causes of accidents to a nuclear ship;

(h) the special precautions to be taken against unreasonable radiation or other nuclear hazards to the crew, passengers and other persons, to water-ways and to food and water resources;

(i) the manner in which radio-active waste from nuclear ship is to be stowed and disposed of;

(j) the manner in which the reactor fuelling, defuelling and refuelling and maintenance of nuclear ships are to be carried out;

(k) the special training for and qualifications of, masters and seamen of nuclear ships;

(l) the special requirements relating to approach, entry into, stay in or departure from, an Indian port of a nuclear ship;

(m) the procedure to be followed for determining the operational conditions of a nuclear ship;

- (n) the protection and closure of the reactor installation of nuclear ship in the case of a collision, grounding, fire, leakage of radio-active material or other accident;
- (o) the fees to be charged for any inspection survey or certificate under this Part;
- (p) any other matter which has to be or may be prescribed.

## **PART X Collisions, Accidents At Sea & Liability**

345. Division of loss in case of collision

346. Damages for personal injury

347. Right of contribution

348. Duty of master of ship to assist in case of collision

349. Collision to be entered in official log

350. Report to Central Government of accidents to ships

351. Notice of loss of Indian ship to be given to Central Government

345. Divisions of loss in case of collision-- (1) Whenever by the fault of two or more ships damage or loss is caused to one or more of them or to the cargo of one or more of them or to any of property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault.

Provided that--

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

(b) nothing in this section shall operator so as to render any ship liable for any loss or damage to which her fault has not contributed;

(c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Part, references to damage or loss caused by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages.

346. Damages for personal injury-- (1) Whenever loss of life 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 ship concerned shall be joint and several.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person entitled to sue in respect of

such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

347. Right of contribution-- (1) Whenever loss of life or personal injuries are suffered by a person on board a ship owing to the fault of that ship and of any other ship or ships, and a proportion of the damages is recovered from the owner of one of the ships which exceeds the proportion in which she was in fault, the said owner may recover by way of contribution the amount of the excess from the owners of the other ships to the extent to which those ships were respectively in fault.

Provided that no amount shall be so recovered 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 this first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the person entitled to any contribution under sub-section (1) shall, for the purpose of recovering the contribution, have, subject to the provisions of this Act, the same rights and powers as the person entitled to sue for damages in the first instance.

348. Duty of master of ship to assist in case of collision-- In every case of collision between two ships it shall be the duty of the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any--

(a) to render to the other ship, her master, crew and passengers, if any, such assistance as may be predictable and may be necessary to save them from any danger caused by the collision and to stay by the other ship until he has ascertained that she has no need of further assistance, and

(b) to give to the masters or person in charge of the other ships the name of his own ship and of the port to which she belongs and also the names of the ports from which she comes and to which she is bound.

349. Collision to be entered in official log-- In every case of collision in which it is practicable so to do, the master of every ship concerned shall, immediately after the occurrence, cause a statement thereof and of the circumstances under which the same occurred to be entered in the official log book, if any, and the entry shall be signed by the master and also by the mate or one of the crew.

350. Report to Central Government accidents to ships-- When a ship has sustained or caused any accident occasioning loss of life or any serious injury to any person or has received any material damage affecting her seaworthiness or her efficiency either in her hull or is so altered in any part of her machinery as not to correspond with the particulars contained in any of the certificates issued under this Act in respect of the ship, the owner or master shall, within twenty-four hours after the happening of the accident or damage or as soon thereafter as possible, transmit to the Central Government or the nearest principal officer a report of the accident or damage and of the probable cause thereof stating the name of the ship, her official number, if any, her port of registry and the place where she is.

351. Notice of loss of Indian ship to be given to Central Government-- If the owner or agent of any Indian ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Central Government notice in writing of the loss and of the probable cause thereof stating the name of the ship, her official number, if any, and her port of registry.

## **PART XA Limitation Of Liability**

352. Definitions

352A. Limitation of liability of owner for damages in respect of certain claims

352B. Limits of liability

352C. Limitation Fund and consolidation of claims against owners

352D. Release of ship, etc.

352E. Application to ships in course of completion or construction etc.

352F. Application of this Part to charter, manager, etc. of a vessel

352. Definitions-- In this Part, unless the context otherwise requires:

(a) "claim" means a personal claim or property claim;

(b) "franc" means a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred;

(c) "Fund", in relation to owner of a vessel, means the limitation Fund constituted under section 352-C;

(d) "liability", in relation to owner of a vessel, includes liability of the vessel herself;

(e) "occurrence" means an occurrence referred to in sub-section (1) of section 352A;

(f) "personal claim" means a claim resulting from loss of life or personal injury;

(g) "property claim" means any claim other than a personal claim arising from an occurrence.

352A. Limitation of liability of owner for damages in respect of certain claims-- (1) The owner of a sea-going vessel may limit his liability in accordance with the provisions of section 352B in respect of any claim arising from any of the following occurrences unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner--

(a) loss of life of, or personal injury to, any person being carried in the vessel, or loss of, or damage to any property on board the vessel;

(b) loss of life of, or personal injury to, any other person (whether on land or on water), loss of or damage to any other property or infringement of any rights:

(i) which is caused by the act, neglect or default of any person on board the vessel for whose act, neglect or default the owner is responsible; or



(ii) which is caused by the act, neglect or default of any person not on board the vessel for whose act, neglect or default the owner is responsible.

Provided that the owner shall be entitled to limit his liability in respect of any claim arising out of any act, neglect or default as is referred to in sub-clause (ii) only when the act, neglect or default is one which occurs in the navigation or the management of the vessel or in the loading, carriage or discharge of cargo or in the embarkation, carriage or disembarkation of its passengers.

(2) The burden of proving that the occurrence giving rise to a claim against the owner of a vessel did not result from his actual fault or privity shall be on the owner.

(3) Nothing in this section shall apply by--

(a) any obligation or liability imposed by any law relating to the removal of wreck and arising from or in connection with the raising, removal or destruction of any vessel which is sunk, stranded or abandoned (including anything which may be on board such vessel) and any obligation or liability arising out of damage caused to harbour works, navigation and navigable waterways;

(b) claims for salvage or to claims for contribution in general average;

(c) any claim by the master or a member of the crew of the vessel or any servant of the owner who is on board the vessel or whose duties are connected with the vessel (including any claim by the legal representative of such master, member of the crew or servant) if the contract of service between the owner and such master or member of the crew or servant is governed by the law of any foreign country and that law either does not set any limit to the liability in respect of such claims or sets a limit exceeding that set to it by section 352B.

(4) Any action on the part of the owner of a vessel to limit his liability under sub-section (1) shall not merely by reason of such action constitute an admission of liability.

(5) An owner of a vessel shall be entitled to limit his liability under sub-section (1) in respect of any occurrence even in case where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the vessel.

352B. Limits of liability-- (1) The amounts to which the owner of a vessel may limit his liability under sub-section (1) of section 352A shall be--

(a) where the occurrence has given rise to property claims only an aggregate amount not exceeding the amount equivalent to one thousand francs for each ton of the vessel's tonnage.

(b) where the occurrence has given rise to property claims only an aggregate amount not exceeding the amount equivalent to three thousand and one hundred francs for each ton of the vessel's tonnage.

(c) where the occurrence has given rise both to personal claims and property claims, an aggregate amount not exceeding the amount equivalent to three thousand and one hundred francs for each ton of the vessel's tonnage of which the first portion of the amount equivalent to two thousand and one hundred francs for each ton of the vessel's tonnage shall be exclusively appropriated to the payment of personal claims and of

which the second portion of the amount equivalent to one thousand francs for each ten of the vessel's tonnage shall be appropriated to the payment of property claims.

Provided that in cases where the first portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payment against the second portion of the amount.

Explanation-- For the purposes of this sub-section, the tonnage of a vessel of less than three hundred tons shall be deemed to be three hundred tons.

(2) The limits set by sub-section (1) to the liabilities mentioned therein shall apply to the aggregate of such liabilities which are incurred on any distinct occasion, and shall so apply in respect of each distinct occasion without regard to any liability incurred on another occasion.

(3) For the purposes of this section a vessel's tonnage shall be determined in such manner as the Central Government may, by general or special order, specify.

(4) The Central Government may from time to time by order determine the amounts which for the purposes of this section are to be taken as equivalent to three thousand and one hundred and one thousand francs respectively.

#### 352C. Limitation Fund and consolidation of claims against owners--

(1) Where any liability is alleged to have been incurred by the owner of a vessel in respect of claims arising out of an occurrence and the aggregate of the claims exceeds or is likely to exceed the limits of liability of the owner under section 352B, then the owner may apply to High Court for the setting up of a limitation Fund for the total sum representing such limits of liability.

(2) The High Court to which the application is made under sub-section (1) may determine the amount of the owner's liability and require him to deposit such amount with the High Court or furnish such security in respect of the amount as in the opinion of the High Court is satisfactory and the amount so deposited or secured shall constitute a limitation Fund for the purposes of the claims referred to in sub-section (1) and shall be utilised only for the payment of such claims.

(3) After the Fund has been constituted, no person entitled to claim against it shall be entitled to exercise any right against any other assets of the owner in respect of his claim against the Fund, if that fund is actually available for the benefit of the claimant.

(4) Subject to the provisions of this Part, the High Court may distribute the amount constituting the Fund rateably amongst the several claimants and may stay any proceedings pending in any other court in relation to the same matter and may proceed in such manner and subject to such rules of the High Court as to making persons interested parties to the proceedings and as to the exclusion of any claims which do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the High Court thinks fit.

(5) Where the owner establishes that he has paid in whole or in part and claim in respect of which he can limit his liability, under section 352A, the High Court shall place him in the same position and to the same extent in relation to the Fund as the claimant whose claim he has paid.

(6) Where the owner has established that he may at a later date be required to pay in whole or in part, any of the claims under this Part, which could be settled from the Fund, the High Court may notwithstanding the foregoing provisions of this section order that a sufficient sum may be provisionally set aside for the purpose to enable the owner to enforce his claim against the Fund at a later date in accordance with the provisions of sub-section (4).

(7) If the owner is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

352D. Release of ship, etc-- (1) Where a vessel or other property is detained in connection with a claim which appears to the High Court to be founded on a liability to which a limit set by section 352B applies, or security is given to prevent or obtain release from such detention, the High Court may, and in the circumstances mentioned in sub-section (3) of this section shall, order the release of the vessel, property or security if the conditions specified in sub-section (2) are satisfied; and where the release is ordered, the person on whose application it is ordered shall be deemed to have submitted to the jurisdiction of the High Court to adjudicate upon the claim.

(2) The conditions referred to in sub-section (1) are--

(a) that security which in the opinion of the High Court is satisfactory (in this section referred to as "guarantee") has previously been given whether in India or elsewhere, in respect of the said liability or any other liability incurred on the same occasion and the High Court is satisfied that if the claim is established, the amount for which the guarantee was given or such part thereof as corresponds to the claim will be actually available to the claimant; and

(b) that either the guarantee is for an amount not less than the said limit or further security is given which, together with the guarantee, is for an amount not less than that limit.

(3) The circumstances referred to in sub-section (1) are that the guarantee was given in a port which, in relation to the claim, is the relevant port (or as the case may be, a relevant port) and that port is in a convention country.

(4) For the purposes of this section--

(a) a guarantee given by the giving of security in more than one country shall be deemed to have been given in the country in which security was last given;

(b) any question whether the amount of any security is (either by itself or together with any other amount) not less than any limit set by section 352B shall be decided as at the time at which the security is given;

(c) where part only of the amount for which a guarantee was given will be available to a claimant that part shall not be taken to correspond to his claim if any other part may be available to a claimant in respect of a liability to which no limit is set as mentioned in sub-section (1).

(5) In this section--

(a) "convention country" means any country in respect to which the International Convention relating to the Limitation of the Liability of owners of sea-going ships signed

in Brussels on the 10th day of October, 1957, is in force and includes any country to which the Convention extends by virtue of article 14 thereof;

(b) "relevant port", in relation to any claim, means a port where the event giving rise to the claim occurred, or if that event did not occur in that port, the first port of call after the event occurred and includes in relation to a claim for loss of life or personal injury or for damage to cargo, the port of disembarkation or discharge.

352E. Application to ships in course of completion or construction, etc.--

The provisions of this Part relating to limitation of liability of owners shall extend and apply to the owners, builders or other persons having an interest in any vessel built in any port or place in India from and including the launching of such vessel until the registration thereof in accordance with the provisions of this Act, as they apply in relation to the owner of a vessel registered under this Act.

352F. Application of this Part to charterer, manager, etc., of a vessel--

(1) Subject to the provisions of sub-section (2), the provisions of this Part relating to limitation of liability of an owner of a vessel in respect of claims arising out of an occurrence shall apply to the charterer, manager and operator of the vessel and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment in the same manner as they apply in relation to the owner.

Provided that the total limits of liability of the owner and all other persons referred to in this sub-section in respect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with the provisions of section 352B.

(2) The master or a member of the crew of a vessel may limit his liability under sub-section (1) even if the occurrence which gives rise to a claim against him resulted from the actual fault or privity of the master and the members of the crew or any one or more of them.

Provided that where the master or a member of the crew is at the same time the owner co-owner, charterer, manager or operator of a vessel, the provisions of this sub-section shall only apply where such occurrence resulted from any act, neglect or default committed by the master or, as the case may be, the member of the crew in his capacity as master, or, as the case may be, as a member of the crew.]

## **PART XB Civil Liability For Oil Pollution Damage**

352G. Application

352H. Definitions

352 I. Liability of owner

352J. Limitation of liability

352K. Constitution of limitation fund.

352L. Acquisition of right for compensation by subrogation

352M. Consolidation of Claim and distribution of fund.

352N. Compulsory insurance or other financial guarantee.

352O. Acceptance of Certificate issued outside India.

352P. Ban on entering or leaving an Indian Port without Certificate.

352Q. Government ships.

352R. Power to make rules.

352G. Application--- This Part applies to--

(a) every Indian ship whenever it is; and

(b) every foreign ship while it is at a port or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), or any other law for the time being in force.

352H. Definitions-- In this Part, unless the context otherwise requires--

(a) "incident" means any occurrence, or series of occurrences having the same origin, which causes of pollution damage;

(b) "oil" means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a tanker as cargo or fuel;

(c) "owner" means--

(i) the person registered as owner of the ship and includes the operator who for the time being is in charge of the ship and the master of the ship; or

(ii) in the absence of registration, the person owning the ship; or

(iii) in the case of a tanker owned by a foreign State, the person registered in that State as operator of the ship;

(d) "pollution damage" means loss or damage caused outside the ship by contamination resulting from escape or discharge of oil from that ship, wherever such escape or discharge occurs, and includes the costs of preventive measures and further loss or damage caused by preventive measures; so, however, that the provisions of clause (a) of sub-section (1) of section 352B shall not apply to such loss or damage;

(e) "preventive measures" means any reasonable measures taken by any person after the incident to prevent or minimise pollution damage.

3[(f) ` tonnage ` means the tonnage of a ship determined in accordance with the provisions of Section 352-B and where it is not so determinable, it means forty per cent of the weight in tons of oil cargo the ship is capable of carrying].

352I. Liability of owner-- (1) Save as otherwise provided in sub-sections (2), (3) and (4), the owner at the time of an incident, or, where the incident consists of a series of occurrences, at the time of first of such occurrences, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.

(2) No liability for pollution damage shall attach to the owner undersubsection (1), if he proves that the pollution damage--

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

(b) was wholly caused by an act or omission done with intent to cause such damage by any other person; or

(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

(3). Where, with respect to any incident, the owner proves that the pollution damage resulted, either wholly or partially, from an act or omission done; with intent to cause such damage, by the person who suffered damage, or from the negligence of that person, the owner shall be exonerated wholly or, as the case may be, partially, from liability to that person.

(4) Where in any incident, pollution damage results from escape or discharge of oil from two or more ships, the owners of all such ships shall be jointly and severally liable for all such damage which is not reasonably separable.

(5) No claim for pollution damage shall be made against any owner otherwise than in accordance with the provisions of this section.

(6) No claim for pollution damage shall be made against any servant or agent of the owner.

352J. Limitation of liability-- (1) Save as otherwise provided in sub-section (2), the owner may limit his liability under section 352I in respect of any incident to an aggregate amount of--

1(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship's tonnage; or

(b) fourteen million Special Drawing Rights, whichever is lower.

(2) Where any incident causing pollution damage occurs as a result of the actual fault of the owner, he shall not be entitled to limit his liability under sub-section (1).

352K. Constitution of limitation fund-- (1) (a) Any owner desirous to avail of the benefit of limitation of his liability under sub-section (1) of section 352J shall make an application of the High Court for constitution of a limitation fund (hereafter in this Part referred to as fund).

(B) Such fund may be constituted either by depositing the sum with the High court or by furnishing bank guarantee or such other security as, in the opinion of the High Court, is satisfactory.

(2) (a) The insurer or any other person providing financial security to the owner may apply to the High Court for constitution of the fund under sub-section (1) and any fund so constituted shall have the same effect as if it were constituted by the owner.

(b) Such fund may be constiuted even in cases where sub-section (2) of section 352J applies but in any such event constitution of the fund shall not prejudice the rights of any claimant against the owner for full compensation exceeding the amount deposited or second in the fund.

[(3) The amount in Special Drawing Rights to be deposited or secured in the fund under sub-section (1) shall be converted in rupees on the basis of official value in rupees of the Special Drawing Rights as determined by the Reserve Bank of India on the date of constitution of the fund.

352L. Acquisition of right for compensation by subrogation--- (1) Where the owner or any of his servants or agents or any other person providing him insurance or other financial security has, a result of incident in question, paid any compensation to any claimant, such person shall, up to the amount so paid by him, be entitled to acquire by subrogation the rights to whcih the claimant so compensated would be entitled to.

(2) Where the owner or any other person providing him insurance or other financial security establishes that he may, at a later date, be compelled to pay to any person, in whole or in part, any amount by way of compensation for pollution damage caused by the incident with respect to which he would have been entitled to acquire by subrogation the right of the claimant had the compensation been paid before the fund was distributed, the High Court may order that sufficient amount from the fund may provisionally be set aside to enable the owner or such other person to enforce his claim against the fund at a later date.

352M. Consolidation of claim and distribution of fund-- (1) The High Court shall consolidate all claims against the fund including those arising under section 352L.

(2) Any claim in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall rank equally with other claims against the fund.

(3) Subject to the provisions of sub-section (2) of section 352L, the High Court shall distribute the amount in the fund among all claimants in proportion to their established claims.

352N. Compulsory insurance or other financial guarantee-- (1) The owner of every Indian ship which carries 2000 tons or morse oil in bulk as cargo shall, in respect of such ship, maintain an insurance or other financial security for an amount equivalent to--

(a) "one hundred and thirty-three Special Drawing Rights for each ton of the ships tonnage, or

(b) fourteen million Special Drawing Rights,"

whichever is lower.

(2) In respect of every Indian ship which maintains insurance or other financial security under sub-section (1), there shall be issued by the Director General a certificate in such form and giving such particulars as may be prescribed.

### **Dangerous goods and grain cargoes**

331. Carriage of dangerous goods-- (1) The Central Government may make rules for regulating in the interests of safety the carriage of dangerous goods in ships.

[(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the classification, packing, labelling and marking of such goods or any class of such goods, stowing of such goods (whether with or without other cargo) including plans for stowing, the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships, and such other matters relating to dangerous goods as required to be provided for implementing the provisions of the Safety Convention.]

(3) The owner, master or agent of a ship carrying or intending to carry any dangerous goods as cargo and about to make a voyage from a port in India shall furnish in advance the prescribed particulars of the ship and the cargo to such authority as may be prescribed for the purpose.

(4) A surveyor may inspect the ship for the purpose of securing that any rules under this section are complied with.

(5) If any of the rules made in pursuance of this section is not complied with in relation to any ship, the ship shall be deemed for the purpose of this Part to be an unsafe ship.

(6) This section shall apply, in the same manner as it applies to Indian ships, to ships other than Indian ships while they are within any port in India or are embarking or disembarking passengers or are loading or, discharging cargo or fuel within Indian jurisdiction.

Explanation-- In this section, the expression "dangerous goods" means goods which by reason of the nature, quantity or mode of stowage are either singly or collectively liable to endanger the life or the health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression "explosive" as defined in the Indian Explosive Act, 1884 (4 of 1884), and any other goods which the Central Government may by notification in the Official Gazette specify as dangerous goods [but shall not include,--

(a) any fog or distress signals or other stores or equipment required to be carried by the ship under this Act or the rules or regulations there under;

(b) particular cargoes carried in ships specially built or converted as a whole for that purpose, such as tankers.]

[331A. Grain loading plan-- (1) No grain shall be loaded on board any Indian ship anywhere unless there is in force in respect of such ship a grainloading plan approved under sub-section (3) or sub-section (4).

(2) The grain-loading plan shall be in such form and contain such particulars as to the stability of the ship, circumstances of loading on departure and arrival, the main characteristics of the fittings used to prevent the shifting of cargo and such other



matters as may be prescribed, having regard to the rules made under sub-section (5) of section 332.

(3) Save as otherwise provided in sub-section (4), the grain-loading plan shall be submitted to the Central Government for approval and that Government may, having regard to the rules made under sub-section (5) of section 332, the stability of the ship and the circumstances of loading on departure and arrival, approve the plan with such modifications, if any, as it may deem necessary.

(4) The Central Government may request the Government of a country to which the Safety Convention applies to approve the grain-loading plan of an Indian ship and an approval given in pursuance of such a request and contain a statement that it has been so given shall have effect for the purpose of this section as if the approval had been given by the Central Government.

(5) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, approve the grain-loading plan of a ship registered in that country if the Central Government is satisfied, in the like manner as in the case of an Indian ship, that such approval can properly be given and where approval is given at such a request, it shall contain a statement that it has been so given.

(6) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) the plan shall be deemed to be a document relating to the navigation of the ship.]

332. Carriage of grain-- (1) Where grain is loaded on board any Indian ship anywhere or is loaded within any port in India on board any other ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions as aforesaid are not taken, the owner of 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 grain shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside India without all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port in India so laden, the owner or master of the ship shall be guilty of an offence under this sub-section and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

[(2A) Where grain is loaded on board an Indian ship in accordance with a grain-loading plan approved under section 331A or where grain is loaded on board any other ship in accordance with a grain-loading plan approved by or on behalf of the Government of the country in which that ship is registered, the ship shall be deemed, for the purposes of sub-sections (1) and (2), to have been loaded with all necessary and reasonable precautions.]

(3) On the arrival at a port in India from a port outside India of any ship carrying a cargo of grain, the master shall cause to be delivered at the port to such customs or other officer as may be specified by the Central Government in this behalf, a notice stating--

(a) the draught of water and free board of the said ship after the loading of the cargo was completed at the final port of loading;

[(b) the kind of grain carried and quantity thereof stated in cubic feet, quarters, bushels or tons weight; and

(c) the mode in which the grain is stowed and the precautions taken to prevent the grain from shifting and where the grain has been stowed in accordance with the ships' grain-loading plan, if any, that it has been so stowed.]

[(4) Any person authorised in this behalf, by general or special order of the Central Government may, for securing the observance of the provisions of this section, go on board a ship carrying a cargo of grain and require the production of the grain-loading plan of the ship and inspect the mode in which the cargo is stowed in the ship.]

(5) The Central Government may, subject to the condition of previous publication, [make rules in relation to grain-loading plans and the loading of ships] with grain generally or of ships of any class specifying the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression "necessary and reasonable precautions".

(6) In [section 331A and this section], the expression "grain" includes wheat, maize, oats, rye, barely, rice pulses and seeds, and the expression "ship carrying a cargo of grain" means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage reckoning one hundred cubic feet or two tons of weight of grain as equivalent to one ton of registered tonnage.

### **Sub-division load lines**

333. Submersion of sub-division load lines in case of passenger ships--

(1) Where--

(a) an Indian passenger ship has been marked with sub-division load lines, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is sub-divided and to the space for the time being allotted to passengers, and

(b) the appropriate sub-division load line, that is to say, the sub-division load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under the provisions of this Part to be loaded.

the ship shall not be so loaded as to submerge in salt water the appropriate sub-division load line on each side of the ship when the ship has no list.

(2) Without prejudice to any other proceedings under this Act, any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

### **Unseaworthy ships**

334. Unseaworthy ship not to be sent to sea-- (1) Every person who sends or attempts to send an Indian ship to sea from any port in India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be guilty of an offence under this sub-section.

(2) Every master of an Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall,

unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be guilty of an offence under this sub-section.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Central Government.

(5) A ship is "unseaworthy" within the meaning of this Act when the materials of which she is made, her construction, the qualifications of the master, the number, description and qualifications of the crew including officers, the weight, description and stowage of the cargo and ballast, the condition of her hull and equipment, boilers and machinery are not such as to render her in every respect fit for the proposed voyage or service.

## **PART XIA Prevention And Containment Of Pollution Of The Sea BY OIL**

356A. Commencement and application

356B. Definitions Provisions for Prevention of Pollution

356C. Prohibitions as to discharge of oil or oily mixture

356D. Prohibition not to apply in certain case

356E. Equipment in ships to prevent oil pollution

356F. Oil record book

365G. Inspection and control of ship to which the Convention applies

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356I. Oil reception facilities at ports in India

Provisions for containment of accident pollution

356J. Power to give notice to owner, etc., of polluting ships

356K. Power to take measures for preventing or containing oil pollution

356L. Power of the Central Government to give directions to certain ships to render certain services

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## **PART XII**

### **INVESTIGATIONS AND INQUIRIES**

- 357. Definition of "coasts"
- 358. Shipping casualties and report thereof
- 359. Report of shipping casualties to Central Government
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### **Marine Board**

- 382. Re- hearing
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- 388. Power to investigate cause of explosion or fire on board ship
- 356a. Commencement and application-- (1) The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official

Gazette, appoint, and different dates may be appointed for different provisions of this Part.

(2) This Part shall apply to---

- (a) tankers of one hundred and fifty tons gross or more;
- (b) other ships of five hundred tons gross or more; and
- (c) off-shore installations.

356B. Definitions-- In this Part, unless the context otherwise requires--

- (a) "cargo" includes ballast and ship's stores and fuel;
- (b) "coast" includes any island forming part of India;
- (c) "coastal waters" means any part of the territorial waters of India or any marine areas adjacent thereto over which India has, or, may hereafter have exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), or any other law for the time being in force;
- (d) "Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, signed in London on the 12th day of May, 1954, as amended from time to time;
- (e) "discharge" , in relation to oil or oily mixture, means any discharge or escape, however, caused;;
- (f) the expression "free nearest land" shall mean the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958, except that in relation to north-eastern coast of Australia it shall mean from a line drawn from a point on the coast of Australia in latitude 11 degree South, longitude 142 degree 08' East to a point in latitude 10degree 35' South, longitude 141degree 55' East--  
  
thence to a point latitude 10\*00, South, longitude 142\* 00' East  
  
thence to a point latitude 9\*10' South, longitude 143\*52' East  
  
thence to a point latitude 9\*00' South, longitude 144\*30' East  
  
thence to a point latitude 13\*00' South, longitude 144\*00' East  
  
thence to a point latitude 15\*00' South, longitude 146\*00' East  
  
thence to a point latitude 18\*00' South, longitude 147\*00' East  
  
thence to a point latitude 21\*00' South, longitude 153\*00' East  
  
thence to a point on the coast of Australia in latitude 24\*42' South, longitude 153\*15' East;

(g) "instantaneous rate of discharge of oil content" means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

(h) "mile" means a nautical mile of 1,852 metres;

(i) "off-shore installation" means an installation, whether mobile, or fixed, which is used or is intended to be used for under-water exploration or exploitation of crude oil, petroleum or other similar mineral oils, under lease, licence or any other form of contractual arrangement and includes--

(a) any installation which could be moved from place to place under its own motive power or otherwise; and

(b) a pipe-line;

(j) "oil" means--

(i) crude oil;

(ii) fuel oil;

(iii) heavy diesel oil conforming to such specifications as may be prescribed; and

(iv) lubricating oil;

(k) "oily mixture" means a mixture with any oil content;

(l) "oil reception facilities" in relation to a port, means facilities for enabling vessels using the port to discharge or deposit oil residues;

(m) "ship" means any sea-going vessel of any type whatsoever, including a floating craft, whether self propelled or towed by another vessel, making a sea voyage;

(n) "tanker" means a ship in which greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

### **Provisions for prevention of pollution**

356C. Prohibition as to discharge of oil or oily mixture-- (1) No oil or oily mixture shall be discharged from an Indian tanker anywhere into the sea or from a foreign tanker anywhere within the coastal waters of India except where each of the following conditions is satisfied, namely--

(a) the tanker is proceeding en-route;

(b) the instantaneous rate of discharge of oil content does not exceed sixty litres per mile;

(c) the total quantity of oil discharged does not exceed 1/15,000 part of the total carrying capacity of the tanker;

(d) the tanker is more than 50 miles from nearest land; and

(e) the tanker is not within the designated areas notified as such under sub-section (6) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976).

**Provided that the provisions of this sub-section shall not apply to--**

(I) the discharge of ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any affluent therefrom would, if discharged from a stationery tanker into clean calm waters on a clear day, produce no visible traces of oil on the surface of the water; or

(ii) the discharge of oil or oily mixture from machinery space bilges, if any such discharge is made in compliance with the provisions of sub-section (2) as if it were made from a ship other than a tanker.

(2) No oil or oily mixture shall be discharged from an Indian ship other than a tanker anywhere into the sea or from a foreign ship other than a tanker within the coastal water of India except where each of the following conditions is satisfied, namely--

(a) the ship is proceeding en-route;

(b) the instantaneous rate of discharge of oil content does not exceed sixty litres per mile;

(c) the oil content of the discharge is less than one hundred parts per million parts of the oily mixture;

(d) the discharge is made as far from nearest land as practicable; and

(e) the ship is not within the designated area notified as such under sub-section (6) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976).

(3) The discharge of oil or oily mixture into the sea from any off-shore installation is hereby prohibited.

356D. Prohibition not to apply in certain cases-- Nothing in section 356C shall apply to---

(a) the discharge of oil or oily mixture from a ship or an off-shore installation for the purpose of--

(I) safety of such ship or off-shore installation; or

(ii) preventing damage to such ship or off-shore installation or cargo, if any, on board such ship or off-shore installation; or

(iii) saving life at sea;

(b) the escape of oil or oily mixture resulting from damage to or unavoidable leakage from a ship or on off-shore installation if, after occurrence of the leakage, all reasonable precautions have been taken for the purpose of preventing or minimising such escape;

(c) the discharge of oily mixture from the bilges of a ship during the period of twelve months following the date on which this section comes into force.

356E. Equipment in ships to prevent oil pollution-- For the purpose of preventing or reducing discharges of oil and oily mixtures into the sea, the Central Government may make rules requiring Indian ships to be fitted with such equipment and to comply with such other requirements (including requirements for preventing the escape of fuel oil or crude oil or heavy diesel oil into bilges) as may be prescribed.

356F. Oil record book-- (1) Every Indian tanker and every other Indian ship which uses oil as fuel shall maintain on board the tanker or such other ship an oil record book in the prescribed form.

**Provided that different forms may be prescribed for tankers and other ships**

(2) The manner in which the oil record book shall be maintained, the nature of entries to be made, therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

356G. Inspection and control of ships to which the Convention applies-- (1) A surveyor or any person authorised in this behalf may, at any reasonable time, go on board a ship to which any of the provisions of this Part applies, for the purpose of--

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(b) satisfying himself about the adequacy of the measures taken to prevent the escape of oil or oily mixture from the ship;

(c) ascertaining the circumstances relating to an alleged discharge of oil or oily mixture from the ship in contravention of the provisions of this Part; and

(d) inspecting the oil record book.

(2) The surveyor or any such person may, if necessary, make, without unduly delaying the ship, a true copy of any entry in the oil record book of the ship and may require the master of the ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

356H. Information regarding contravention of the provisions of the Convention--

(1) If, on report from a surveyor or other person authorised to inspect a vessel under section 356G, the Central Government is satisfied that any provision of the Convention has been contravened anywhere by a foreign ship, being a ship to which the provisions of the Convention apply, it shall transmit particulars of the alleged contravention to the Government of the country to which the ship belongs.



(2) On receipt of information from the Government of any country which has ratified the Convention that an Indian ship has contravened any provisions of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention, and if satisfied that sufficient evidence is available to establish contravention of any of the provisions of this Part or rules made thereunder, take appropriate action against the owner or master and intimate the reporting Government of the action so taken.

356I. Oil reception facilities at ports in India-- (1) Notwithstanding anything contained in any other law for the time being in force, in respect of every port in India, the powers of the port authority shall include the power to provide oil reception facilities.

(2) A port authority providing oil reception facilities or a person providing such facilities by arrangement with the port authority, may make charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof as may be approved, by notification in the Official Gazette, by the Central Government in respect of the port.

(3) Where the Central Government is satisfied that there are no oil reception facilities at any port in India or that the facilities available at such port are not adequate for enabling ships calling at such port to comply with the requirements of the Convention, the Central Government may, after consultation with the port authority in charge of such port, direct, by order in writing, such authority to provide or arrange for the provision of such oil reception facilities as may be specified in the order.

(4) The Central Government may, by notification in the Official Gazette, specify the ports in India having oil reception facilities in accordance with the requirements of the Convention.

Explanation-- For the purpose of this section, "port authority" means:

(a) in relation to any major port, the Board of Trustees in respect of that port constituted under any law for the time being in force;

(b) in relation to any other port, the Conservator of the Port, within the meaning of section 7 of the Indian Ports Act, 1908 (15 of 1908).

Provisions for containment of accident pollution

356J. Power to give notice to owner, etc. Of polluting ship-- (1) Where the Central Government is satisfied that--

(a) oil is escaping or is likely to escape from a tanker, a ship other than a tanker or any off-shore installation; and

(b) the oil so escaped or likely to escape is causing or threatens to cause pollution of any part of coasts or coastal waters of India, it may, for the purpose of minimising the pollution already caused, or, for preventing the pollution threatened to be caused, require--

(i) the owner, agent, master or charterer of the tanker,

(ii) the owner, agent, master or charterer of the ship other than a tanker,

(iii) the owner, agent, master charterer or operator of a mobile off-shore installation,

(iv) the owner, operator, lessee or licensee of off-shore installation of any other type, or all or any of them, by notice served on him or as the case may be on them, to take such action in relation to the tanker, ship other than a tanker, mobile off-shore installation, or, as the case may be, off-shore installation of any other type or its cargo or in relation to both, as may be specified in such notice.

(2) Without prejudice to the generality of sub-section (1), the notice issued under that sub-section may require the person or person on whom such notice is served to take action relating to any or all of the following matters, namely;-

(a) action for preventing the escape of oil from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type;

(b) action for removing oil from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type in such manner, if any, and to such place, if any, as may be specified in the notice:

(c) action for removal of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type to a place, if any, as may be specified in the notice;

(d) action for removal of the oil slicks on the surface of the sea in such manner, if any, as may be specified in the notice.

(e) action to disperse the oil slicks on the surface of the sea in such manner, if any, as may be specified in the notice.

(3) The Central Government may, by any notice issued under sub-section (1), prohibit the removal--

(a) of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type, from a place specified in the notice;

(b) from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type, of any cargo or stores as may be specified in the notice,

except with its previous permission and upon such conditions, if any, as may be specified in the notice.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is of the opinion that the pollution caused or likely to be caused has or may present a grave emergency, proceed to take such measures as may be deemed necessary and any measures so taken shall be deemed to have been taken under section 356K.

356K. Powers to take measures for preventing or containing oil pollution--

(1) Where any person fails to comply, or fails to comply in part, with any notice served on him under section 356J, the Central Government may, whether or not such person is convicted of an offence under this Part by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for--

(I) carrying out the directives given in the notice issued under section 356J; and

(ii) containing the pollution already caused or preventing the pollution threatened to be caused, of coastal waters or, as the case may be, of any part of the coast of India by oil escaped or threatening to escape from the tanker, a ship other than a tanker, a mobile oil-shore installation or off-shore installation of any other type.

(2) Subject to the provisions of Part XB, any expenditure or liability incurred by the Central Government in, or by reason of, the exercise of powers under sub-section (1) in relation to any tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type in respect of which a notice had been issued under section 356J, or its cargo of oil that had escaped or was discharged into the sea, shall be a debt due to the Central Government by the person or persons on whom the notice was served and may be recovered from that person, or as the case may be, from all or any of those persons and shall be a charge upon all or any tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type owned by that person or persons which may be detained by the Central Government until the amount is paid.

Provided that provisions of Part XB of this Act shall not apply to measures taken in respect of any off-shore installation which is not a ship within the meaning of this Act except that in the event of pollution damage caused by any such off-shore installation the person who is liable for the damage may claim exoneration from any liability if he proves that such damage--

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

(b) was wholly caused by an act or omission done with intent to cause that damage by any other person; or

(c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

356L. Power of the Central Government to give directions to certain ships to render certain services-- (1) Where for the purposes of taking any measures under sub-section (1) of section 356K, services of any Indian ship become necessary for--

(i) lightening or transporting any cargo or equipment from or to the polluting ship; or

(ii) providing any assistance to any other ship or equipment engaged in rendering services under clause (i),

the Central Government may, if it deems it necessary so to do, direct, by an order in writing, the owner of any Indian ship, tug, barge or any other equipment to provide such services or assistance as may be specified in that order.

(2) The owner of any ship, tug, barge or any other equipment with respect to which an order under sub-section (1) has been made shall be entitled to tariff rates of freight and charter hire, at reasonable rates having regard to current market conditions.

Provided that where tariff rates of freight are not fixed or where there is any dispute about reasonable rate of charter hire, the freight or, as the case may be, charter hire, shall be paid at such rates as may be fixed by the Director-General by an order in writing.

(3) Where in pursuance of the proviso to sub-section (2), the Director-General makes any order fixing rates of freight or charter hire, he shall determine reasonability of such rates of freight or charter hire by examining such witnesses, documents and accounts as he may deem necessary.

356M. Oil Pollution cess-- (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, there shall be levied on every ship calling at any port in India being a ship which carries oil as cargo, a cess to be called Oil Pollution Cess (hereafter in this Part referred to as cess) at such rate not exceeding fifty paise,--

(a) in respect of each tonne of oil imported by a ship into India in bulk as a cargo;

(b) in respect of each tonne of oil shipped from any place in India in bulk as a cargo of a ship.

as the Central Government may, by notification in the Official Gazette, fix.

Provided that no cess shall be levied on a ship at any port if the ship produces evidence of having paid such levy at the same or any other port in India within a period of three months immediately preceding its present call at the port.

(2) The cess shall be collected by such officers and in such manner as the Central Government may prescribe in this behalf and shall, after deduction of such costs of collection, if any, as the Central Government may determine, be paid to such authority as the Central Government may specify.

(3) The proceeds of the cess shall, after due appropriation made by Parliament by law, be utilised for the purpose of providing oil reception facilities and equipments and materials for combating oil pollution at various ports in India and for such other like purposes as the Central Government may, by Notification in the Official Gazette, from time to time, specify.

356N. Refusal of port clearance-- The officer whose duty it is to grant a port clearance for any ship shall not grant the port clearance until the amount of cess payable under section 356M has been paid or until security for the payment thereof has been given to his satisfaction.

356O. Power to make rules-- (1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may--

(a) prescribe the specification of heavy diesel oil for the purpose of sub-clause (iii) of clause (j) of section 356B;

(b) prescribe the equipment to be fitted in Indian ships and other requirements to be complied with by those ships for the purpose of section 356E;

(c) prescribe the forms of oil record books for tankers and other ships, the manner in which such books shall be maintained, the nature of the entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto for the purposes of section 356F;

(d) prescribe the fees which may be levied for inspection of oil monitoring system oily water separator, oil content \*metre, crude oil washing system, inert gas system or other equipments or contrivances carried out on board for preventing pollution of the sea by oil and the manner in which such fees may be collected.

(e) specify the officers who shall collect the cess and the manner in which the cess shall be collected.]

## **PART XII Investigations And Inquiries**

390. Definition of "coasts"

391. Receivers of wreck

392. Duty of receiver where vessel is in distress

393. Power to pass over adjoining lands

394. Power of receiver of wreck to suppress plunder and disorder by force

395. procedure to be observed by persons finding wreck

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397. Notice to be given by receiver

398. Immediate sale of wreck by receiver in certain cases

399. Claims of owners of wreck

400. Prohibition of certain acts in respect of wreck BACK

401. Search warrants where wreck is concealed Salvage

402. Salvage payable for saving life, cargo or wreck

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404. Power to make rules respecting wreck and salvage

357. Definition of "coasts"-- In this part, the word "coasts" includes the coasts of creeks and tidal rivers.

358. Shipping casualties and report thereof-- (1) For the purpose of investigations and inquiries under this Part, a shipping casualty shall be deemed to occur when--

(a) on or near the coasts of India, any ship is lost, abandoned, stranded or materially damaged;

(b) on or near the coasts of India, any ship causes loss or material damage to any other ship;

(c) any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of India;

(d) in any place, any such loss, abandonment, stranding, material damage or casualty as above mentioned occurs to or on board any Indian ship, and any competent witness thereof is found in India;

(e) any Indian ship is lost or is supposed to have been lost, and any evidence is obtainable in India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship at the time of the shipping casualty, and in the cases mentioned in the clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in India from the place where the shipping casualty has occurred, the master of the ship, shall, on arriving in India, give immediate notice of the shipping casualty to the officer appointed in this behalf by the Central Government.

359. Report of shipping casualties to Central Government-- (1) Wherever any such officer as is referred to in sub-section (2) of section 358 receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Central Government; and may proceed to make a preliminary inquiry into the casualty.

(2) An officer making a preliminary inquiry under sub-section (1) shall send a report thereof to the Central Government or such other authority as may be appointed by it in this behalf.

360. Application to court for formal investigation-- The officer appointed under sub-section (2) of section 358, whether he has made a preliminary inquiry or not, may, and, where the Central Government so directs, shall make an application to a court empowered under section 361, requesting it to make a formal investigation into any shipping casualty, and the court shall thereupon make such investigation.

361. Court empowered to make formal investigation-- [A Judicial Magistrate of the first class] specially empowered in this behalf by the Central Government and a [Metropolitan Magistrate] shall have jurisdiction to make formal investigations into shipping casualties under this Part.

362. Power of court of investigation to inquire into charges against masters, mates and engineers-- (1) Any court making a formal investigation into a shipping casualty inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer, in the course of an investigation, the court shall before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

363. Power of Central Government to direct inquiry into charges of incompetency or misconduct-- (1) If the Central Government has reason to believe that there are grounds

for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Central Government,--

(a) if the master, mate or engineer holds a certificate under this Act, in any case;

(b) if the master, mate or engineer holds a certificate under the law of any country outside India, in any case where the incompetency or misconduct has occurred on board an Indian ship;

may transmit a statement of the case to any court having jurisdiction under section 361, which is at or nearest to the place where it may be convenient for the parties and witness to attend, and may direct that court to make an inquiry into that charge.

(2) Before commencing the inquiry, the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Central Government.

364. Opportunity to be given to person to make defence-- For the purpose of any inquiry under this Part into any charge against a master, mate or engineer, the court may summon him to appear, and shall give him an opportunity of making a defence either in person or otherwise.

365. Power of court as to evidence and regulation of proceedings-- [(1) For the purpose of any investigation or inquiry under this Part, the court making the investigation or inquiry shall, in respect of compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, have the same powers as are exercisable by that court in the exercise of its criminal jurisdiction.

[(2) Subject to any rules made in this behalf by the Central Government, the court making an investigation or inquiry under this Part may, if it thinks fit, order the payment, on the part of that Government, of the reasonable expenses of any witness attending for the purposes of such investigation or inquiry before such court.]

366. Assessors-- (1) A court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs.

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the court by this Part or any other law for the time being in force shall rest with the court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the Central Government.

367. Power to arrest witnesses and enter ships-- If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting

the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Central Government, to enter any vessel, and any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer or police or customs or any other person.

368. Power to commit for trial and bind over witnesses-- Whenever, in the course of any such investigation or inquiry, it appears that any person has committed in India an offence punishable under any law in force in India, the court making the investigation or inquiry may (subject to such rules consistent with this Act as the High Court may from time to time make) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper court, and may bind over any person to give evidence at the trial, and may, for the purpose of this section exercise all its powers as a criminal court.

369. Report by court to Central Government-- (1) The court shall, in the case of all investigations or inquiries under this Part, transmit to the Central Government a full report of the conclusions at which it has arrived together with the evidence.

(2) Where the investigation or inquiry affects a master or an officer of a ship other than an Indian ship who holds a certificate under the law of any country outside India, the Central Government may transmit a copy of the report together with the evidence to the proper authority in that country.

[(3) The Central Government shall, on receipt of the investigation report from the court, cause it to be published in the Official Gazette.]

370. Powers of court as to certificate granted by the Central Government-- (1) A certificate of a master, mate or engineer which has been granted by the Central Government under this Act may be cancelled or suspended--

(a) by a court holding a formal investigation into a shipping casualty under this Part if the court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

(b) by a court holding an inquiry under this Part into the conduct of the master, mate or engineer if the court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the court cancels or suspends a certificate, the court shall forward it to the Central Government together with the report it is required by this Part to transmit to it.

371. Power of court to censure master, mate or engineer-- Where it appears to the court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 370 is not justified, the court may pass an order censuring the master, mate or engineer in respect of his conduct.

372. Power of court to remove master and appoint new master-- (1) A [judicial Magistrate of the first class] specially empowered in this behalf by the Central



Government or a [Metropolitan Magistrate], may remove the master of any ship within his jurisdiction if the removal is shown to his satisfaction to be necessary.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated officer or of one third or more of the crew of the ship.

(3) The [Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within his jurisdiction, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The [Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] may also make such order and require such security in respect of the costs of the matter as he thinks fit. Marine Board

### 373. Convening of Marine Boards outside India-- Whenever--

(a) a complaint is made to an Indian consular officer or a senior officer of any ship of the Indian Navy in the vicinity (hereinafter referred to as naval officer) by the master or any member of the crew of an Indian ship and such complaint appears to the Indian consular officer or naval officer, as the case may be, to require immediate investigation; or

(b) the interest of the owner of an Indian ship or of the cargo thereof appears to an Indian consular officer or naval officer, as the case may be, to require it; or

(c) an allegation of incompetency or misconduct is made to an Indian consular officer or a naval officer, against the master or any of the officers of an Indian ship; or

(d) any Indian ship is lost, abandoned or stranded at or near the place where an Indian consular officer or naval officer may be or whenever the crew or part of the crew of any Indian ship which has been lost, abandoned or stranded arrives at that place; or

(e) any loss of life or any serious injury to any person has occurred on board an Indian ship at or near that place; the Indian consular officer or the naval officer, as the case may be, may, in his discretion, convene a Board of Marine Inquiry to investigate the said complaint or allegation or the matter affecting the said interest or the cause of the loss, abandonment or the stranding of the ship or of the loss of life or of the injury to the person.

### 374. Constitution and procedure of Marine Board-- (1) A Marine Board shall consist of the officer convening the Board and two other members.

(2) The two other members of the Marine Board shall be appointed by the officer convening the Marine Board from among persons conversant with maritime or mercantile affairs.

(3) The officer convening the Marine Board shall be the presiding officer thereof.

(4) A Marine Board shall, subject to the provisions of this Act, have power to regulate its own procedure.

### 375. Decisions of Marine Board to be by majority-- Where there is a difference of opinion among members of the Marine Board, the decision of the majority of the members shall be the decision of the Board.

376. Powers of Marine Board-- (1) A Marine Board may, after investigating and hearing the case--

(a) if it is of opinion that the safety of an Indian ship or her cargo or crew or the interest of the owner of an Indian Ship or of the owner of the cargo thereof requires it, remove the master and appoint another qualified person to act in his stead;

(b) if it is of opinion that any master or officer of an Indian ship is incompetent or has been guilty of any act of misconduct or in a case of collision has failed to render such assistance or give such information as is required by section 348 or that loss, abandonment or stranding of or serious damage to any ship, or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of an Indian ship, suspend the certificate of that master or ship's officer for a stated period.

Provided that no such certificate shall be suspended unless the master or officer concerned has been furnished with a statement of the case in respect of which investigation has been ordered and he has also been given an opportunity of making a defence either in person or otherwise;

(c) discharge a seaman from an Indian ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;

(d) decide any questions as to wages, fines or forfeitures arising between any of the parties to the proceedings;

(e) direct that any or all of the costs incurred by the master or owner of an Indian ship or on the maintenance of a seaman or apprentice while in prison outside India shall be paid out of, and deducted from, the wages of that seaman or apprentice, whether earned or subsequently earned;

(f) if it considers such a step expedient, order a survey to be made of any Indian ship which is the subject of investigation;

(g) order the costs of proceedings before it or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid by any person shall be paid by that person accordingly and may be recovered in the same manner in which wages of seaman are recoverable or may be deducted from the wages due to that person.

(2) All orders made by a Marine Board shall, whenever practicable, be entered in the official log book of the ship which is the subject of investigation or on board which the casualty or occurrence or conduct investigated took place, and be signed by the presiding officer of the Board. Miscellaneous provisions relating to cancellation and suspension of certificates.

377. Powers of Central Government to cancel, suspend, etc., certificate of master, mate or engineer-- (1) Any certificate which has been granted by the Central Government under this Act to any master, mate or engineer may be cancelled or suspended for any specified period, by the Central Government in the following cases, that is to say,--

(a) if, on any investigation or inquiry made by any court, tribunal or other authority for the time being authorised by the legislative authority in any country outside India, the court, tribunal or other authority reports that the master, mate or engineer is

incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or in a case of collision has failed to render assistance, or to give such information as is referred to in section 348, or that the loss, stranding or abandonment of, or damage to, any ship or loss of life has been caused by his wrongful act or default;

(b) if the master, mate or engineer is proved to have been convicted--

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in India: or

(ii) of an offence committed outside India which, if committed in India would be a non-bailable offence;

(c) if (in the case of a master of an Indian ship) he has been suspended by the order of any court of competent jurisdiction in India or outside India.

(1A) Any certificate within the meaning of clause (b) of section 87A may be cancelled or suspended for any specified period by the Central Government if the person to whom such certificate has been granted has contravened the provisions of sub-section (1) or sub-section (2) of section 87B.

Provided that no order under this sub-section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.]

(2) The Central Government may at any time, if it thinks the justice of the case so requires,--

(a) revoke any order of cancellation or suspension made by it under [sub-section (1) or sub-section (1A) or] set aside any order of cancellation or suspension made by a court under section 370 or any order of suspension made by a Marine Board under clause (b) of sub-section (1) of section 376 or any order of censure made by a court under section 371; or

(b) shorten or lengthen the period of suspension ordered by it under [sub-section (1) or sub-section (1A) or] by a court under section 370 or by a Marine Board under clause (b) of sub-section (1) of section 376 or cancel a certificate suspended by a Marine Board under that clause; or

(c) grant without examination a new certificate of the same or any lower grade in the case of any certificate cancelled or suspended by it under [sub-section (1) or sub-section (1A) or] by a court under section 370 or any certificate suspended by a Marine Board under clause (b) or sub-section (1) of section 376.

Provided that no order under clause (b) either lengthening the period of suspension of or cancelling a certificate shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

(3) A certificate granted under clause (c) of sub-section shall have the same effect as if it had been granted after examination.

378. Delivery of Indian certificate cancelled or suspended--- A master or ship's officer who is the holder of a certificate issued under this Act shall, if such certificate has been cancelled or suspended by the Central Government or by a court or suspended by a

Marine Board, deliver his certificate to the Central Government, court or Marine Board on demand or if it is not so demanded by the Central Government or court or Board, to the Director-General.

379. Effect of cancellation or suspension of certificate-- The cancellation or suspension of a certificate by the Central Government or by a court or the suspension of a certificate by a Marine Board, shall--

(a) if the certificate was issued under this Act, be effective everywhere and in respect of all ships; and

(b) if the certificate was issued outside India, be effective--

(i) within India and the territorial waters of India, in respect of all ships; and

(ii) outside India, in respect of Indian ships only.

380. Suspended certificate not to be endorsed-- If the certificate of a master or ship's officer is suspended under this Part by the Central Government or by a court or a Marine Board, no endorsement shall be made to that effect on the said certificate.

381. Power of Central Government to cancel or suspend other certificates-- Notwithstanding anything contained in this Act, the Central Government may, at any time, without any formal investigation or inquiry, cancel or suspend any certificate granted by it under this Act, other than a certificate granted to a master, mate or engineer, if, in its opinion, the holder is, or has become, unfit to act in the grade for which the certificate was granted to him.

Provided that no order under this section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed. Re-hearing of cases

382. Re-hearing-- (1) Whenever an investigation or inquiry has been held by a court or by a Marine Board under this Part, the Central Government may order the case to be re-heard either generally or as to any part thereof, and shall so order--

(a) if new and important evidence which could not be produced at the investigation has been discovered, or

(b) if for any other reason there has, in its opinion, been a miscarriage of justice.

(2) The Central Government may order the case to be re-heard by the court or Marine Board, as the case may be, consisting of the same members or other members as the Central Government may deem fit. Courts of survey

383. Constitution of court of survey-- (1) A court of survey of a port shall consist of a judge sitting with two assessors.

(2) The judge shall be a district judge, judge of a court of small causes, [Metropolitan Magistrate, Judicial Magistrate of the first class] or other fit person appointed in this behalf by the Central Government either generally or for any specified case.

(3) The assessors shall be persons of nautical, engineering or other special skill or experience.

(4) Subject to the provisions of Part IX as regards ships other than Indian ships, one of the assessors shall be appointed by the Central Government either generally or in each case and the other shall be summoned by the judge in the manner prescribed out of a list of persons from time to time prepared for the purpose by the Central Government or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the judge.

384. Appeal from surveyor to court of survey-- (1) If a surveyor authorised to inspect a ship--

( a) makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied, or

(b) gives notice under this Act of any defect in any ship, or

(c) declines to give any certificate under this Act,

the owner, master or agent, as the case may be, may, subject to the provisions of subsection (2) and of section 387, appeal to a court of survey.

(2) Whenever a surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the surveyor as to the statement made or the notice given by the surveyor or the refusal by the surveyor of the refusal by the surveyor to give a certificate, there shall be no appeal to a court of survey, from that statement, notice or refusal.

385. Powers and procedure of court of survey-- (1) The judge shall on receiving notice of appeal or a reference from the Central Government immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The court of survey shall hear every case in open court.

(3) The judge may appoint any competent person to survey the ship and report thereon to the court.

(4) The judge shall have the same powers as the Central Government has to order the ship to be released or finally detained; but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(5) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Central Government may attend any inspection or survey made in pursuance of this section.

(6) The judge shall report the proceedings of the court in each case to the Central Government in the manner prescribed and each assessor shall either sign such report or report to the Central Government the reasons for his dissent.

386. Power to make rules-- The Central Government may make rules for carrying out the purpose of this Part with respect to a court of survey and in particulars, and without prejudice to the generality of the foregoing power, with respect to--

(a) the procedure of the court;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs. Scientific referees

387. Reference in difficult cases to scientific persons-- (1) If the Central Government is of opinion that an appeal to a court of survey involves a question of construction or design or a scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Central Government as may appear to possess the special qualification necessary for the particular case and may be selected by agreement between a person duly appointed by the Central Government in this behalf and the appellant, or in default of any such agreement, by the Central Government; and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.

(2) The Central Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a judge of the court of survey. Investigations into explosions or fires on board ships

388. Power to investigate causes of explosion or fire on board ship--

Whenever any explosion or fire occurs on board any ship on or near the coasts of India, the Central Government may direct that an investigation into the causes of explosion or fire be made by such person or persons as it thinks fit.

389. Report to be made regarding cause of explosion or fire-- The person or persons referred to in section 388 may go on board the ship on which the explosion or fire has occurred with all necessary workmen and labourers, and remove any portion of the ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Central Government or the person duly appointed by it, as the case may be, what in his or their opinion was the cause of the explosion or fire.

### **PART XIII Wreck And Salvage**

(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 for warehousing;

and the proceeds of the sale shall, after defraying the expenses thereof, 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.

399. Claims of owners to wreck-- (1) The owner of any wreck in the possession of the receiver upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

(2) Where any articles belonging to or forming part of a vessel other than an Indian vessel which has been wrecked or belonging to and forming part of the cargo of such vessel, are found on or near the coasts of India or are brought into any port in India, the consular officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within one year from the date of sale, the said balance shall become the property of the Central Government.

400. Prohibition of certain acts in respect of wreck-- No person shall--

(a) without the leave of the master board or attempt to board any vessel which is wrecked, stranded or in distress as aforesaid, unless the person is, or acts by command of, the receiver of wreck; or

(b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the coasts of India or of any part of the cargo or equipment of the vessel, or of any wreck ; or

(c) secrete any wreck or deface or obliterate any marks thereon; or

(d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, on or near the coasts of India, or any part of the cargo or equipment of the vessel or any wreck.

401. Search warrants where wreck is concealed-- Where a receiver of wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to the nearest [judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be,] for a search warrant, and that magistrate shall have power to grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place wherever situate and also any vessel and search for, seize and detain any such wreck there found. SALVAGE

402. Salvage payable for saving life, cargo or wreck-- (1) Where services are rendered--

(a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered in India ; or

(b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of India; or

(c) by any person other than the receiver of wreck in saving any wreck;

there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.

(3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Indian Navy [or of the Coast Guard] or the commander or crew of any such

vessel, the Government, the commander of the crew, as the crew may be, shall be entitled to salvage and shall have the same rights and remedies in respect of those services as any other salvor.

[Explanation-- "Coast Guard" means the Coast Guard constituted under section 3 of the Coast Guard Act, 1978 (30 of 1978).]

(4) Any dispute arising concerning the amount due under this section shall be determined upon application made by either of the disputing parties--

(a) to a [Judicial magistrate of the first class or a Metropolitan Magistrate, as the case may be,] where the amount claimed does not exceed ten thousand rupees; or

(b) to the High Court, where the amount claimed exceeds ten thousand rupees.

(5) Where there is any dispute as to the persons who are entitled to the salvage amount under this section, [the Judicial Magistrate of the first class or the Metropolitan Magistrate or the High Court, as the case may be,] shall decide the dispute and if there are more persons than one entitled to such amount, [such Magistrate] or the High Court shall apportion the amount thereof among such persons.

(6) The costs of and incidental to all proceedings before [a Judicial Magistrate of the first class or a Metropolitan Magistrate] or the High Court, and [such magistrate] or the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

403. Savings-- Nothing in this Part shall--

(a) effect any treaty or arrangement with any foreign country to which India is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or

(b) affect the provisions of section 29 of the Indian Ports Act, 1908 (15 of 1908), or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

404. Power to make rules respecting wreck and salvage-- (1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the procedure to be followed by a receiver of wreck in respect of the taking possession of wrecks and their disposal;

(b) the fees payable to receivers in respect of the work done by them;

(c) the procedure to be followed for dealing with claims relating to ownership of wrecks;

(d) the appointment of valuers in salvage cases;

(e) the principles to be followed in awarding the salvages and the apportioning of salvage;



(f) the procedure to be followed for dealing with claims for salvage;

(g) the detention of property in the custody of a receiver of wreck for the purpose of enforcing payment of salvage.

## **PART XIV Control Of Indian Ships And Ships Engaged In Coasting Trade**

405. Application of Part-- This part applies only to sea-going ships fitted with mechanical means of propulsion of not less than one hundred and fifty tons gross; but the Central Government may, by notification in the Official Gazette, fix any lower tonnage for the purpose of this Part.

406. Indian ships and Chartered ships to be licensed-- (1) No Indian ships and no other ship chartered by a citizen of India or a company [or a co-operative society] shall be taken to sea from a port or place within or outside India except under a licence granted by the Director-General under this section.

Provided that the Central Government, if it is of opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt any class of ships chartered by a citizen of India or a company [or a co-operative society] from the provisions of this sub-section.

(2) A licence granted under this section may be--

(a) a general licence;

(b) a licence for the whole or any part of the coasting trade of India; or

(c) a licence for a specified period or voyage.

(3) A licence granted under this section shall be in such form and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General.

407. Licensing of ships for coasting trade-- (1) No ships other than an Indian ship or a ship chartered by a citizen of India [or a company or a co-operative society which satisfies the requirements specified in clause (b) or, as the case may be, clause (c) of section 21], shall engage in the coasting trade of India except under a licence granted by the Director-General under this section.

(2) A licence granted under this section may be for a specified period or voyage and shall be subject to such conditions as may be specified by the Director-General.

(3) The Central Government may, by general or special order, direct that the provisions of sub-section (1) shall not apply in respect of any part of the coasting trade of India or shall apply subject to such conditions and restrictions as may be specified in the order.

408. Revocation or modification of licence-- (1) The Director-General may, at any time if the circumstances of the case so require, revoke or modify a licence granted under section 406 or section 407.

(2) No licence shall be revoked or modified under this section unless the person concerned has been given a reasonable opportunity of making a representation against such revocation or modification, as the case may be.

409. License to be surrendered when they cease to be valid-- When a licence under section 406 or section 407 ceases to be valid, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the Director-General.

410. No port clearance until licence is produced-- No customs collector shall grant a port clearance to a ship in respect of which a licence is required under this Part until after production by the owner, master or agent of such a licence.

411. Power to give directions-- The Director-General may, if he is satisfied that in the public interest or in the interests of Indian shipping it is necessary so to do, give, by order in writing, such directions as he thinks fit--

(a) in the case of a ship which has been granted a licence under section 406, with respect to all or any of the following matters:--

(i) the ports or places, whether in or outside India, to which, and the routes by which, the ship shall proceed for any particular purpose;

(ii) the diversion of any ship from one route to another for any particular purpose;

(iii) the classes of passengers or cargo which may be carried in the ship;

(iv) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside India;

(b) in the case of a ship which has been granted a licence under section 407 with respect to the order of priority in which passengers or cargo may be taken on the ship at any port or place in India from which she is about to proceed for any port or place on the continent of India at which she is to call in the course of her voyage.

[411A. Powers of the Central Government to protect interests of Indian shipping from undue foreign intervention-- (1) If it appears to the Central Government--

(a) that measures have been taken by or under the law of any foreign country for regulating or controlling the terms or conditions upon which goods or passengers may be carried by sea, or the terms or conditions of contracts or arrangements relating to such carriage; and

(b) that such measures, in so far as they apply to things done to be done outside the territorial jurisdiction of the country by persons carrying on lawful business in India, constitute an infringement of the jurisdiction which belongs to India.

It may, by an order in writing, direct that this section shall apply to those measures either in whole or to such extent as may be specified in the order.

(2) Where an order issued under sub-section (1) is in force in relation to any measures, it shall be the duty of every person in India who carries on business consisting or comprising of the carriage of goods or passengers by sea to give notice to the Central Government of any requirement or prohibition imposed or threatened to be imposed on him pursuant to such measures so far as this section applies to him, including any requirement to submit any contract or other document for approval thereunder.

(3) Where a notice under sub-section (2) is received from any person or there are grounds to believe that a notice is likely to be received, the Central Government may, by an order in writing, give to such person directions prohibiting compliance with any such requirement or prohibition as it considers proper for maintaining the jurisdiction of India.

(4) Any directions given by the Central Government under sub-section (3) may be either general or special and may prohibit compliance with any requirement or prohibition either absolutely or in such cases or subject to such conditions, as to consent or otherwise, as may be specified in the order.

(5) If it appears to the Central Government that any person in India has been or may be required to produce or furnish to any court, tribunal or authority of a foreign country any commercial document which is not within the territorial jurisdiction of that country or any commercial information to be complied from documents not within the territorial jurisdiction of that country and that the requirement constitutes or would constitute or would constitute an infringement of the jurisdiction which belongs to India, the Central Government may, by an order in writing, give directions to that person, prohibiting him from complying with the requirement except to such extent or subject to such conditions as may be specified in the order.] \* \* \* \* \*

413. Power of Director-General to call for information-- The Director- General may, by notice, require--

(a) the owner, master or agent of any ship in respect of which a licence granted by the Director-General under this Act is in force; or

(b) the owner, master or agent of any ship in respect of which any directions have been or may be given under clause (b) of section 411; to furnish within the period specified in the notice information as to--

(i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any specified period;

(ii) the rates of passengers fares and freight charges applicable to the ship;

(iii) any other matter which may be prescribed.

414. Power to make rules-- (1) The Central Government may make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the form in which, the period or voyage for which, and the conditions subject to which licences under this Part may be granted, the particulars to be included therein and the fees payable therefor;

(b) and (c) omitted by the Act 68 of 1993\* \* \* \* \*

(d) the matters regarding which information may be required to be furnished under section 413

## **PART XV Sailing Vessels**

- 415. Application of part
- 416. Decision of question whether a vessel is a sailing vessel
- 417. Certificate for registry
- 418. Particulars relating to sailing vessel to be painted
- 419. Change of name of sailing vessel
- 420. Prevention of overloading or overcrowding
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- 423. Registry of alterations
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- 425. Closure of registry
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- 429. Statement relating to crew of sailing vessel to be maintained
- 430. Inquiry into jettisoning of cargo
- 431. Non-Indian sailing vessel not to engage in coasting trade without permission
- 432. Detention of overload non-Indian sailing vessels
- 433. Power of courts to rescind contracts between owner and tindal
- 434. Application to sailing vessels of other provisions relating to ships
- 434A Insurance of members of crew of a sailing vessel
- 434B Policy of Insurance
- 435. Power to make rules respecting sailing vessels

415. Application of Part-- Save as otherwise provided, this Part applies to every sea-going sailing vessel owned by a citizen of India [or company or a co-operative society whcih satisfies the requirements specified in clause (b) or, as the case may be, clause (c) of section 21].

416. Decision of question whether a vessel is a sailing vessel-- If any question arises whether a vessel is a sailing vessel or not for the purposes of this Part, it shall be decided by the Director-General and his decision thereon shall be final.

417. Certificate of registry-- (1) Every sailing vessel [(other than a sailing vessel solely engaged in fishing for profit)] shall be registered in accordance with the provisions of this section.

(2) The owner of every sailing vessel shall make an application in the prescribed form to a registrar for the grant to him of a certificate or registry in respect of the vessel.

(3) The owner of every sailing vessel in respect of which an application under sub-section (2) is made, shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as sailing vessels register) the following particulars in respect of the vessel, namely:--

(a) the name of the sailing vessel, the place where she was built, and the port to which she belongs;

(b) the rig, type and tonnage of the vessel;

(c) the name, occupation and residence of the owner of the vessel;

(d) the number assigned to the vessel;

(e) the mortgages, if any, effected by the owner in respect of the vessel;

(f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the sailing vessels register under sub-section (4), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(6) The owner of every sailing vessel shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government having regard to the tonnage of the vessel, but in no case exceeding one rupee per ton of its gross tonnage.

(7) A sailing vessel requiring to be registered under this Part but not so registered may be detained by a proper officer until the owner of the vessel produces a certificate of registry in respect of the vessel.

418. Particulars relating to sailing vessel to be painted-- The owner of every sailing vessel so registered shall, before the vessel begins to take any cargo or passengers, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the sailing vessel, the name by which the vessel has been registered, the number assigned to the vessel by the registrar and the port to which she belongs, and shall take all steps to ensure that the vessel remains painted as required by this section.

419. Change of name of sailing vessel-- A change shall not be made in the name of a sailing vessel registered under this Part except in accordance with the rules made in this behalf.

420. Prevention of over-loading or over-crowding-- (1) The Central Government may make rules regulating the carriage of cargo or passengers in sailing vessels and the protection of life and property on board such vessels.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the assignment of free board to sailing vessels;

(b) the marking of such free board on such vessels and the maintenance of such markings;

(c) the survey of the space allotted to passengers on board such vessels;

(d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to ply or proceed to sea without free board markings or any sailing vessel which has been so loaded as to submerge such markings may be detained by a proper officer until free board markings are made in accordance with the rules made in this behalf or the vessel is so loaded that such markings are not submerged.

(4) Nothing in this section relating to free board, shall apply to any sailing vessel in respect of which a load line has been assigned under Part IX.

421. Certificate of inspection-- (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of that vessel a certificate of inspection granted under this Part, the same being applicable to the voyage on which she is about to ply or proceed.

(2) A certificate of inspection in respect of a sailing vessel shall specify--

(a) the name and tonnage of the vessel;

(b) the names of the owner and tindal of the vessel;

(c) the maximum number of the crew and the maximum number of passengers which the vessel is fit to carry;

(d) the limits within which the vessel may be used for the purpose of trading and the terms and condition subject to which she may be use for such trading;

(e) the particulars of the free board assigned to the vessel;

and shall contain a statement to the effect that her hull, rigging and equipment (including auxiliary machinery, if any) are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein.

Provided that where a sailing vessel is on a voyage outside India at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port in India after the expiry of such period.

(4) No customs collector shall grant a port clearance to a sailing vessel registered under this Part until after the production by the owner or tindal thereof of a certificate of inspection granted under this Part in respect of the vessel.

422. Cancellation, re-issue, etc., of certificate of inspection-- (1) Where at any time subsequent to the issue of a certificate of inspection in respect of a sailing vessel, the Director-General has reason to believe that the vessel is not fit to ply or proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(2) Where at any time subsequent to the issue of a certificate of inspection a sailing vessel has undergone material alteration or has met with accident or, where the certificate of inspection of a sailing vessel has been cancelled under sub-section (1) and an application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to ply or proceed to sea or that her hull, rigging and equipment (including auxiliary machinery, if any) are defective, such certificate shall not be re-issued or issued until the vessel is, in the opinion of such authority, fit to ply or proceed to sea or the defect is rectified to the satisfaction of such authority.

423. Registry of alterations-- When a sailing vessel is so altered as not to correspond with the particulars relating to her entered in the certificat of registry, the owner of such vessel shall make a report of such alteration to the registrar of the port where the vessel is registered, and the registrar shall either cause the alteration to be registered, or direct that the vessel be registered a new, in accordance with such rules as may be made in this behalf.

424. Transfer or registry-- The registry of a sailing vessel may be transferred from one port to another in India on the application of the owner or tindal of the vessel in accordance with such rules as may be made in this behalf.

425. Closure of registry-- If a sailing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall with the least practicable delay report the fact to the registrar of the port where the vessel is registered and also forward to him along with the report, the certificate of registry in respect of the vessel; and thereupon the registrar shall have the registry of the vessel closed.

426. Restrictions on transfer of sailing vessels-- No person shall transfer or acquire any sailing vessel registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

427. Mortgages of sailing vessels-- (1) Every mortgage of a sailing vessel or of any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of a sailing vessel or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months of that date.

(3) The registry shall enter every such mortgage in the sailing vessel register in the order in which it is registered with him.

(4) If there are more mortgage than one recorded in respect of the same sailing vessel or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself.

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the same vessel or interest therein effected before such date which are registered in accordance with the provisions of sub-section (2)

428. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited--

(1) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of a sailing vessel for any purpose other than the lawful navigation of the vessel.

(2) No person shall use or attempt to use for the navigation of a sailing vessel a certificate of registry or a certificate of inspection not granted in respect of that vessel.

(3) No person who has possession or under his control the certificate of registry or the certificate of inspection of a sailing vessel shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the vessel.

429. Statement relating to crew of sailing vessel to be maintained-- (1) Every owner or tinal of a sailing vessel shall maintain or cause to be maintained in the prescribed form a statement of the crew of the vessel containing with respect to each member thereof--

(a) his name;

(b) the wages payable to him;

(c) the names and addresses of his next-of-kin;

(d) the date of commencement of his employment; and

(e) such other particulars as may be prescribed.

(2) Every change in the crew of the vessel shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port of registry of the vessel concerned.

430. Inquiry into jettisoning of cargo-- (1) If any owner or tinal of a sailing vessel in the course of her voyage, has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port in India give notice of such jettisoning to the proper officer at such port; and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.



(2) When any such officer receives notice under sub-section (1) or has reason to believe that the cargo of any sailing vessel in his port has been jettisoned, he shall forthwith report in writing to the Central Government the information he has received and may proceed to make an inquiry into the matter.

431. Non-Indian sailing vessels not to engage in coasting trade without permission-- (1) A sailing vessel not owned by a citizen of India [or a company or the co-operative society which satisfies the requirements specified in clause (b) or, as the case may be, clause (c) of section 21], shall not engage in the coasting trade of India without the written permission of the Director-General.

(2) The Director-General may, when granting such permission, impose such terms and conditions as he thinks fit and may require the owner or other person in charge of the vessel to deposit with him such amount as he thinks necessary for the due fulfilment of such terms and conditions.

(3) No customs collector shall grant a port clearance to a sailing vessel not registered under this Part which engages or attempts to engage in the coasting trade of India until after the production by the owner or person in charge thereof of the written permission of the Director-General.

432. Detention of over-loaded non-Indian sailing vessels-- (1) If any sailing vessel registered in any country outside India arrives in or proceeds from a port or place in India in an overloaded condition the person in charge of the vessel shall be guilty of an offence under this section.

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section--

(a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or

(b) in case no such certificate has been issued in respect of the vessel, where the actual free board of the vessel is less than the free board which would have been assigned to her had she been registered under this Part.

(3) Any sailing vessel which is in an overloaded condition and is about to proceed from a port or place in India may be detained until she ceases to be in an overloaded condition; but nothing herein contained shall affect the liability of the person in charge of the vessel in respect of such overloading under any other provisions of this Act.

433. Power of courts to rescind contracts between owner and tindal-- Where a proceeding is instituted in any court in respect of any dispute between the owner of a sailing vessel and the tindal arising out of or incidental to their relation as such, or is instituted for the purposes of this section, the court, if having regard to all the circumstances of the case it thinks it just to do so, may rescind any contract between the owner and the tindal upon such terms as the court may think just and his power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

434. Application to sailing vessels of other provisions relating to ships-- The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to sailing vessels shall also apply to sailing vessels subject to such conditions, exceptions and modifications as may be specified in the notification.

[434A. Insurance for members of crew of sailing vessel-- (1) Subject to the other provisions of this section and the scheme framed under sub-section (3), the owner of every sailing vessel shall take and keep in force, in accordance with the provisions of the said scheme, a policy of insurance whereby all the members of the crew of such vessel are insured against death or personal injury caused by accident in the course of employment as such members.

(2) It shall be the responsibility of the owner of every sailing vessel to bear the expenses incidental to the taking of the policy of insurance referred to in sub-section (1) and to pay the premiums for keeping it in force.

Provided that the maximum amount which the owner of the sailing vessel shall be liable to pay by way of premiums per year shall not exceed--

(a) where the number of members of the crew is not more than ten, one hundred and fifty rupees;

(b) where the number of members of the crew is more than ten, a sum calculated at the rate of fifteen rupees for each member of the crew.

(3) The Central Government may, by notification in the Official Gazette, frame a scheme providing for the insurance of all persons employed as members of the crew of sailing vessels against death or personal injury caused by accident arising in the course of their employment as such members.

(4) Without prejudice to the generality of the provisions of sub-section (3), a scheme framed under that sub-section may provide for--

(a) the amount which should be payable in the case of personal injury resulting in the death of a member of the crew of a sailing vessel due to accident and in the case of other injuries.

Provided that different amounts may be provided in respect of different personal injuries not resulting in death;

(b) the procedure for payment of such amounts; and

(c) all other matters necessary for giving effect to the scheme.

(5) Where, under the provisions of any other law for the time being in force, compensation is payable in respect of death or personal injury sustained by a member of the crew of a sailing vessel as a result of an accident in the course of his employment as such member, then if the amount payable in the respect of such death or personal injury in accordance with the scheme framed under this section--

(a) is equal to, or more than, the compensation payable under such other law, no compensation shall be payable under such other law,;

(b) is less than the compensation payable under such other law, the compensation payable under such other law shall be reduced by the said amount.

(6) Every scheme framed by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the

session or the successive sessions aforesaid, both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

434B. Policy of Insurance-- (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of the members of the crew of the vessel a policy of insurance complying with the requirements of section 434A and the scheme framed thereunder.

(2) No customs collector shall grant a port clearance to a sailing vessel until after production by the owner of such a policy of insurance.]

435. Power to make rules respecting sailing vessels-- (1) The Central Government may make rules to carry out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which the tonnage of sailing vessels shall be ascertained;

(c) the manner in which free board is to be assigned to sailing vessels and the free board markings are to be made;

(d) the form in which certificates of registry and certificates of inspection may be issued;

(e) the issue of duplicate copies of certificates of registry and certificates of inspection where the originals are destroyed, lost, mislaid, mutilated or defaced;

(f) the manner in which, and the time within which, applications for the registry of alterations in the certificates of registry of sailing vessels shall be reported, the endorsement of the particulars of alteration on the certificates of registry, the grant of provisional certificates in cases where sailing vessels are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(g) the manner in which applications for the transfer of registry of sailing vessels from one port to another in India shall be made and the procedure to be followed by the registrar in connection with such transfer;

(h) the authorities by which sailing vessels are to be inspected and certificates of inspection are to be issued under this Part;

(i) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading;

(j) the fixing of the rates of freight which may be charged by sailing vessels for specified goods or for any class of goods in relation to the coasting trade of India;

(k) the equipment which sailing vessels or any class of sailing vessels should carry including equipment relating to life saving and fire appliances, lights, shapes and signals required by the collision regulations;

(l) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers;

(m) the authority to which information regarding certificates of registry, registry of alterations and issue of fresh certificates of registry under this Part is to be sent by registrars;

(n) the qualifications to be possessed by tindals and other members of the crew of sailing vessels, the issue of permits to tindals and of identity cards to other members of the crew, the conditions for the issue of such permits and identify cards and the cancellation or suspension thereof;

[(o) the fees which may be levied for the issue or re-issue of certificates of registry, for the survey or inspection of sailing vessels before issue of such certificates, for the inspection of sailing vessels and for all other purposes of this Part and the manner in which such fees may be recovered;]

(p) the form in which a contract for chartering a sailing vessel shall be executed;

(q) the form in which a contract for the carriage of goods by sailing vessels shall be executed;

(r) the reservation, in the public interest or in the interest of sailing vessels, of specified commodities for transport by sailing vessels either generally or in specified sectors of the coasting trade or between specified ports and the conditions subject to which such reservation may be made;

(s) any other matter which has to be or may be prescribed.

## **PART XVA Fishing Boats**

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435A. Application of Part-- Save as otherwise provided, this Part applies to every Indian fishing boat.

435B. Definition-- For the purposes of this Part, "Indian fishing boat" means--

(a) every fishing vessel, as defined in clause (12) of section 3;

(b) every sailing vessel, whether or not fitted with mechanical means of propulsion, solely engaged in fishing for profit;

(c) every boat or craft of any other type used solely for fishing which the Central Government may, by notification in the Official Gazette, specify to be a fishing boat for the purposes of this section,

which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of section 21 applies or which satisfies such other requirements as the Central Government may, by notification in the Official Gazette, specify.

435C. Obligation to register-- Every Indian fishing boat shall be registered under this Part.

Provided that any Indian fishing boat registered at the commencement of this Part under Part V or Part XV of this Act or any other law for the time being in force in India shall be deemed to have been registered under this Part.

Provided further that every Indian fishing boat so deemed to have been registered shall be re-registered under this Part within such period from the commencement of this Part as the Central Government may, by notification in the Official Gazette, specify.

Provided also that registration of non-mechanised sailing vessels will commence in different parts on such dates as the Central Government may, by notification in the Official Gazette, specify.

435D. Port of registry-- (1) The ports at which registration of Indian fishing boats shall be made shall be such ports or places in India as the Central Government may, by notification in the Official Gazette, declare to be ports or places of registry under this Part.

(2) The port or place at which an Indian fishing boat is registered for the time being under this Part, shall be deemed to be her port or place of registry and the port or place to which she belongs.

435E. Registrars of Indian fishing boats-- The Central Government may, by notification in the Official Gazette, appoint an officer to be registrar of Indian fishing boats (hereafter in this Part referred to as registrar) at every port or place declared as a port or place of registry under sub-section (1) of section 435D.

435F. Application for registry-- An application for the registry of an Indian fishing boat shall be made--

(a) in the case of an individual, by the person requiring to be registered as owner or by his agent;

(b) in the case of more than one individual requiring to be so registered, by one or more of the persons so requiring or by his or their agent or agents, as the case may be; and

(c) in the case of a company or a co-operative society requiring to be so registered, by its agents;

and the authority of the agent shall be testified in writing, if appointed by an individual under the hand of the person appointing him and, if appointed by a company or a co-operative society under its common seal.

435G. Certificate of registry-- (1) The owner of every Indian fishing boat required to be registered under this Part shall make an application in the prescribed form to the registrar for the grant to him of a certificate of registry in respect of the fishing boat.

(2) The owner of every Indian fishing boat in respect of which an application under sub-section (1) is made, shall cause the tonnage of the fishing boat to be ascertained in the prescribed manner.

(3) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application shall enter in a register to be kept for the purpose (hereinafter referred to as fishing boats register) the following particulars in respect of the Indian fishing boat, namely:--

(a) the name of fishing boat, the place where she was built and the port to which she belongs;

(b) the rig, type and tonnage of the fishing boat;

- (c) the number assigned to the fishing boat;
- (d) the name, occupation and residence of the owner of the fishing boat;
- (e) the mortgages, if any, effected by the owner in respect of the fishing boat; and
- (f) such other particulars as may be prescribed.

(4) After the particulars in respect of the Indian fishing boat have been entered in the fishing boats register under sub-section (3), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(5) The owner of every Indian fishing boat shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government having regard to the tonnage of the fishing boat, but in no case exceeding one rupee per ton of its gross tonnage.

(6) An Indian fishing boat required to be registered under this Part but not so registered may be detained by a proper officer until the owner, skipper, tindal or other person in charge of the fishing boat produces a certificate of registry in respect of the fishing boat.

435H. Particulars relating to Indian fishing boats to be painted-- The owner of every Indian fishing boat so registered shall, before commissioning the fishing boat into service, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the fishing boat, the name by which the fishing boat has been registered, the number assigned to the fishing boat by the registrar and the port or place to which she belongs, and shall take all steps to ensure that the fishing boats remains painted as required by this section.

435I. Change of name of Indian fishing boat-- A change shall not be made in the name of an Indian fishing boat registered under this Part except in accordance with rules made in this behalf.

435J. Special provision for Indian fishing boats-- Every Indian fishing boat registered under this Part shall carry on board such life saving appliances and fire appliances as are prescribed by rules made under section 288, 289 and 457 or under any other provision of this Act, subject to such exemptions as may be specially granted in respect of such fishing boat.

435K. Certificate of inspection-- (1) No Indian fishing boat shall ply or proceed to sea unless there is in force in respect of that fishing boat a certificate of inspection granted under this Part.

(2) A certificate of inspection in respect of an Indian fishing boat shall specify--

- (a) the name and tonnage of the fishing boat;
- (b) the name of skipper, tindal or other person in charge of the fishing boat;
- (c) the maximum number of members of crew the fishing boat is certified to carry;
- (d) the safety equipments and appliances the fishing boat is required to carry on board;
- (e) such other matters as the Central Government may think fit to specify.

and shall contain a statement to the effect that her hull, rigging, equipment and machinery where fitted are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein.

Provided that when an Indian fishing boat is at sea at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port or place in India.

435L. Cancellation, re-issue etc. Of certificate of inspection-- (1) Where at any time subsequent to the issue of a certificate of inspection in respect of an Indian fishing boat, the registrar has reason to believe that the fishing boat is not fit to proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(2) Where at any time subsequent to the issue of a certificate of inspection an Indian fishing boat has undergone material alteration or has met with accident or, where the certificate of inspection has been cancelled under sub-section (1) and the application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such fishing boat to be inspected; and if the authority inspecting the fishing boat reports that she is not fit to proceed to sea or that her hull, rigging or equipment are defective, such certificate shall not be reissued or issued until the fishing boat is, in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of that authority.

435M. Inspection of safety equipments and appliances-- (1) Any surveyor appointed under section 9, any registrar appointed under section 435E or any other officer appointed by the Central Government in this behalf by notification in the Official Gazette may at any reasonable time inspect any Indian fishing boat for the purpose of seeing that she is properly provided with safety equipments and appliances in conformity with the rules referred to in section 435J.

(2) If the surveyor, or, as the case may be, the registrar or other officer appointed under sub-section (1) finds that the Indian fishing boat is not provided with the aforesaid equipments and appliances, he shall give to the owner, skipper or tindal or any other person in charge of the fishing boat a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No Indian fishing boat served with a notice under sub-section (2) shall proceed to sea until it obtains a certificate signed by the surveyor, registrar or other officer appointed under sub-section (1) to the effect that it is properly provided with safety equipments and appliances in conformity with the aforesaid rules.

435N. Registration of alteration-- When an Indian fishing boat is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such fishing boat shall make a report of such alterations to the registrar of the port or place where the fishing boat is registered, and the registrar shall either cause the alterations to be registered, or direct that the fishing boat may be registered anew, in accordance with such rules as may be made in this behalf.

435O. Transfer of registry-- The registry of an Indian fishing boat may be transferred from one port or place to another port or place in India on the application of the owner of the fishing boat, in accordance with such rules as may be made in this behalf.



435P. Closure of registry-- If an Indian fishing boat is lost, destroyed or rendered permanently unfit for service, the owner of such fishing boat shall, with the least possible delay, report the fact to the registrar of the port or place where the fishing boat is registered and also forward to him certificate of registry in respect of the fishing boat; and thereupon the registrar shall have the registry of the fishing boat closed.

435Q. Restriction on transfer of Indian fishing boats-- No person shall transfer or acquire any Indian fishing boat registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section be void and unenforcable.

435R. Mortgage of Indian fishing boats-- (1) Every mortgage of an Indian fishing boat or any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of an Indian fishing boat or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months from that date.

(3) The registrar shall enter every such mortgage in the fishing boats register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same Indian fishing boat or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself.

Provided that nothing contained in this sub-section shall effect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the same fishing boat or interest therein effected before such date which are registered in accordance with the provisions of sub-section (2).

435S. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited-- (1) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of an Indian fishing boat for any purpose other than the lawful operation of that fishing boat.

(2) No person shall use or attempt to use for the operation of an Indian fishing boat, a certificate of registry or a certificate of inspection not granted in respect of that fishing boat.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of an Indian fishing boat shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the fishing boat.

435T. Statement relating to crew of Indian fishing boat to be maintained-- (1) Every owner, skipper, tindal or other person in charge of a mechanised Indian fishing boat of 25 registered tons and above shall maintain or cause to be maintained in the prescribed form a statement of the crew of the fishing boat containing the following particulars with respect to each member thereof, namely:--

(a) his name;

(b) the wages payable to him;

- (c) the names and addresses of his next-of-kin;
- (d) the date of commencement of his employment ; and
- (e) such other particulars as may be prescribed.

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do, and for reasons to be recorded in writing, exempt, by general or special order, any Indian fishing boat or class of Indian fishing boats from the provisions of this sub-section.

(2) Every change in the crew of the Indian fishing boat shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port or place or registry of the Indian fishing boat concerned.

435U. Power to make rules respecting Indian fishing boats-- (1) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which tonnage of an Indian fishing boat shall be ascertained;

(c) the form in which fishing boats register shall be maintained;

(d) the forms in which certificates of registry and certificates of inspection may be issued;

(e) the fees which may be levied for the issue of the re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;

(f) the manner in which the name, number assigned to the Indian fishing boat and name of the port or place to which she belongs shall be painted;

(g) the manner in which any change may be made in the name of an Indian fishing boat;

(h) any exemption from the requirements relating to carriage of safety equipment and appliances by an Indian fishing boat that may be specially granted under section 435J in respect of such fishing boat;

(I) the manner in which alterations in Indian fishing boats shall be reported and applications for the registry of such alterations in the certificates of registry of Indian fishing boats shall be made, the endorsement of the particulars of alterations on the certificates of registry, the grant of provisional certificates in cases where Indian fishing boats are directed to be registered anew, cases in which Indian fishing boats shall be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(j) the manner in which registry of an Indian fishing boat may be transferred from one port or place in India to another port or place in India;

(k) the form in which statement of members of crew of an Indian fishing boat may be maintained;

(l) any other matter which has to be or may be prescribed.

435V. Application to India fishing boats of other provisions relating to ships-- The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to Indian fishing boats shall also apply to Indian fishing boats subject to such conditions, exceptions and modifications as may be specified in the notification.

435W. Fishery data to be furnished by Indian fishing baots-- The Central Government may, by notification in the Official Gazette, require every Indian fishing boat or any specified class of Indian fishing boats to furnish such fishery data to the registrar in such form and at such periodical intervals as may be specified in that notification.

435X. Power of exempt-- Notwithstanding anything contained in this Part, the Central Government may, by order in writing, and upon such conditions as it may think fit to impose, exempt any Indian fishng boat or class of Indian fishing boats or skipper, tindal or member of crew of such fishing boat or class of fishing boats from any specified requirement contained in or prescribed by any rules made in pursuance of any provision of this Part or from any other requirement of this Act extended to Indian fishing boats or to personnel employed on Indian fishing boats by a notification issued under section 435V, if it is satisfied that the requirement is substantially complied with or the compliance with the requirement may be impracticable or unreasonable in the circumstances attending the case.]

## **PART XVI Penalties And Procedure**

### **Penalties**

436. Penalties

### **Procedure**

437. Place of trial

438. Cognizance of offences

439. Jurisdiction of magistrates

440. Special provision regarding punishment

441. Offences by companies

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443. Power to detain foreign ship that has occasioned damage

443. Power to enforce detention of ship

445. Levy of awes, etc. by distress of movable property or ship

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436. Penalties-- (1) Any person who contravenes any provision of this Act or fails to comply with any provision thereof which it was his duty to comply with, shall be guilty of an offence; and if in respect of any such offence no penalty is specially provided in sub-section (2), he shall be punishable with fine which may extend to two hundred rupees.

(2) The offences mentioned in the second column of the following table shall be punishable to the extent mentioned in the fourth column of the same with reference to such offences respectively.

S.No.	Offences	Section of this Act to which offences has reference	Penalties
1	If the owner or Master of an Indian ship fails to comply with or contravenes sub-section(2) of Section 28.	28(2)	Fine which may extend to One thousand rupees.
2	If a person wilfully makes a false statement in the builders certificate referred to in Section 30.	30	Fine which may extend to One thousand rupees.
3	If a person contravenes sub-section (2) of Section 35	35(2)	Fine which may extend to One thousand rupees.
4	If the owner or Master of an Indian ships commits an offence under sub-section(4) of Section 35	35(4)	Fine which may extend to One thousand rupees.
5	If a Master, without reasonable, fails to comply with sub-section(4) of Section 36.	36(4)	Fine which may extend to Five hundred rupees.
6	If a person makes illegal use of a certificate of registry started to have been mislaid, lost, or destroy or if a person is entitled to the certificate of registry obtains it at any time	36(5)	Fine which may extend to One thousand rupees.

	afterwards but fails to delivery the said certificate to the Registrar as required by sub-section(5) of Section 36.		
7	If a Master fails to deliver to the registrar the Certificate of Registry as required by Sub-section (2) or Sub-section (3) of Section 38.	38(2),38(3)	Fine which may extend to One thousand rupees.
8	If an owner fails to comply with sub-section(1) of Section 39 or if a Master fails to comply with a Sub-section (2) of that Section.	39(1),39(2)	Fine which may extend to One thousand rupees.
9	If any person contravenes Sub-section (1) of Section 42.	42(1)	Fine which may extend to One thousand rupees
10	If any person acts or suffers any person under his control to act in contravention of Section 55 or omits to do or suffers any persons under his control to omit to do anything required under that section.	55	Fine which may extend to One thousand rupees; but nothing herein shall affect to detain the ship under sub-section (4) of that Section.
11	If an owner fails to make an application for registering anew a ship or for registering an alteration of a ship under Section 56.	56	Fine which may extend to One thousand rupees, and in addition, a fine which may extend to fifty rupees for everyday during which the offence continues after conviction.
12	If any distinctive national colours except those declared under sub-section(1) of Section 63 are hoisted on board any Indian ship.	63(1)	The Master, owner and the every other person hoisting the colours shall
13	If a person contravenes section 64	64	Imprisonment whcih may extend to two years, or fine which may extend to five thousand rupees, or both
14	If an owner or master contravenes section 65	65	Imprisonment which may extend to two years, or fine which may extend to five thousand rupees, or both
15	If default is made in complying with section 66	66	The master shall be liable to fine which may extend to one thousad rupees
16	If any person in the case of any declaration made in the presence of or produced to a registrar under Part V or in any document or other evidence produced to such 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	General	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both

	(b) utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false.		
17	If-- (a) any person causes a ship or fishing vessel to proceed to sea without the required certificated personnel	General	Imprisonment which may extend to six months or fine which may extend to ten thousand rupees, or both
	(b) any person having been engaged as one of the officers referred to in Section 76 goes to sea as such officer without being duly certificated	76	Imprisonment which may extend to six months or fine which may extend to five thousand rupees, or both
	(c) any master fails to submit the required crew list or fails to report the changes made in the list before commencing the relevant voyage	84(I) (c)	Fine which may extend to five thousand rupees and in addition, a fine which may extend to one thousand rupees for every day during which the offence continues after conviction.]
18	If a master or owner fails to comply with any of the requirements of section 93	93	Fine which may extend to two hundred rupees
19	If master fails without reasonable cause to comply with any of the requirements of section 94	94	Fine which may extend to one hundred rupees
20	If any person acts in contravention of sub-section (2) of section 95 or section 96 or section 97	95(2), 96, 97	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed
21	If a person engages or carries any seaman to sea in contravention of sub-section (2) of section 98 or section 99	98(2), 99	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed.
22	If a master carries any seaman to sea without entering into an agreement with him in accordance with this Act	100	Fine which may extend to one hundred rupees for every seaman in respect of whom the offence is committed
23	If a master enters into agreement with any seaman for a scale of provisions less than the scale fixed under clause (g) of sub-section (2) of section 101	101(2)(g)	Fine which may extend to two hundred rupees
24	If a master fails, without reasonable cause, to comply with any of the requirements of section 105, sub-section (4) of section 106 or section 107	105, 106(4), 107	Fine which may extend to fifty rupees
25	If any person:	109, 110, 111	The master shall be liable to a fine which may extend to fifty rupees;
	(a) is carried to sea to work in contravention of section 109, section 110 or section 111; or		The parent or guardian shall be liable to a fine which may extend to fifty rupees

	(b)is engaged to work in any capacity in a ship in contravention of section 109, section 110 or section 111 on a false representation by his parent or guardian that the young person is of an age at whcih such engagement is not in contravention of those sections		
26	If a master refuses or neglects to produce for inspection any certificate of physical fitness delivered to him under section 111 when required to do so by a shipping master	General	Fine which may extend to fifty rupees
27	If the master of a ship, where there is no agreement with the crew, fails to keep the register of young person required to be kept under section 112 or refuses or neglects to produce such register for inspection when required so to do by a shipping master	General	Fine which may extend to two hundred rupees
28	If the master of a ship other than an Indian ship engages a seaman in India otherwise than in accordance with section 114	114	Fine which may extend to one hundred rupees for every seaman so engaged
29	If any owner, master or agent wilfully disobeys any order under section 115	115	Imprisonment which may extend to three months, or ine which may extend to one thousand rupees, or both
30	If a master fails to comply with section 116	116	Fine which may extend to one hundred rupees
31	If any person obstructs any officer referred to in section 117 in the exercise of his powers under that secton	General	Fine which may extend to one hundred rupees
32	If a master or owner acts in contravention of sub-section (1) or sub-section (2) of section 118	118(1), 118(2)	Fine which may extend to one hundred rupees
33	If a master fails to comply with the provisions of sub-section (1) of section 119, or, without reasonable cause, fails to return the certificate of competency to the officer concerned as required by sub-section (2) of that section	119(1), 119(2)	Fine which may extend to two hundred rupees
34	If a master fails to comply with section 120	120	Fine which may extend to one hundred rupees
35	If any person:	General	Imprisonment which may extent to six months, or fine which may extend to five hundred rupees, or both
	(a) forges or fraudulently alters any certificate of discharge or a certificate as to work of a		

	seaman or a continuous discharge certificate or a copy of any such certificate; or (b) fraudulently uses any certificate of discharge or a certificate or a copy of any such certificate which is forged or altered or does not belong to him		
36	If any person acts in contravention of sub-section (1) of section 121	121(1)	Fine which may extend to one thousand rupees
37	If a master--	122(1),	Fine which may extend to two hundred rupees
	(a) fails without reasonable cause to comply with sub-section (1) or subsection (3) of section 122; or	122(3)	
	(b) delivers a false statement for the purpose of sub-section (2) of section 122	122(2)	
38	If a master fails, without reasonable cause, to comply with section 125	125	Fine which may extend to fifty rupees
39	If a master or owner pays the wages of a seaman in a manner contrary to sub-section (1) of section 128	128(1)	Fine which may extend to one hundred rupees
40	If a master fails to comply with section 131	131	Fine which may extend to one hundred rupees
41	If any persons fails, without reasonable cause, to comply with any requisition under section 133	133	Fine which may extend to fifty rupees
42	If a seaman contravenes sub-section (3) of section 135	135(3)	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both, but nothing herein shall take away or limit any other remedy which any person would otherwise have for breach of contract or refund of the money advanced or otherwise
43	If any person commits a breach of any term of any award which is binding on him under sub-section (5) of section 150	General	Imprisonment which may extend to one month, or fine which may extend to one thousand rupees, or both
44	If a seaman or an owner contraves section 151	151	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both
45	If a master fails to comply with the provisions of this act with respect to taking charge of the property of a diseased seaman or apprentice or to making in the official log book the proper entries relating thereto or to the payment or delivery of such property as required by sub -	154(1)	Fine which may extend to three times the value of the property not accounted for or if such value is not ascertained, to five hundred rupees , but nothing herein shall affect his liability under sub-section (1) of section 154 to account for the property not accounted for



	section (1) of section 154		
46	If the master of an Indian ships fails or refuses without reasonable cost to receive on board his ship or go give a passage or subsistence to, or to provide for, any seamen contravene to sub-section (1) of section 163	163(1)	Fine which may extend to one thousand rupees in respect of each such seaman
47	(a) If a master fails to comply with, or contravene any provision of sub-section (3) of Section 168;	168(3)	Fine which may extend to two huynred rupees , but nothing herein shallo affect the power to detain the ship under sub-section (2) of Section 168;
	(b) If a master or any other person having charge of any provisions or water on board a ship liable to inspection under section 163 refuses or fails to give the person making the inspection reasonable facility for the purpose	168(6)	Fine which may extend to two hundred rupees
48	If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him and the Court considers the failure to be due to theneglect of default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for use	General	Fine which may extend to five hundred rupees, but nothing herein shall affect the claim for compensation under sub-section (1) of section 169
49	If master fails without reasonable cause to comply with section 171	171	Fine which may extend to one hundred rupees
50	(a) If any requirement of section 172 is not complied with in the case of any ship; or	172	The owner shall liable to fine which may extend to two hundred rupees unless he can prove that the non compliance was not caused by his in-attention, neglect or wilful default;
	(b) If obstruction is caused to the port health officer in the discharge of his duty		The owner or master shall be liable to fine which may extend to two hundred rupees unless he can prove that the obstruction was caused without his knowledge or connivance
51	If any foreign-going ship referred to in sub-section (1) of section 173 does not carry on board a duly qualified medical officer	173(1)	The owner shall be liable for each voyage of the ship made without having on board a duly qualified medical officer, a fine which may extend to two hundred rupees
52	If master fail, without reasonable cause, to comply with to sectiontion 184	184	Fine which may extend to one hundred rupees

53	If any person fails to comply with sub-section (1) of section 187	187(1)	Fine which may extend to one hundred rupees
54	If any person contravenes section 188	188	Fine which may extend to fifty rupees
55	If any person goes on board a ship contrary to section 189	189	Fine which may extend to two hundred rupees
56	If a master, seaman or apprentice contravenes section 190	190	Imprisonment which may extend to two years , or fine which may extend to one thousand rupees, or both
57	If a seaman or apprentice :	191(1)(a)	He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the desertion takes place at any place not in India, to forfeit or or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also to imprisonment which may extend to three months;
	(a) deserts his ships;	191(1)(b)	He shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days pay and in addition for every twenty-four hours of absence either a sum not exceeding six days pay or any expenses properly incurred in hiring a substitute and also to imprisonment which may extend to two months
	(b) contravention clause		
	(b) of sub-section (1) of section 191		
58	If any person contravenes sub-section (3) of section 193	193(3)	style="padding:8px;"Fine which may extend to two hundred rupees
59	If a seaman or apprentice is guilty of the offence specified in:	194	Forfeiture of his wages of a sum not exceeding one months pay
	(I) clause (a) of section 194;		Forfeiture out of his wages of a sum not exceeding two days pay;
	(ii) clause (b) of section 194;		Imprisonment which may extend to one month and also for every twenty-four hours of continuance of such disobedience or neglect, forfeiture out of his wages of a sum not exceedign six days pay or any expenses which may have been properly incurred in hiring a substitute;
	(iii) clause (c) fo secdtion 194;		Imprisonment which may extend to three months , or fine which may extend a five hundred rupees, or both;

	(iv) clauses (d) and (e) of section 194;		Forfeiture out of his wages of a sum equal to the loss sustained and also imprisonment which may extend to three months
	(v) clause (f) of section 194		
60	If any master fails to comply with section 197	197	Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both
61	If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name	General	Fine which may extend to fifty rupees
62	If a master or owner neglects or refuses to pay over the fine under sub-section (1) of section 202	202	Fine which extend to six times the amount of the fine retained by him
63	If any person contravenes section 203	203	Fine which may extend to one hundred rupees
64	If any person contravenes section 204	204	Fine which may extend to one hundred rupees
65	If any person goes to sea in a ship contrary to sub-section (1) of section 205	205(1)	Imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both
66	(A) If any person wilfully disobeys the prohibition contained in clause (a) of section 206; or	206(a)	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both;
	(b) if any master or owner refuses or neglects to deposit any wages, money or other property or sum in the manner required by clause (b) of section 206	206(b)	Fine which may extend to five hundred rupees
67	If a master fails to deliver or transmit the documents referred to in sub-section (1) of section 208 or section 209 as provided therein	208(1), 209	Fine which may extend to five hundred rupees
68	If a master contravenes sub-section (1) of section 210	210(1)	Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both
69	If any person harbours or secretes any deserter knowing or having reason to believe that he has deserted	General	Fine which may extend to two hundred rupees
70	If a master fails to comply with sub-section (2) of section 214	214(2)	Fine which may extend to one hundred rupees
71	(A) If a sub-section (1) of section 215 is not complied with;	215(1)	The master shall be liable to fine which may extend to fifty rupees, if no other penalty is provided in this Act;
	(b) if any person contravenes sub-section (2) of section 215	215(2)	Fine which may extend to three hundred rupees

72	If any person wilfully destroys or mutilates or renders illegible any entry in any official log book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in omission from an official log book	General	Imprisonment which may extend to one year
73	If a master fails, without reasonable cause, to comply with section 216	216	Fine which may extend to two hundred rupees
74	If a master or owner fails, without reasonable cause, to comply with section 217	217	Fine which may extend to one hundred rupees
75	If an owner, agent or master without reasonable cause neglects to give the notice required by sub-section (1) of section 229	229(1)	Fine which may extend to five hundred rupees
76	If an owner or master, without reasonable cause, fails to deliver a certificate under section 230	230	Fine which may extend to one hundred rupees
77	If a certificate of survey is not affixed or apt affixed as required by section 231	231	The owner or master shall be liable to fine which may extend to one thousand rupees
78	If a ship carries or attempts to carry passengers in contravention of sub-section (1) of section 220 or has on board a number of passengers in contravention of sub-section (1) of section 232	220(1)	The owner or master shall be liable to fine which may extend to one thousand rupees
		232(1)	
79	(A) If a person is guilty of any offence specified in sub-section (1) of section 233;	233(1)	The person concerned shall be liable to fine which may extend to fifty rupees; but this liability shall not prejudice the recovery of the fare, if any, payable by him;
	(b) if a person contravenes sub-section (2) of section 233	233(2)	Fine which may extend to three hundred rupees
80	If 1[a special trade passenger] or pilgrim ship departs or proceeds on a voyage from or discharges 2[special trade passenger] or pilgrim on board any port or place within India in contravention of sub-section (1) of section 237, or if a person is received as 1[a special trade passenger] or pilgrim on board any such ship in contravention of sub-section (2) of that section	237(1)	The master, owner or agent shall be liable to fine which may extend to one thousand rupees
		237(2)	

81	If the master, owner or agent of 1[a special trade passenger] or pilgrim ship fails to give the notice required by sub-section (1) of section 238	238(1)	Fine which may extend to two hundred rupees
82	If a person impedes or refuses to allow any entry or inspection authorised by section 239	239	Fine which may extend to five hundred rupees
83	If a master or owner fails to comply with section 246	246	Fine which may extend to two hundred rupees
84	If the master, owner or agent of 1[a special trade passenger] or pilgrim ship, after having obtained any of the certificates mentioned in Part	General	Imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both
85	If the master of 2[a special trade passenger] or pilgrim ship or any contractor employed by him for the purpose contravenes section 247	247	Fine which may extend to thirty rupees for every 3[special trade passenger or pilgrim, who has sustained detriment by the omission to supply the prescribed provisions
86	If 2[a special trade passenger] or pilgrim ship carries 1[special trade passengers] or pilgrims in contravention of sub-section (1) of section 248	248(1)	The master, owner or agent shall be liable to fine which may extend to two thousand rupees
87	If a master, owner or agent or master contravenes section 249	249	Fine which may extend to one thousand rupees
88	If an owner, agent or master contravenes section 252	252	Fine which may extend to one thousand rupees
89	If the master, owner or agent fails to comply with sub-section (1) of section 255	255(1)	Fine which may extend to two hundred rupees
4[89A.	If a master, owner or agent contravenes sub-section (6) of section 255	255(6)	Fine which may extend to two thousand rupees]
90	If medical officers or medical attendants are not carried on 5[a special trade passenger ship] as required by sub-section (1) or sub-section (2) of section 259, as the case may be; or if the ship is not provided with a hospital, medical stores and equipment as required by sub-section (3) of that section	259	The master, owner or agent shall be liable for each voyage made in contravention of clause (a) of sub-section (4) of section 259 to fine which may extend to three hundred rupees.
4[90A.	(A) If medical officers and attendants are not carried on a pilgrim ship in accordance with clause (a) of sub-section (4) of section 259; or	259(4)(a)	The master, owner or agent shall be liable for each voyage made in contravention of clause (a) of sub-section (4) of section 259 to fine which may extend to three hundred rupees;
	(b) if a medical officer or attendant on a pilgrim ship contravenes clause (c) of sub-section (4) of section 259	259(4)(c)	Fine which may extend to one thousand rupees

91	If an owner, agent or master contravenes section 260	260	Fine which may extend to one thousand rupees
94	If section 291 is not complied with in the case of a ship	291	The master or owner shall be liable to fine which may extend to one thousand rupees
95	If section 292 is not complied with in the case of a ship	292	The master or owner shall be liable to fine which may extend to two hundred rupees
96	If any ship proceeds or attempt to proceed to sea in contravention of section 297	297	The master or owner shall be liable to fine which may extend to two hundred rupees
97	If any ship proceeds or attempts to proceed to sea without carrying on board the information required by 1*** section 298	298***	The master or owner shall be liable to fine which may extend to one thousand rupees
98	If any ship proceeds or attempts to proceed to sea in contravention of section 307	307	The master or owner shall be liable to fine which may extend to:
			(a) in the case of a passenger ship, to one thousand rupees for every passenger carried on board the ship but without prejudice to any other remedy or penalty under this Act; and
			(b) in the case of a ship other than a passenger ship, to one thousand rupees
3[98A.	If the owner, agent or master fails to comply with section 309A	309A	Fine which may extend to five hundred rupees
99	If any ship proceeds or attempts to proceed to sea in contravention of section 312	312	The master or owner shall be liable to fine which may extend to one thousand rupee
100	If any ship is loaded in contravention of section 313	313	The master or owner shall be liable to fine which may extend to ten thousand rupees and to such additional fine not exceeding 4[five thousand rupees] for every inch by which the appropriate load lines on each side of the ship are submerged or would have been submerged if the ship had been in salt waters and had to list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship is or would have been increased by reason of the submersion
			Provided that it shall be a good defence for the master or owner to prove that a contravention was due solely to deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer, if any, could have prescribed or forestalled
101	(a) If the owner or master of an Indian ship contravenes sub-section (1) of section 314; or	314(1)	314(2) Fine which may extend to one thousand rupees
	(b) if any person contravenes sub-section (2), of section 314	314(2)	

102	If a master or owner fails to deliver the certificate as required under sub-section 1[(8)] of section 317	3171[(8)]	Fine which may extend to one hundred rupees
103	If a master proceeds or attempts to proceed to sea in contravention of sub-section (1) of section 318	318(1)	Fine which may extend to one thousand rupees
104	(A) If the owner of an Indian ship fails to comply with clause (a) of sub-section (1) of section 319; or	319(1)(a)	Fine which may extend to two hundred rupees
	(b) if a master fails to comply with clause (b) of sub-section (1), or clause (a) or clause (b) or sub-section (2) of section 319	319(1) (b), 319(2)	
105	If a master fails to comply with sub-section (1) of section 320	320(1)	Fine which may extend to one hundred rupees
2 [105A.	If the owner, agent or master fails to comply with sub-section (1) of section 331A	331A	Fine which may extend to one thousand rupees
106	(a) If a master, owner or agent is guilty of an offence under sub-section (1) of section 332; or	332(1)	Fine which may extend to three thousand rupees
	(b) if the owner or master of a ship is guilty of an offence under sub-section (2) of section 332; or	332(2)	Fine which may extend to one thousand rupees
	(c) if a master fails to deliver any notice required by sub-section (3) of section 332 of if in any such notice he makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular	332(3)	
107	If a ship is loaded in contravention of sub-section (1) of section 333	333(1)	The master or owner shall be liable to fine which may extend to ten thousand rupees and to an additional fine not exceeding one thousand rupees for every inch or fraction of an inch by which the appropriate sub-divisin load line on each side was submerged or would have been submerged if the ship had no list, as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion
108	If a person is guilty of an offence under sub-section (1) or if a master is guilty of an offence under sub-section (2) of section 334	334(1)	Imprisonment which may extend to six months, or fine which may extend to ne thousand rupees, or both

		334(2)	
1[108A.	If an Indian nuclear ship proceeds or attempts to proceed to sea in contravention of sub-section (1) of section 344C	344C	The master or owner shall be liable to fine which may extend to ten thousand rupees
108B	If an Indian nuclear ship fails to comply with sub-section (1) of section 344D	344D	The master or owner or agent shall be liable to imprisonment which may extend to six months or fine which may extend to ten thousand rupees, or both
108C	If a nuclear ship other than an Indian ship enters the territorial waters of India in contravention of section 344E	344E	The master shall be liable to fine which may extend to ten thousand rupees
108d	If the master of a nuclear ship fails to give the notice required by sub-section (1) of section 344F	344F	Fine which may extend to ten thousand rupees
108E	(a) If the master of a nuclear ship fails to give the notice required by sub-section (1) or sub-section (2) or sub-section (5) of section 344G;	344g(1), (2)and (5)	Imprisonment which may extend to one year or fine which may extend to ten thousand rupees, or both;
	(b) If the maseter of a nuclear ship fails to comply with any directions issued undr sub-section (3) or sub-section (5) of section 344G	344G	Imprisonment which may extend to one year or fine which may extend to ten thousand rupees, or both]
		(3) and(5)	
109	If a master or person in charge of a ship fails, without reasonable cause, to comply with section 348	348	Imprisonment which may extend to three months or fine which may extend to three thousand rupees, or both
110	If a master fails to comply with section 349	349	Fine which may extend to one hundred rupees
111	if the owner or master fails, without reasonable cause, to comply with section 350	350	Fine which may extend to five hundred rupees
112	If the owner or agent fails, without reasonable cause, to comply with section 351	651	Fine which may extend to five hundred rupees
113	If any person contravenes section 353	353	Fine which may extend to five hundred rupees
114	If a master fails to comply with sectio 354	354	Fine which may extend to five hundred rupees
115	(a) If a master fails to comply with sub-section (1) or sub-section (2) of section 355; or	355(1),	Imprisonment which may extend to six months, or fine which may extend to one thousand rupees or both;
	(b) if a master fails to comply with sub-section	355(2)	Fine which may extend to one thousand rupees
	(5) of section 355	355(5)	
1 [115 A	f a master fails to comply with section 355A	355A	Imprisonment which may extend to six months or fine which may extend to one thousand rupees, or both



2 [115 B	(a) If oil or oily mixture is discharged in contravention of sub-section (1) of section 356C;	3 56C(1)	The master of the tanker shall be liable to fine which may extend to five lakh rupees;
	(1) Where such discharge is made from an Indian tanker any where into the sea;	356(C)1	The master of the tanker, or if the tanker is unmanned, the person in charge of its operation shall be liable to fine which may extend to five lakh rupees
	(ii) where such discharge is made from a foreign tanker anywhere within the coastal waters of India	s356C(2)	The master of the ship shall be liable to fine which may extend to five lakh rupees;
	(b) If oil or oily mixture is discharged in contravention of sub-section (2) of section 356C--	356C(2)	The master or if the ship is unmanned the person in charge of its operation shall be liable to fine which may extend to five lakh rupees
	(I) Where such discharge is made by an Indian ship other than a tanker anywhere into the sea;	356C(3)	The master of the off-shore installation if it be a mobile craft of the owner, operator, lessee or licensee of an off-shore installation of any other type shall be liable to fine which may extend to five lakh rupees
	(ii) where such discharge is made by a foreign ship other than a tanker anywhere within the coastal waters of India		
	(c) If oil or oily mixture is discharged in contravention of sub-section (3) of section 356C		
115C	If an Indian ship is not fitted with equipment prescribed under section 356E	356E	The owner master or agent of the Indian ship shall be liable to fine which may extend to ten thousand rupees
115d	(I) If the master of an Indian tanker or other Indian ship fails to maintain an oil record book as required by section 356F or contravenes any rule made under that section;	356F	The master of the Indian tanker or other Indian ship shall be liable to fine which may extend to five thousand rupees
	(ii) If any person wilfully, destroys or mutilates or renders illegible or prevents the making of, any entry in the oil record book or makes or causes to be made a false entry in the oil record book or makes or causes to be made a false entry in such book in contravention of any rule made under section 356F	356f	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to ten thousand rupees or both
115E	If a master of any ship refuses to certify copy of any entry in the oil record book to be a true copy of such entry as required under sub-section (2) of section 3546G	356G(2)	The master of the ship shall be liable to fine which may extend to one thousand rupees

115F	If any person fails to take action as required by a notice served on him under sub-section (1) of section 356J	356J(1)	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to ten lakh rupees, or both
115G	If owner of any Indian ship, tug, bagre or any other equipments fails to comply with any order issued under sub-section (1) of section 356L	356L(1)	The offender shall be liable to penalty or imprisonment which may extend to one lakh rupees, or both and if the offence is a continuing one the offender shall be liable to a further fine which may extend to one thousand rupees per day for every day during which the offence continues after conviction]
116	If any person bound to give notice under sub-section (2) of section 358 fail to give such other	358(2)	Fine which may extend to five hundred rupees and in default of payment, simple imprisonment which may extend to three months
117	If a master or ships officer fails to comply with section 378	378	Fine which may extend to five hundred rupees
118	If any person wilfully disobeys any direction of the reciever of wreck under section 392	392	Fine which may extend to five thousand rupees
119	If the owner or occupier of any land impedes or in any way hinders any person in the exercise of the rights given by section 393	393	Fine which may extend to five hundred rupees
120	(a) If any person omits to give notice of the finding of any wreck to the receiver of wreck as required by clause (a) of section 395; or	395(a)	Fine which may extend to one thousand rupees
	(b) If any person omits to deliver any wreck as required by clause (b) of section 395	395(b)	Fine which may extend to one thousand rupees and in addition forfeiture of all claims to salvage and payment to the owner of such wreck, if the same is claimed, or if the same is unclaimed to the Government a penalty, not exceeding twice the value of such wreck
121	If any person contravenes any of the provision of section 400	400	Fine which may extend to five hundred rupees
122	a) If a ship is taken to sea in contravention of sub-section (1) of section 406 or if a ship engages in the coasting trade in contravention of sub-section (1) of section 407; or	406(1)	The master or owner of the ship or in the case of a ship other than the Indian ship, the master, agent in India or the owner or the charterer of the ship in respect of which the contravention has taken place shall be liable to imprisonment which may extend to six months or fine which may extend to one thousand rupees or both
	(b) if, without reasonable excuse, any limitation or condition contained in a licence granted under section 406 or section 407 is contravened	407(1)	
		4,06,407	
123	If a person to whom a licence under section 406 or section 407 has been granted fails to comply with section 409	409	Fine which may extend to one hundred rupees

124	(a) If any directions given under section 411 are not complied with; or	411	The owner master or agent shall be liable to imprisonment for a term which may extend to six months, or to fine which may extend to one thousand rupees or both
	(b) if the provisions of sub-section (3) of section 412 are contravened		
125	If the owner master or agent on whom a notice has been served under section 413 fails to furnish the information required within the time specified or furnishing the information makes any statement which he knows to be false on any material particular	413	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both
126	If a sailing vessel required to be registered under section 417 is not registered in accordance with the provisions of that section	417	The owner or tindal shall be liable to fine which may extend to five hundred rupees
127	If the owner fails to comply with section 418	418	Fine which may extend to two hundred rupees
128	If the provisions of section 419 are contravened	419	The owner or tindal shall be liable to fine which may extend to two hundred rupees
129	If any sailing vessel attempts to ply or proceed to sea without free board markings or is so loaded as to submerge such markings, or piles or proceeds to sea without a certificate of inspection as required by subsection	420(3),421	The owner of tindal shall be liable to imprisonment which may extend to six months or to fine which may extend to five hundred rupees or both
	(1) of section 421, or if any of the terms and conditions specified in such certificate are contravened		
130	If the owner fails to comply with section 423	423	Fine which may extend to two hundred rupees and in addition a fine which may extend to twenty rupees for every day during which the offence continues after conviction
131	If the owner fails to comply with section 425	425	Fine which may extend to two hundred rupees
132	If any person contravenes section 426	426	Fine which may extend to five hundred rupees
133	If any person contravenes any of the provisions of section 428	428	Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both
134	If the owner or tindal fails to comply with any of the provisions of section 429	429	Fine which may extend to two hundred rupees
135	If the owner or tindal fails to comply with sub-section (1) of section 430	430(1)	Imprisonment which may extend to three months or fine which may extend to two hundred rupees, or both

136	(a) If a sailing vessel is engaged in the coasting trade in contravention of sub-section(1) of section 431; or	431(1)	The owner, tindal or agent shall be liable to imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both
	(b)if any of ther terms and conditions imposed under sub-section (2) of section 431 are contravened	431(2)	
1 [136 A]	If any perosn is guilty of an offence under sub-section (1) of section 432	432(1)	Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both
2 [137	If the owner fails to comply with sub-section (1) of section 434A	434A(1)	Imprisonment which may extend to six months, or fine which may extend to five thousand rupees, or both]
2 [137 A	If an Indian fishing boat required to be registered under section 435C is not registered in accordance with the provisions of that section	435C	The owner shall be liable to fine which may extend to one thousand rupees
137B	If the owner of an Indian fishing boat fails to comply with the provisions of section 435H	435H	The owner shall be liable to fine which may extend to two hundred rupees
137B	If the owner of an Indian fishing boat fails to comply with the provisions of section 435H	435H	The owner shall be liable to fine which may extend to two hundred rupees
137C	If provisions of section 435I are contrevened	435I	The owner shall be liable tofine which may extend to two hundred rupees
137D	If provisions of section 435J are contravened	435J	The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to fifty rupees for every day during which the offence continues after conviction
137E	If provisions of section 435K are contravened	435M	The owner, skipper tindal or any other person in chareg of the Indian fishing boat shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction
137F	if provisions of section 435M are contravened	435M	The owner shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction
137G	If provisions of section 435N are contravened	435N	The owner shall be liable to fine which may extend to two hundred rupees and in addition to fine which may extend to twenty rupees for every day dudring which the offence continues after conviction
137H	If provisions of section 435P are contravened	435P	The owner shall be liable to fine which may extend to two hundred rupees
137I	If any person contravenes the provisions of section 435Q	435Q	The offender shall be liable to fine which may extend to five hundred rupees

137J	If any person contravenes the provisions of section 435S	435S	The offender shall be liable to imprisonment which may extend to three months or fine which may extend to two hundred rupees, or both
137K	If provisions of section 435T are contravened	435T	The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to two hundred rupees]
138	(a) If the master is guilty of an offence under sub-section (2) of section 444; or	442(2)	Fine which may extend to one thousand rupees
	(b) if the owner, master or agent is guilty of an offence under sub-section (3) of section 444	444(3)	
139	If any person exercise the professions of a ship surveyor in contravention of section 450	450	Fine which may extend to one thousand rupees
140	If any person does any act in contravention of sub-section (2) of section 454 in respect of which no other penalty is provided	454(2)	Fine which may extend to two hundred rupees
141	If any person is guilty of an offence under sub-section (2) of section 456	456(2)	Fine which may extend to five hundred rupees

## **PART XVII Miscellaneous**

449. Power to appoint examiners and to make rules as to qualifications of ship surveyors

450. No person to practice as ship surveyor unless qualified

451. Power of ship surveyor to inspect ship

452. Inquiry into cause of death on board Indian ship

453. Certain persons deemed to be public servant

454. Powers of persons authorised to investigate, etc.

454A. Power to prescribe alternative fittings, etc.

455. Exemption of public ships, foreign and Indian

456. Power to exempt

457. General power to make rules

458. Provisions with respect to rules and regulations

459. Power to constitute committees to advise on rules, regulations and scales of fees

#### 460. Protection of persons acting under Act

##### 460A. Removal of difficulties

449. Power to appoint examiners and to make rules as to qualifications of ship surveyors-- The Central Government may appoint persons for the purpose of examining the qualifications of person desirous of practising the profession of a ship surveyor at any port in India and may make rules--

- (a) for the conduct of such examinations and qualifications to be required;
- (b) for the grant of certificates to qualified persons;
- (c) for the fees to be paid for such examinations and certificates;
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates and
- (e) for the cancellation and suspension of such certificates.

450. No person to practice a ship surveyor unless qualified-- No person shall in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 449 exercise such profession in such port unless he holds a certificate granted under that section.

Provided that nothing herein contained shall prevent any person employed exclusively by Lloyd's Register of Shipping or Bureau Veritas or any other classification society specified by the Central Government in the Official Gazette in this behalf from discharging any of the duties of such employment or apply to any person specially exempted by the Central Government from the operation of this section.

451. Power of ship surveyor to inspect ship-- Any person holding a certificate granted under section 449 and exercising the profession of a ship surveyor at any port in India may in the execution of his duties go on board a ship and inspect the same and every part thereof and the machinery, equipment and cargo and may require the unloading or removal of any cargo, ballast or tackle.

452 inquiry into cause of death on board Indian ship-- (1) If any person dies on board a foreign going Indian ship, the proper officer at the port where the crew of the ship is discharged, or the proper officer at any earlier port of call in India, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log book an endorsement to the effect, either that the statement of the cause of death in the book is in his opinion true, or the contrary, according to the result of the inquiry.

(2) If, in the course of any such inquiry, it appears to the proper officer that a death has been caused on board the ship by violence or other improper means, he shall either report the matter to the Director-General or, if the emergency of the case so requires, shall take immediate steps for bringing the offender to trial.

453. Certain persons deemed to be public servants-- The following persons shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860), namely:--

- (a) every surveyor;

- (b) every judge, assessor or other person acting under Part XII;
- (c) every person appointed under this Act to report information as to shipping casualties;
- (d) every person authorised under this Act to make any investigation or inquiry under Part X and all persons whom he calls to his aid;
- (e) every person directed to make an investigation into an explosion or fire on a ship under section 388;
- (f) every other officer or person appointed under this Act to perform any functions thereunder;

454. Powers of persons authorised to investigate, etc.-- (1) Every judge, assessor, officer or other person who is empowered by this Act to make an investigation or inquiry or to board, survey, inspect or detain a ship--

- (a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, equipment or articles on board thereof, or any certificates of the master or other officer to which the provisions of this Act or any of the rules or regulations thereunder apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason it is considered necessary so to do, may require the ship to be taken into dock for the purpose of inspection or survey;
- (b) may enter and inspect any premises, the entry and inspection of which appears to be requisite for the purpose aforesaid;
- (c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine them for the purpose aforesaid, and may require answers or returns to any enquiries he thinks fit to make;
- (d) may require and enforce the production of all relevant books, papers, or documents;
- (e) may administer oaths or may in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination; and
- (f) may muster the crew of any such ship.

(2) No person shall hinder or obstruct any officer or person referred to in sub-section (1) from going on board any ship or otherwise impede him in the execution of his duties or the exercise of his powers under this Act.

Explanation-- In this section, "ship" includes a sailing vessel.

1[454A. Power to prescribe alternative fittings, etc-- Where this Act requires that a particular fitting, material, appliances or apparatus or any type thereof shall be fitted or provided for in a ship or that any particular provision shall be made in a ship, the Central Government after satisfying itself by trials or otherwise that any other fitting, material, appliance or apparatus or type thereof or provision is as effective as that so required, may permit by general or special order, such other fitting, material, appliance or apparatus or type thereof or provision to be used for provided.]

455. Exemption of public ships, foreign and Indian-- (1) This Act shall not, except where specially provided, apply to ships belonging to any foreign prince or State and employed otherwise than for profit in the public service of the foreign prince or State.

(2) The Central Government may, by notification in the Official Gazette direct that the provisions of this Act or any of them shall not apply to ships belonging to the Government or to any class of such ships.

456. Power to exempt-- (1) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any ship or sailing vessel or any master, tindal or seaman from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement in the case of any ship or sailing vessel or any master, tindal or seaman, if it is satisfied that requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case.

1[Provided that no exemption which is prohibited by the Safety Convention shall be granted under this sub-section.]

(2) Where an exemption is granted under sub-section (1) subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this sub-section.

457. General power to make rules-- Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

458. Provisions with respect to rules and regulations-- (1) All rules and regulations made under this Act shall be published in the Official Gazette.

(2) In making a rule or regulation under this Act, the Central Government may direct that a breach thereof shall be punishable--

(a) in the case of a rule made under 2[section 331 or section 344I], with imprisonment which may extend to two years, or with fine which may extend to ten thousand rupees, or with both;

(b) in the case of any other rule or regulation made under any other provision of this Act, with fine which may extend to one thousand rupees;

and in either case if the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

3[(3) Every rule or regulation made under this Act shall be laid as soon as may be after it is made before such House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in 4[two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or the regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.]



459. Power to constitute committees to advise on rules regulations and scales of fees-- (1) The Central Government may, if it thinks fit, constitute one or more committees consisting of such number of persons as it may appoint thereto representing the interests principally affected or having special knowledge of the subject matter, for the purpose of advising it when considering the making or alteration of any rules, regulations or scales of fees under this Act or for any other purpose connected with this Act.

(2) There shall be paid to the members of any such committee such travelling and other allowances as the Central Government may fix.

(3) Committees may be constituted under this section to advise the Central Government either generally as regards any rules, regulations or scales of fees or as regards any class or classes of rules, regulations or scales of fees in particular or for any other purpose connected with this Act.

460. Protection of persons acting under Act-- No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

1[460A. Removal of difficulties-- (1) If any difficulty arises in giving effect to the provisions of this Act, in so far as they relate to the Safety Convention or to the Load Line Convention or to the convention referred to in clause (a) of section 356B, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty and giving effect to the provisions of such Convention.

Provided that no order shall be made under this section after the expiry of three years from the date of publication of the Merchant Shipping (Amendment) Act, 1970 (25 of 1970), in the Official Gazette.

(2) Every order made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions.]

## **PART XVIII Repeals And Savings**

461. Repeals and savings-- (1) The enactments specified in Part I of the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) The enactments specified in Part II of the Schedule, in so far as they extend to and operate as part of the law of India, are hereby repealed.

(3) Notwithstanding the repeal of any enactment by sub-section (1) or sub-section (2),--

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, until revoked, have effect as if it had been issued, made or general under the corresponding provision of this Act;

(b) any officer appointed and any body elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under this Act;

(c) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act;

(d) any fine levied under any enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) sailing vessels registered under any enactment hereby repealed shall be deemed to have been registered under this Act;

(g) mortgage of ships recorded in any register book maintained at any port in India under any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

(h) any licence, certificate of competency or service, certificate of survey, A or B certificate, safety certificate, qualified safety certificate, radio telegraphy certificate, radio telephony certificate safety equipment certificate, exemption certificate, international or Indian load line certificate or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals. THE SCHEDULE ENACTMENTS REPEALED Part I [ See section 461(1) ]

YEAR	NUMBER	SHORT TITLE	EXTENT OF REPEAL
1838	19	The Coasting Vessels Act, 1838	In so far it applies to sea-going ships fitted with mechanical means of propulsion and to sailing vessels
1841	10	The Indian Registration of Ships Act, 1841.	The Whole
1850	11	The Indian Merchant Shipping Act, 1923	The Whole
1923	21	The Indian Registration of Ships Amendment Act, 1850.	The Whole
1946	21	The Merchant Seamen (Litigation) Act, 1946.	The Whole
1947	26	The Control of Shipping Act, 1947	The Whole

1949	18	he Merchant Shipping Laws (Extension to Aceeding States and Amendment) Act, 1949.	The Whole
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## Part II

[See section 461 (2)]

<b>YEAR</b>	<b>SHORT TITLES</b>
1823	Lascars Act (4) Geo. 4, c.80)
1894	Merchant Shipping Act (57 & 58 Vict., c.60)
1897	Merchant Shipping Act ( 60 & 61 Vict., c. 59)
1898	Merchant Shipping (Liability of Shipowners) Act (61 & 62 Vict., c. 14)
1898	Merchant Shipping (Mercantile Marine Fund) Act (61 & 62 Vict., c. 44)
1900	Merchant Shipping (Liability of Shipowners and others) Act 63 & 64 Vict., c.32)
1996	Merchant Shipping Act (6 Edw. 7, c.48)
1997	Merchant Shipping Act (7 Edw. 7, c.52)
1911	Merchant Shipping (Seamen's Allotment) Act (1 & 2 Geo. 5, c.8)
1911	Merchant Shipping Act (1 & 2 Geo. 5, c.42)
1911	Merchant Conventions Act (1 & 2 Geo. 5, c.57)
1914	Merchant Shipping (Certificates) Act (4 & 5 Geo. 5, c.41)
1916	Merchant Shipping (Salvage) Act (6 & 7 Geo. 5, c.41)
1919	Merchant Shipping (Wireless Telegraphy) Act (6 & 7 Geo. 5,c.38)
1921	Merchant Shipping Act (11 & 12 Geo. 5, c.28)
1923	Merchant Shipping Acts (Amendment) Act (13 & 14 Geo. 5, c.37)
1925	Merchant Shipping (Equivalent Provisions) Act (15 & 16 Geo.5, c.40)
1932	Merchant Shipping (Safety and Load Line Conventions) Act (22 & 23 Geo.5, c.9)
1936	Merchant Shipping (Carriage of Munitions to Spain) Act (1 Edw.8 & 1 Geo.6, c.1)
1937	Merchant Shipping (Spanish Frontiers Observation) Act (1 Edw.8 & 1 Geo.6, C.19)

1937	Merchant Shipping Act (1 Edw. 8 & 1 Geo.6, c.23)
1937	Merchant Shipping (Superannuation Contributions) Act (1 Geo.6, c.4)
1940	Merchant Shipping (Salvage) Act (3 & 4 Geo.6, c.43)

## **Merchant Shipping (Amendment) Act, 2002**

### **No. 63 OF 2002**

An Act further to amend the Merchant Shipping Act, 1958, and the Major Port Trusts Act, 1963.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows: -

### **CHAPTER I PRELIMINARY**

1.(1) This Act may be called the Merchant Shipping (Amendment) Act, 2002.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

**Short title and commencement.**

### **CHAPTER II**

#### **AMENDMENT OF THE MERCHANT SHIPPING ACT, 1958**

**44 of 1958.**

2. For section 76 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:-

**Substitution of new section for section 76.**

76. (1) Every Indian ship, when going to sea from any port or place, shall be provided with officers duly certificated under this Act in accordance with such manning scales as may be prescribed:

**Certificates of competency to be held by officers of ships**

Provided that the Central Government may prescribe different manning scales for different types of ships.

(2) Every ship, whether at sea or in any port or place, shall engage such number of persons and with such qualifications as may be prescribed for maintaining

watches.

**Amendment  
of section 87.**

3. In section 87 of the principal Act, in sub-section (2), in clause (b), for the words by a ship, the words by different types of ships shall be substituted.

**Amendment  
of section 95.**

4. In section 95 of the principal Act,-

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:-

- a. to issue licence, to regulate and control the recruitment and placement service, and to
  - i. ensure that no fees or other charges for recruitment or placement of seafarers are borne directly or indirectly or in whole or in part, by the seafarers;
  - ii. ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services; and
  - iii. to maintain registers of seamen in respect of the categories of seamen.

**Amendment  
of section 95.**

(ii) sub-section (2) shall be omitted;

(iii) in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely:-

- b. The levy and collection of such fees as may be specified for the issue of licences to recruitment and placement services, renewal of such licences and services to be rendered by the seamens employment office;
- c. The issue of directions by the Central Government to any seamens employment office or any recruitment and placement service with reference to the exercise of any of its powers;
- i. The conditions under which the recruitment and placement service to recruit and place seafarers abroad;
- ii. circumstances and conditions under which licence to be suspended or withdrawn;
- iii. conditions under which seafarers personal data to be processed by the recruitment and placement services including the collection,

storage, combination and communication of such data to third parties;

(iv) after sub-section (3), the following Explanation shall be inserted, namely:--

Explanation.- For the purposes of this section,--

- a. recruitment and placement service means any person, company, institution, agency or other organisation, in the public or private sector which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers;
- b. seafarer means any person who fulfils the conditions to be employed or engaged in any capacity on board a sea-going ship other than a government ship used for military or non-commercial purposes.

5. For section 97 of the principal Act, the following section shall be substituted, namely:-

**Substitution of new section for section 97.**

❖97. (1) A person or company or organisation including a union purporting to represent the interests of seamen shall not demand or receive either directly or indirectly, from any seamen or person seeking employment as seamen or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seamen or persons❖ employment as seamen, other than the fees authorised by this Act.

**Substitution of new section for section 97.**

(2) It shall be the duty of the company employing or proposing to employ persons as seamen to ensure that no money has been demanded or received by any person or company or organisation including the union purporting to represent the interests of seamen by way of any remuneration or donation or fees or compulsory subscription of any kind attributable to employment of such persons as seamen.❖.

6. After section 97 of the principal Act, the following section shall be inserted, namely:--.

**Insertion of new section 97A.**

97A. There shall be no discrimination between seamen

**Prohibition against discrimination.**

- a. on the ground of their membership or lack of

membership in any particular union purporting to represent the interests of seamen and membership in such union shall not be pre-requisite condition;

- b. on the basis of training institute from where they obtained training or place of issue of their continuous discharge certificates,

7. For the sub-heading Safety certificates, safety equipment certificates, safety radio telegraphy certificates, safety radio telephony certificates, exemption certificates, etc. above section 299 of the principal Act, the following sub-heading shall be substituted, namely:-

**Substitution  
of new sub-  
heading.**

Safety certificates, safety equipment certificates, safety radio certificates, exemption certificates, etc.

8. In section 299 of the principal Act,-

**Amendment  
of section  
299.**

- a. in sub-section (1),-
  - i. for the words radio telegraphy or radio telephony installation and radio direction finder, the words radio installation shall be substituted;
  - ii. after the words safety certificate, the words and record of equipment for passenger ship certificate shall be added at the end;
- b. in sub-section (3), the words or a pilgrim ship shall be omitted;
- c. after sub-section (3), the following sub-section shall be inserted, namely:-

(4) The Certificates issued under sub-sections (1) and (2), sub-sections (1) and (2) of section 300 and section 301 shall be supplemented by a record of equipment in the prescribed form.

9. In section 299A of the principal Act,-

**Amendment  
of section  
299A.**

(a) in sub-section (1)-

- i. for the words the Central Government, the words the Central Government or any person authorised by it in this behalf shall be substituted;
- ii. for the words the Central Government , the words the Central Government or the authorised person shall be substituted;

(b) in sub-section (2),-

- i. for the words of the Act and the Central Government, the words and the Central Government or any person authorised by it in this behalf shall be substituted;
- ii. for the words the Central Government, the words the Central Government or the authorised person shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:-

(3) The owner of every ship in respect of which a certificate is issued under sub-section (1) or sub-section (2), sub-section (1) or sub-section (2) of section 300 or section 301 shall, so long as the certificate remains in force, cause the ship to be surveyed in the manner as specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be.

10. For section 300 of the principal Act, the following section shall be substituted, namely:--

**Substitution  
of new  
section for  
section 300.**

300. (1) If in respect of an Indian cargo ship the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with the provisions of this Act and the rules made there under relating to life saving and fire appliances applicable to such ship and is provided with lights and shapes and the means of making fog and distress signals required by the collision regulations, the Central Government or the authorised person may issue in respect of the ship-

**Cargo ship  
safety  
equipment  
and cargo  
ship  
equipment  
certificates  
for ships  
other than  
passenger  
ship.**

- a. if the ship is of five hundred tons gross or more and performs international voyages, a certificate in the prescribed form to be called a cargo ship safety equipment certificate;
- b. in other cases, a certificate in the prescribed form to be called a cargo ship equipment certificate.

(2) Where, in respect of a ship referred to in sub-section (1), there is in force an exemption certificate



granted under section 302 and the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the ship is exempt under that certificate, the Central Government or the authorised person may issue a certificate in the prescribed form to be called a qualified cargo ship safety equipment or a qualified cargo ship equipment certificate, as the case may be.

**Substitution  
of new  
section for  
section 301.**

11. For section 301 of the principal Act, the following section shall be substituted, namely:-

**Cargo ship  
safety radio  
certificate  
and qualified  
cargo ship  
safety radio  
certificate,  
etc.**

301. The owner or master of any Indian cargo ship, which is required by the provisions of section 291 to be provided with a radio installation shall, if the Central Government or any person authorised by it in this behalf is satisfied that the ship complies with all the provisions of this Act and the rules made thereunder relating to radio installation applicable to such ship, receive-

- a. in the case of a ship of three hundred tons gross or more, a certificate in the prescribed form to be called a cargo ship safety radio certificate;
- b. in the case of a ship of three hundred tons gross or more but less than three thousand tons gross performing voyages only between ports or places in India, a certificate in the prescribed form to be called a qualified cargo ship safety radio certificate; and
- c. in other cases a certificate in the prescribed form to be called a cargo ship radio certificate.

12. For section 303 of the principal Act, the following section shall be substituted, namely:--

**Substitution  
of new  
section for  
section 303.**

303. (1) A passengers ship safety certificate, a qualified passenger ship safety certificate, a special trade passenger ship safety certificate and a special trade passenger ship space certificate issued under this Part shall be in force for a period of twelve months from the date of its issue or for such shorter period as may be specified in the certificate.

**Duration of  
certificates.**

(2) A cargo ship safety equipment certificate, a qualified cargo ship safety equipment certificate, a

cargo ship equipment certificate, a qualified cargo ship equipment certificate, a cargo ship safety construction certificate, a qualified cargo ship safety construction certificate, a cargo ship construction certificate, a qualified cargo ship construction certificate, a cargo ship safety radio certificate, a qualified cargo ship safety radio certificate and a cargo ship radio certificate issued under this Part shall be in force for a period of five years from the date of its issue or for such shorter period as may be specified in the certificate.

(3) An exemption certificate issued under section 302 shall be in force for the period for which the certificate to which it relates remains in force or for such shorter period as may be specified in the exemption certificate.

(4) Notwithstanding the requirements of sub-sections (1), (2) and (3) when the renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate may be valid from the date of completion of the renewal survey,-

- a. for a passenger ship, a date not exceeding twelve months; and
- b. for a cargo ship, a date not exceeding five years, from the date of expiry of the existing certificate.

(5) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship-

- a. where the ship is not in a port in which it is to be surveyed, on the date when the certificate would, but for the extension, have expired, for such period not exceeding three months from the said date as may be sufficient to enable the ship to complete its voyage to the port in which it is to be surveyed;
- b. where the ship is engaged on a short voyage and whose certificate has not been extended under clause (a), for a period up to one month from the date when the certificate would have expired:

Provided that any extension granted under clause (a) shall cease to be operative upon the ship's arrival at the port referred to in that clause:

Provided further that no extension shall be granted

under clause (b) in respect of a certificate extended under clause (a).

(6) Where an existing certificate of a ship has been extended under sub-section (5) and when renewal survey is completed, the new certificate shall be valid up to,

- a. for a passenger ship, a date not exceeding twelve months; or
- b. for a cargo ship, a date not exceeding five years, from the date of expiry of the existing certificate.

(7) In special circumstances where the Central Government so determines, a new certificate, need not be dated from the date of expiry of the existing certificate, shall be valid up to,--

- a. for a passenger ship, a date not exceeding twelve months;
- b. for a cargo ship, a date not exceeding five years, from the date of completion of the renewal survey.

(8) Where a certificate referred to in sub-section (2) is issued for a period of less than five years, the Central Government or any person authorised by it in this behalf may extend the validity of the certificate beyond the expiry date to the maximum period specified in sub-section (2) if appropriate surveys, applicable when a certificate is issued for a period of five years, are carried out.

(9) If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Central Government or any person authorised by it in this behalf may endorse the existing certificate and such certificate shall be in force for a further period which shall not exceed five months from the expiry date of the existing certificate.

(10) If annual, intermediate or periodical surveys in the manner as specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be, are completed before the period stipulated therefor, then-

- a. the anniversary date mentioned on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
- b. the subsequent surveys shall be completed at the stipulated intervals using the new anniversary date so endorsed;
- c. the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as the case may be, are carried out so that the maximum stipulated intervals between the surveys are not exceeded.

(11) A certificate issued under section 299A, section 300 or section 301 shall cease to be valid,-

- a. if the relevant surveys specified in the Safety Convention or in cases where such specified manner is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be, are not completed within the stipulated period;
- b. if the certificate is not endorsed; or
- c. if the ship ceases to be an Indian ship.

**Amendment  
of section  
307.**

13. In section 307 of the principal Act,-

- a. in sub-section (2), in clause (b), for the words radio telegraphy certificate or a cargo ship safety radio telephony certificate, the words radio certificate shall be substituted;
- b. for sub-section (2A), the following sub-section shall be substituted, namely:-

(2A) No sea-going Indian cargo ship, less than five hundred tons gross, shall proceed on a voyage from any port or place in India to any port or place in India or to any port or place outside India unless there is in force in respect of the ship a cargo ship construction certificate issued under section 299A and a cargo ship equipment certificate issued under section 300 and,

- i. a cargo ship safety radio certificate if the ship is three hundred tons gross or more;
- ii. a qualified cargo ship safety radio certificate if the ship is operating within ports or places in India and is of three hundred to five hundred tons gross; or

- iii. a cargo ship radio certificate if the ship is less than three hundred tons gross, issued under section 301

(c) in sub-section (3),-

- i. in clause (a), for the words equipment certificate issued under section 300, the words safety construction certificate or cargo ship construction certificate issued under section 299A shall be substituted;
- ii. in clause (b), in the opening portion, after the word a, the words cargo ship equipment certificate or shall be inserted;
- iii. in clause (c), for the words radio telegraphy certificate or a cargo ship radio telephony certificate, the words and figures safety radio certificate or a qualified cargo ship safety radio certificate, if the ship operates between ports or places in India and is between five hundred to three thousand tons gross, shall be substituted.

14. In section 317 of the principal Act,-

- i. in sub-section (1), after the existing proviso, the following proviso shall be inserted, namely:-  
-

Provided further that when the renewal survey for the purpose of issue of certificate under sub-section (1) of section 316 is completed within three months before the expiry date of the existing certificate, the new certificate may be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

**Amendment  
of section  
317.**

- ii. in sub-section (3), for the words ♦shall cease to be valid when the ship ceases to be an Indian ship.♦, the words, brackets and figure ♦shall cease to be valid when-
  - a. the ship ceases to be an Indian ship;
  - b. material alterations such as would necessitate assignment of an increased free board have taken place in the hull or superstructure of the ship;
  - c. the fittings and appliances for the protection of openings, the guard rails, freeing ports, or the means of access to the crew ♦s quarters are not maintained in an effective condition;
  - d. the structural strength of the ship is

- lowered to such an extent as to render the ship unsafe;
- e. the certificate is not endorsed to prove that the ship has been surveyed as required under sub-section (5); or
- f. the marking of the deck line and load lines on the ship have not been properly maintained;
- iii. sub-section (4) shall be omitted;
- iv. in sub-section (5), for the words beginning with the words ♦once at least in each year♦ and ending with the words ♦caused to be so surveyed.♦, the following words, brackets and figures shall be substituted, namely:-

and the certificate endorsed once at least in each year during the period commencing three months before and ending three months after the anniversary date of expiry of the certificate for the purpose of ensuring that-

- a. alterations have not been made to the hull or superstructure which would affect the calculations determining the position of the load line;
  - b. the fittings and the appliances for the protection of openings, the guard rails, freeing ports, or the means of access to the crew♦s quarters are maintained in an effective condition;
  - c. the free board marks are correctly and permanently marked; and
  - d. the stability information required under section 298 is readily available on board.
- v. for sub-sections (6) and (7), the following sub-sections shall be substituted, namely:-
  - vi. If an annual survey is completed before the period specified in sub-section (5) then,-
    - a. The anniversary date mentioned on the certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
    - b. The subsequent annual survey required by sub-section (5) shall be completed using the new anniversary date;
    - c. The expiry date of the certificate may remain unchanged provided one or more annual survey is carried out so that the maximum interval between the surveys specified under sub-section (5) is not

exceeded.

- vii. If a certificate under sub-section (1) of section 316 is issued for a period of less than five years, the Central Government or any person authorised by it in this behalf, may extend the validity of the certificate beyond the expiry date to a maximum period specified in sub-section (1):

Provided that annual surveys referred to in sub-section (5) are carried out as may be appropriate.

(7A) If a ship at the time when a certificate expires is not in a port at which it is to be surveyed, the Central Government or any person authorised by it in this behalf 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 the voyage to the port in which it is to be surveyed and also only in cases where it appears proper and reasonable to do so:

Provided that no certificate shall be extended for a period longer than three months and the ship to which an extension is granted shall on its arrival at the port in which it is to be surveyed leave that port without having a new certificate:

Provided further that when the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate.

(7B) A certificate, issued to a ship engaged in short voyage which has not been extended under sub-section (7A), may be extended by the Central Government or any person authorised by it in this behalf for a period up to one month from the date of expiry when the renewal survey is completed, the new certificate shall be valid up to a date not exceeding five years from the date of expiry of the existing certificate.

(7C) In special circumstances where the Central Government so determines a new certificate, need not be dated from the date of expiry of the existing certificate, shall be valid up to a date not exceeding five years from the date of completion of the renewal survey.

(2), for clause (a), the following clauses shall be substituted, namely:-

**of section  
344.**

- a. the form of any certificate and record of equipment issued under this Part;
- b. the manner of surveys required to be made in respect of ships to which the manner of surveys specified in the Safety Convention is not applicable;

16. In section 352 of the principal Act,-

- i. clause (b) shall be omitted;
- ii. after clause (g), the following clauses shall be inserted, namely:--

(h) Convention means the Convention on Limitation of liability for Maritime Claims, 1976 as amended from time to time;

(i) salvor means any person rendering services in direct connection with salvage operations.

Explanation.--For the purpose of clause (i), salvage operations includes,-

- a. the raising, removal, destruction or the rendering a ship harmless which is sunk, wrecked, stranded or abandoned including anything that is or has been on board such ship;
- b. removal, destruction or rendering the cargo of a ship harmless, and
- c. measures taken to avert or minimise loss to a ship or its cargo or both;

**Amendment  
of section  
352**

(j) ship owner means owner, charterer, manager and operator of a sea going ship;

(k) Special Drawing Rights means Special Drawing Rights as determined by the International Monetary Fund.

**Substitution  
of new  
section for  
section 352A.**

17. For section 352A of the principal Act, the following section shall be substituted, namely:--

**Limitation of  
liability for**

352A. (1) The ship owner, salvor, any person for whose act, neglect or default the ship owner or salvor,



**damages in respect of certain claims.**

as the case may be, is responsible, and an insurer of liability for claims to the same extent as the assured himself, may limit his liability as provided under section 352B in respect of,-

- a. claims arising from loss of life of or personal injury to, 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;
- b. claims arising out of loss resulting from delay in the carriage by sea of cargo and passengers or their luggage;
- c. claims arising out 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 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 liability in accordance with the provisions of the Convention or the rules made in this behalf prescribe, as the case may be, and such further loss caused by such measures;
- e. claims for the loss of life or personal injury to passengers of a ship brought by or on behalf of any person ,-
  - i. under the contract of passenger carriage; or
  - ii. who, with the consent of the carrier, is accompanying a vehicle for live animals which are covered by a contract for the carriage of goods,

carried in that ship:

Provided that the limits for passengers claim specified in the rules made under this Part shall not be applicable to the passengers carried in and around the coast of India in respect of whom separate limits shall be prescribed.

Claims set out in sub-section (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise:

Provided that claims set out in clause (d) of sub-section (1) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

(3) Nothing in this section shall apply to-

- a. claims for salvage or contribution in general average;
- b. claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, 1992 as amended from time to time;
- c. claims by servants of the ship owner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the ship owner or salvor and such servants of the ship owner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in accordance with the provision of the Convention or the rules made under this Part prescribe;
- d. claims subject to any international Convention or any law for the time being in force in India governing or prohibiting limitation of liability for nuclear damage;
- e. claims against the ship owner of a nuclear ship for nuclear damage

Explanation 1.-For the purpose of this section the act of involving limitation of liability shall not constitute an admission of liability.

Explanation 2.-For the purpose of this Part the liability of a ship owner shall include liability in an action brought against the ship herself

**Substitution  
of new  
section for  
section 352B.**

18. For section 352B of the principal Act, the following section shall be substituted, namely:-

**Limitation of  
liability.**

352B. The amount to which any person referred to in sub-section (1) of section 352A may limit his liability in accordance with the provisions of the Convention and in cases where the provisions of the Convention are not applicable, the limit shall be in accordance with the rules made in this behalf prescribe.

19. In section 352C of the principal Act,-

- a. in the marginal heading the words against owner shall be omitted;
- b. for sub-section (1), the following sub-section

**Amendment  
of section  
352C.**

shall be substituted, namely:-

(1) Where any liability is alleged to have been incurred by a person referred to in sub-section (1) of section 352A in respect of claims arising out of an occurrence, and legal proceedings are instituted in respect of claims subject to limitation, then such person may apply to the High Court for the setting up of a limitation Fund for the total sum representing the amounts set out in the Convention or the rules made in this behalf under this Part applicable to claims for which that person may be liable together with interest thereon from the date of occurrence giving rise to the liability until the date of the constitution of the Fund.

- c. in sub-section (2), for the words ~~or furnish~~ and ending with the words ~~or secured~~, the words ~~or produce a guarantee acceptable or produce a bank guarantee in respect of the amount as in the opinion of the High Court is satisfactory and the amount so deposited or guarantee so given~~ shall be substituted;
- d. for sub-sections (5) and (6), the following sub-sections shall be substituted, namely :-

(5) Where the person referred to in sub-section (1) or his insurer establishes that he has paid in whole or in part any claims in respect of which he can limit his liability under this Part, the High Court shall place him in the same position and to the same extent in relation to the Fund as the claimant whose claim has been paid and allow to acquire by subrogation the rights which the person so compensated would have enjoyed under this Part:

Provided that the right of subrogation provided for in this sub-section may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they might have paid to that extent if prescribed by the rules made in this behalf under this Part.

(6) Where the person liable or any other person has established that he may at a later date be required to pay in whole or in part, any of the claims under this Part, which could be settled from the Fund, the High Court may notwithstanding the foregoing provisions of this section order that a sufficient sum may be provisionally set aside for the purpose to enable the person to enforce his claim against the Fund at a later date in accordance with the provisions of sub-section (5).

**Amendment  
of section  
352D.**

20. In section 352D of the principal Act,-

- i. in sub-section (5), for clause (a), the following clause shall be substituted, namely:-
  - a. Convention country means a country in which the Convention on Limitation of Liability for Maritime Claims, 1976 as amended from time to time is for the time being in force;
- ii. after sub-section (5), the following sub-sections shall be inserted, namely:--

(6) Notwithstanding anything contained in sub-sections (1) to (4), the vessels or property referred in sub-section (1) shall be ordered to be released if the limitation Fund has been constituted,-

- a. in the port where the occurrence took place, or, if it took place out of port, in the first port of call thereafter;
- b. in the port of disembarkation in respect of claims for loss of life or personal injury; or
- c. in the port of discharge in respect of damage to cargo.

(7) The provision of sub-section (5) shall apply only if the claimant brings a claim against the limitation Fund before the High Court administering the Fund and the Fund is actually available and freely transferable in respect of that claim.

21. For section 352E of the principal Act, the following section shall be substituted, namely:--

**Substitution  
of new  
section for  
section 352E.**

352E. (1) The provisions of this Part shall apply whenever any person referred to in sub-section (1) of section 352A seeks to limit his liability before the Court or seeks to procure the release of a ship or other property or the discharge of any guarantee given within the Indian jurisdiction but any person referred to in sub-section (1) of section 352A who at the time when the provisions under this Part are invoked before any Court in India does not have his habitual residence in India or does not have his principal place of business in India or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the Indian Flag is wholly excluded from the provisions of this Part.

**Scope of  
application.**

(2) The provisions of this Part shall not be applicable to the following vessels unless the Central Government, by notification, specify otherwise,-

- a. ships intended for navigation on or around coast of India and registered as coastal vessels under the provisions of this Act;
- b. ships less than three hundred tons;
- c. air-cushion vehicles;
- d. floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof

22. After section 352F of the principal Act, the following section shall be inserted, namely:-

**Insertion of new section 352FA.**

352FA. The Central Government may make rules to carry out the purposes of this Part:

**Power to make rules in respect of matters in this Part.**

Provided that the rules under this Part shall be made having regard to the provisions of the Convention.

23. For section 352H of the principal Act, the following section shall be substituted, namely:-

352H. In this Part, unless the context otherwise requires,-

**Substitution of new section for section 352H.**

**Definitions**

- a. incident means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;
- b. oil means any persistent hydro carbon mineral oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil whether carried on board a ship as cargo or in the bunker of such ship;
- c. owner means-
  - i. the person registered as owner of the ship;
  - ii. in the absence of registration, the person owning the ship; or
  - iii. in the case of a ship owned by a foreign State, the person registered in that State as operator of the ship;
- d. pollution damage♦ means,-
  - i. loss or damage caused outside the ship by contamination resulting from escape or discharge of oil from the ship,

- ii. the costs of preventive measures and further loss or damage caused by such measures;

f. ship means any seagoing vessel and sea borne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard;

h. State of the ships registry, in relation to registered or unregistered ships, means the State of registration of the ship, or as the case may be, the State whose flag the ship is flying;

### Amendment of section 352 I.

(6) Without prejudice to any right of recourse of the owner against third parties, no claim for compensation for pollution damage may be made against

- a. the servants or agents of the owner or the members of the crew;
- b. the pilot or any other person who, without being a member of the crew, renders services for the ship;
- c. any charterer (howsoever described, including a bare-boat charterer), manager or operator of the ship;
- d. any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
- e. any person taking preventive measures;
- f. all servants or agents of persons mentioned in clauses (c), (d) and (e),

unless the incident causing such damage occurred as a result of their personal act or omission, committed or omitted with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

**Substitution  
of new  
section for  
section 352J.**

25. For section 352J of the principal Act, the following section shall be substituted, namely:--

352J.(1) The owner shall be entitled to limit his liability under this Part, in respect of any one or more incident, as may be prescribed.

**Limitation of  
liability.**

(2) The owner shall not be entitled to limit his liability if it is proved that the incident causing pollution damage occurred as a result of his personal act or omission, committed or omitted with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

**Amendment  
of section  
352R.**

26. In 352R of the principal Act, after clause (b), the following clause shall be inserted, namely:-

c) the limits of liability of owner in respect of one or more incident of pollution damage or other requirements having regard to the provisions of the Liability Convention.

**Insertion of  
new Part XC.**

27. After Part XB of the principal Act, the following Part shall be inserted, namely:-

PART XC INTERNATIONAL OIL POLLUTION  
COMPENSATION FUND

352S. In this Part, unless the context otherwise requires,-

- a. contributing oil means crude oil and fuel oil.

Explanation.-For the purposes of this clause,--

- i. crude oil means any liquid hydro carbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes crude oils from which certain distillate fractions have been removed or to which certain distillate fractions have been added,
- ii. fuel oil means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D 396-69), or heavier;

**Definitions**

- b. discharge or escape, in relation to pollution damage, means the discharge or escape of oil carried by the ship;
- c. Fund means the International Oil Pollution Compensation Fund established by the Fund Convention;
- d. Fund Convention means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 as amended from time to time ;
- e. Fund Convention country means a country in which the Fund Convention is for the time being in force;
- f. guarantor means any person providing insurance or other financial security to cover the owners liability;
- g. 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 off-shore and linked to such site;
- h. ton, in relation to oil, means a metri

**Contribution  
to the Fund.**

352T. (1) Contributions to the Fund in respect of contributing oil carried by sea to ports or terminal installations in India, shall be payable in accordance



with Articles 10 and 12 of the Fund Convention.

(2) Sub-section (1) shall apply whether or not the contributing oil is imported, and notwithstanding that contributions are payable to the Fund in respect of carriage of the same contributing oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of contributing oil when first received in any installation in India 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 to the Fund shall be,-

- a. in case of contributing oil which is being imported into India, the importer; or
- b. in any other case, the person by whom the oil is received in India.

(5) A person shall not be liable to pay contributions to the Fund in respect of the contributing oil imported or received by him in any year if the quantity of contributing oil so imported or received in the year does not exceed one hundred and fifty thousand tonnes or as may be specified from time to time by the Fund Convention.

352U. (1) The contributions payable to the Fund by a person for any year shall be,-

- a. such amount as may be determined by the Assembly of the Fund under Articles 10 and 12 of the Fund Convention and notified to him by the Fund;
- b. in such instalments, becoming due at such dates, as may be notified to him,

**Contributions payable by persons to the Fund.**

and if any amount due from such person remains unpaid after the date on which it became due, it shall from that due date bear interest at a rate determined by the said Assembly until it is paid.

(2) The Central Government may require persons, who are or may be liable to pay contributions to the Fund under section 352T, to give financial security for payment of contributions to that Government or the Fund.

**Power to call** 352V. (1) The Central Government may, for the

**for  
information.**

purpose of transmitting to the Fund the names and addresses of the persons who under section 352T are liable to make contributions to the Fund every year and the quantity of contributing oil in respect of which they are so liable, by notice require any such person to furnish such information as may be specified therein.

(2) A notice under this section may require a person to give such information as may be required to ascertain whether he is liable to contribute to the Fund.

(3) A notice under this section may specify the manner 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 352T, particulars contained in any list transmitted by the Central Government 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) No person shall disclose any information which has been furnished to or obtained by him under this section unless the disclosure is made,-

- a. with the consent of the person from whom the information was obtained;
- b. in connection with the compliance of this section;
- c. for the purpose of any legal proceedings arising out of this section or of any report of such proceedings.

(6) A person who,-

- a. refuses or wilfully neglects to comply with a notice under this section, or
- b. makes, while furnishing any information in compliance with a notice under this section, any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be guilty of an offence punishable under this Act.

352W. The Fund shall be liable for pollution damage in accordance with the provisions of the Fund Convention if any person suffering pollution damage has been unable to obtain full and adequate compensation for the damage under the terms of the Liability Convention on any of the grounds specified in Article 4 of the Fund Convention.

**Liability of the Fund.**

352X. (1) Any action for a claim against the Fund for compensation under section 352W shall be brought before the High Court.

**Jurisdiction of Courts.**

(2) The Fund shall have the right to intervene as a party to any legal proceedings instituted in the High Court against the owner or his guarantor.

(3) Where an action for compensation for pollution damage has been brought against the owner or his guarantor before the High Court each party to the proceedings may notify the Fund of the proceedings.

(4) Where such notice of proceedings has been given to the Fund, 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 that judgment may not be disputed by the Fund on the ground that it has not intervened in the proceedings.

**Extinguishment of claims.**

352Y. Notwithstanding anything contained in any other law for the time being in force no action to enforce a claim against the Fund under this Part shall be entertained by a High Court in India unless-

- a. the action to enforce is commenced; or
- b. notice of action to enforce a claim against the owner or his guarantor in respect of the same pollution damage is given to the Fund,

within three years from the date when the damage occurred:

Provided that in no case an action to enforce a claim shall be brought after six years from the date of the incident that caused such damage.

**Subrogation and right of recourse.**

352Z. In respect of any sum paid by a public authority in India or the Fund, as the case may be, as compensation for pollution damage, that authority shall acquire by subrogation any rights which the person so compensated would have enjoyed under the Fund Convention.

**Power to make rules.** 352ZA. The Central Government may make such rules as may be required to carry out the purposes of the Fund Convention.

### **CHAPTER III**

#### **AMENDMENT OF MAJOR PORT TRUSTS ACT, 1963**

**Amendment of section 116 of Act 38 of 1963.** 28. In section 116 of the Major Port Trusts Act, 1963, for the portion beginning with the words such recovery, by distress and sale, and ending with the words attributable to the order, act or improper omission of such employee, the words, letters and figures such recovery in accordance with the provisions of

**44 of 1958.** Part XA of the Merchant Shipping Act, 1958 shall be substituted.

#### **STATEMENT OF OBJECTS AND REASONS**

The Merchant Shipping Act, 1958 governs matters relating to shipping in India. The main objective of the Act is to ensure development and efficient maintenance of the Indian mercantile marine. The Act has been amended from time to time in the light of experience gained in its implementation and also to give effect to the provisions of various International Conventions to which India has acceded.

2. As an active member of the International Maritime Organisation (IMO), India has acceded to a number of International Conventions and Protocols adopted by the IMO. Suitable provisions are required to be made in the Merchant Shipping Act, 1958 to enable the Government of India or its agencies to give effect to those Conventions and Protocols. Besides, amendments of certain provisions of the Act are also required to enable the maritime administration to meet its operational requirements.

3. The Conventions and Protocols for implementation of which provisions are required to be made in the Merchant Shipping Act, 1958 are outlined as under:-

The International Maritime Organisation has adopted the International Convention on Limitation of Liability for Maritime Claims (LLMC), 1976 on 19th November, 1976 under which the limitation tonnage is the gross tonnage of the vessel as calculated under the universal measurement system in accordance with the Tonnage Measurement of Ships Convention, 1969. The limitation of liability has been extended to any person for whose neglect or default the ship-owner or salvor is responsible. Limitation of liability will be barred if it is proved that the loss resulted from any personal act or omission committed by the ship-owner or the salvor with the intent to cause such loss or committed recklessly and with the knowledge that such loss would probably result. The Safety of Life at Sea (SOLAS) Convention, 1974 was amended in 1988 to streamline and harmonise the survey of ships and their equipment to ensure safety of ships proceeding on sea voyages. The Convention on Load Lines, 1966 as amended in 1988 deals with harmonised system of survey of ships and their certification. The Civil Liability Convention (CLC), 1992 mainly deals with payment for oil pollution damages by any ship in the Indian waters up to limits of exclusive economic zone and by any Indian ship abroad. The Fund Convention, 1992 provides a second tier of compensation regime

where a claimant can proceed against the Fund located in London that pays for damages.

4. The Bill seeks to amend various provisions of the Act, which, inter alia, include the following, namely:-

- i. sections 76 and 87 are being amended to empower the Central Government to prescribe different manning scales for different types of ships and section 95 is being amended to redefine the role of seamen's employment offices to control and regulate the manning agents and recruitment and placement service instead of controlling and regulating the employment of seamen. Section 97 is being amended to bring the unions within its purview to enable curbing of malpractices by the seamen's unions and a new section 97A is being inserted to prohibit any discrimination in recruitment of seafarers;
- ii. sections 299, 299A, 300, 301, 303 and 307 are being amended to include the changes made in the Convention on Safety of Life at Sea, 1974 as amended in 1988. Section 317 is being amended to implement the provisions of the Load Line Convention, 1966 as amended in 1988 to harmonise the survey and certification procedures with those of SOLAS Convention, 1974 as amended in 1988;
- iii. section 344 is being amended to empower the Central Government to prescribe the record of equipment and the manner of surveys to be made in respect of ships;
- iv. sections 352, 352A, 352B, 352C, 352D and 352E are being amended to enable the Central Government to implement the provisions of the LLMC, 1976. A new section 352 FA is being added to empower the Central Government to frame rules;
- v. sections 352H, 352I, 352J, and 352R are being amended to implement the provisions of CLC, 1992 ;
- vi. new sections 352S to 352ZA are being inserted for implementation of the provisions of the Fund Convention, 1992 ;
- vii. consequent to amendment of section 352A, section 116 of the Major Port Trust Act, 1963 is being amended to provide for recovery of damage to the port properties in accordance with the provisions of Part XA of the Merchant Shipping Act, 1958;
- viii. the Indian ships which carry country's commercial trade to the outside world are subjected to control of the Port State which has the right to inspect such ships. Hence, the Indian ships are required to carry internationally valid survey certificates issued in accordance with the procedures established by the International Maritime Organisation but for which they will be required to undergo surveys at foreign ports at the time they call at those ports. The proposed amendments of the Merchant Shipping Act, 1958 will enable the Government of India to take care of these aspects.

5. The Bill seeks to achieve the above objects.

### **Notes on clauses**

**Clause 2** of the Bill seeks to amend section 76 of the Merchant Shipping Act, 1958 to empower the Central Government to prescribe different manning scales for different types of ships and the number of persons and qualifications with which different types of ships shall engage such persons for maintaining watches.

**Clause 3** seeks to amend section 87 to provide the number of persons and the qualifications they may possess for maintaining watches may be engaged by different types of ships at sea or in any port or place.

**Clause 4** seeks to amend section 95 to re-define the role of the seamen's employment offices which will now issue licence, regulate and control the recruitment and placement service instead of controlling and regulating the employment of seamen.

**Clause 5** seeks to substitute section 97 to provide that a person, company or organisation including a union purporting to represent the interests of the seamen shall not demand or receive either directly or indirectly, from any seamen or person seeking employment as seamen or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seamen or persons employment as seamen, other than the fees authorised under the Act.

**Clause 6** seeks to insert a new section 97A to prohibit any discrimination between seamen for employment on the grounds of either membership of any particular union or the training institute from where they obtained training or the place of issue of their continuous discharge certificates.

**Clause 7** seeks to substitute the sub-heading above section 299 because certain expressions therein have become irrelevant due to installation of radio communication equipment on board ships.

**Clause 8** seeks to amend section 299 by substituting certain expressions which have become irrelevant consequent upon the adoption of Global Maritime Distress and Safety System. Further, the amendment provides that the passenger ship safety certificate and qualified passenger ship safety certificate shall be supplemented by a record of equipment in the prescribed form as required by the Safety of Life at Sea Convention, 1974.

**Clause 9** seeks to amend section 299A to provide for the Central Government to authorise any person to issue cargo ship safety construction certificate, cargo ship safety certificate, qualified cargo ship safety construction certificate or qualified cargo ship construction certificate in the prescribed form and also to provide that the owner of every ship in respect of which a certificate is issued under section 299A, section 300 or section 301 shall, so long as the certificate remains in force, cause the ship to be surveyed in the manner as specified in the Safety Convention or in cases where the manner specified is not applicable, in such manner as the rules made in this behalf prescribe, as the case may be.

**Clause 10** seeks to substitute section 300 to provide for the Central Government or any person authorised by it may issue cargo ship safety equipment certificate or cargo ship equipment certificate in the prescribed form and also to provide that the certificate so issued shall be supplemented by record of equipment in the prescribed form.

**Clause 11** seeks to substitute section 301 to provide that the Central Government or any person authorised by it may issue cargo ship safety radio certificate and qualified cargo ship safety radio certificate in the prescribed form.

**Clause 12** seeks to substitute section 303 to provide for shorter period of validity for various safety certificates issued to passenger and cargo ships. It also provides that the Central Government or any person authorised by it may grant an extension of any certificate issued in respect of an Indian ship.

**Clause 13** seeks to amend section 307 to substitute certain irrelevant expressions with new expressions due to advancement in technology.

**Clause 14** seeks to amend section 317 by insertion of a new proviso after the existing proviso in sub-section (1) to provide that when the renewal survey for the purpose of issue of certificate under sub-section (1) of section 316 is completed within three months before the expiry date of the existing certificate, the new certificate may be valid for a period of five years from the date of expiry of the existing certificate. It also provides grounds when a certificate shall cease to be valid. It also empowers the Central Government or any person authorised by it to extend the period of validity of the certificate for the purpose of completing the voyage to the port in which it is to be surveyed.

**Clause 15** seeks to substitute clause (a) of sub-section (2) of section 344 to provide that the Central Government may prescribe the form of any certificate, record of equipment and the manner of surveys in respect of those ships to which the manner of surveys specified in the Safety Convention is not applicable.

**Clause 16** seeks to amend section 352 to define various expressions on the lines of the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976.

**Clause 17** seeks to substitute section 352A to provide for limitation of liability for damages in respect of certain maritime claims in accordance with the provision of the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976.

**Clause 18** seeks to substitute section 352B to provide for limitation of liability in accordance with the provisions of the Convention or the rules made therefor, as the case may be.

**Clause 19** seeks to amend section 352C of the Act to provide for setting of a limitation Fund and production of a bank guarantee to settle the liability in respect of maritime claims in accordance with the provision of the Convention on Limitation of Liability of Maritime Claims (LLMC), 1976 as amended from time to time.

**Clause 20** seeks to amend section 352D to redefine the ♦Convention Country♦ on lines of the Convention on Limitation of Liability of Maritime Claims (LLMC), 1976 as amended from time to time and to insert new sub-sections (6) and (7) to define the condition when the vessel or property shall be ordered to be released in case of setting up of limitation Fund and to specify when the provisions of sub-section (5) shall apply.

**Clause 21** seeks to substitute section 352E to redefine the scope of application of the provisions of part XA of the Act in accordance with the provisions of the Convention on Limitation of Liability of Maritime Claims (LLMC), 1976.

**Clause 22** seeks to insert a new section 352FA to empower the Central Government to make rules to carry out the purposes of Part XA of the Act having regard to the provisions to the Convention on Limitation of Liability of Maritime Claims (LLMC), 1976 as amended from time to time.

**Clause 23** seeks to amend section 352H to define various expressions on lines of the Convention on Civil Liability, 1992.

**Clause 24** seeks to amend section 352I to provide that in case of an incident involving two or more ships occurs resulting into pollution damage, the owners of all ships, unless exonerated, shall be jointly and severally liable for such damage which is not reasonably separable. Sub-section (6) is substituted to specify the parties against whom no claim for compensation for pollution damage may be made.

**Clause 25** seeks to substitute section 352J to provide for limitation of liability in accordance with the provisions of Convention on Civil Liability, 1992.

**Clause 26** seeks to amend section 352R to insert a new clause (c) to empower the Central Government to make rules to specify the limits of liability in respect of pollution damage having regard to the provisions of the Convention on Civil Liability, 1992.

**Clause 27** seeks to insert a new Part XC to the Act comprising sections 352 S to 352 ZA to incorporating the provisions of the Fund Convention, 1992. This Part provide as to who shall or shall not be liable to pay contributions to the Fund and the manner in which contribution to the Fund shall be payable, the quantum of amount payable to be determined by the Assembly of the Fund, requirement for giving financial security for payment of contribution to the Central Government or the Fund, the power of Central Government to call for information from persons who are liable to make contribution to the Fund for the purpose of transmitting the same to the Fund, action to enforce a claim against the Fund to be entertained within three years from the date when the damage occurred provided certain conditions are fulfilled and the Central Government to make rules that may be required for carrying out the purposes of Fund Convention.

**Clause 28** seeks to amend section 116 of the Major Port Trusts Act, 1963 to provide for recovery of damage to the port properties in accordance with the provisions of Part XA of the Merchant Shipping Act, 1958.

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 2 of the Bill empowers the Central Government to prescribe different manning scales for different types of ships and the number of persons and qualifications with which different ships shall engage such persons for maintaining watches. Clause 4 empowers the Central Government to specify the levy of fee and collection thereof by the seamen's employment offices for issue of licences to recruitment and placement services or renewal of licences, and the services to be rendered by the seamen's employment offices. It also empowers the Central Government to issue directions to the seamen's employment office or any recruitment and placement service with reference to the conditions under which the seafarers are to be placed abroad by the recruitment and placement service, circumstances and conditions under which licence to be suspended or withdrawn and the conditions under which seafarers' personal data to be processed by the recruitment and placement service including the collection, storage, combination and communication of such data to the third parties. Clause 8 requires that certificates issued under sub-sections (1) and (2) of section 299, sub-sections (1) and (2) of section 300 and section 301 shall be supplemented by a record of equipment in the prescribed form. Clause 9 empowers the Central Government to provide the manner, wherever necessary, for survey of ships for the purpose of issuing certificate under sub-section (1) or sub-section (2) of section 299A, sub-section (1) or section (2) of section 300 or section 301 in the prescribed form. Clause 12 empowers the Central Government to frame rules, wherever necessary, to specify the manner of completing surveys for renewal of certificates or otherwise. Clause 22 empowers the Central Government to frame rules with regard to the provisions of the Convention on Limitation of Liability of Maritime Claims (LLMC), 1976 to carry out the purposes of Part XA of the Act. Clause 26 empowers the Central Government to prescribe the limits of liability of the owner under Part XB of the Act, in respect of any one or more incident of pollution damage. Clause 27 empowers the Central Government to frame rules to carry out the purposes of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, Convention, 1992.



2. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for all the matters in the Bill. The delegation of legislative power is, therefore, of a normal character.

## **MARPOL**

### **Substitution of new sections for sections 356 A to 356 H.**

28. For sections 356 A to 356 H of the principal Act, the following sections shall be substituted, namely:-

### **Commencement and application.**

◆356A. (1) The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Part.

(2) Save as otherwise provided, this Part shall apply to-

- a. oil tankers of one hundred and fifty tons gross or more, other ships of four hundred tons gross or more and off-shore installations ; and
- b. incidents of marine casualty or acts relating to such casualty occurring with grave and imminent danger to Indian coast line or related interests from pollution or threat of pollution in the sea either by deliberate, negligent or accidental release of oil, ballast water, noxious liquid and other harmful substances into sea including such incidents occurring on the high seas.

(3) This Part shall not apply to war ship or other ship owned or operated by Government and used for the time being only on Government non-commercial service.

### **Definitions**

356 B. In this Part, unless the context otherwise requires,-

80 of 1976.

- a. ballast◆ means any solid or liquid placed in a ship to increase the draft to change the trim, to regulate the stability, or to maintain stress load within such limits as may be prescribed;
- b. cargo◆ includes ballast and ships stores and fuel;
- c. chemical tanker◆ means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an oil tanker when it is carrying cargo or part cargo of

- noxious liquid substances in bulk;
- d. coasts ♦ has the same meaning assigned to it in section 357;
  - e. coastal waters ♦ means any part of the territorial waters of India, or any marine areas adjacent thereto over which India has, or, may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or any other law for the time being in force;
  - f. combination carrier ♦ means a ship designed to carry either oil or solid cargoes in bulk;
  - g. Convention ♦ means the International Convention for the Prevention of Pollution from Ships, 1973 and includes Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 as amended from time to time;
  - h. discharge ♦, in relation to harmful substances or effluents containing such substances, means any release howsoever caused, from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying, but does not include dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter adopted at London on 13th November, 1972 as amended from time to time, or release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources, or release of harmful substances for purposes of legitimate scientific research into pollution abatement or control;
  - i. from the nearest land ♦ means from the baseline from which the territorial sea of the territory in question is established in accordance with the international law;
  - j. garbage ♦ means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances as may be prescribed
  - k. harmful substance ♦ means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance, subject to control by the Convention, as may be prescribed;
  - l. instantaneous rate of discharge of oil content ♦ means the rate of discharge of oil in litres per

hour at any instant divided by the speed of the ship in knots at the same instant;

- m. International Pollution Preservation Certificate ♦ means any certificate issued in accordance with the provisions of those Pollution Prevention Conventions and Protocols thereto which are acceded to by India;
- n. liquid substances ♦ means substances having a vapour pressure not exceeding 2.8 kp/cm<sup>2</sup> at a temperature of 37.8 C;
- o. mile ♦ means a nautical mile of 1,852 metres;
- p. noxious liquid substance ♦ means any substance which has been designated as such by rules made under this Part;
- q. oil ♦ means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;
- r. oil fuel ♦ means any oil used as fuel in connection with the propulsion and auxiliary machinery of the ship in which such oil is carried;
- s. oily mixture ♦ means a mixture with any oil content;
- t. oil tanker ♦ means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes any combination carrier or, any chemical tanker when it is carrying a cargo or part cargo of oil in bulk;
- u. reception facilities ♦, in relation to port, means facilities for enabling tankers or ships using the ports to discharge or deposit residue or mixture of any substance subject to control by the Convention;
- v. sewage ♦ means-
  - i. drainage and other waste from any form of toilets, urinals and Water Closet scuppers;
  - ii. drainage from medical premises (dispensary, sick bay, and other like places) via wash basins, wash tubs and scuppers located in such premises;
  - iii. drainage from spaces containing living animals; or
  - iv. other waste water when mixed with the drainages specified above;
- w. ship ♦ means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;
- x. special area ♦ means a sea area where for recognised technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil or noxious

substance is required.

**Issue of  
Pollution  
Prevention  
Certificate.**

356C. (1) No Indian oil tanker or no other Indian ship shall proceed to sea unless there is in force, in respect of that ship, a Certificate called International Oil Pollution Prevention Certificate.

No Indian oil tanker and other ship carrying noxious liquid substances in bulk shall proceed to sea except with International Pollution Prevention Certificate for the carriage of noxious liquid substances in bulk.

No Indian oil tanker and other ship to which the annex IV of the Convention apply shall proceed to sea except with International Sewage Pollution Prevention Certificate.

A valid International Pollution Prevention Certificate issued in respect of a ship, other than an Indian ship, by the Government of the country to which the ship belongs shall, subject to such rules as the Central Government may make in this behalf, have the same effect in India as the corresponding certificate issued in respect of an Indian ship under this Part.

**Issue of  
Certificates  
for foreign  
ships in India  
and Indian  
ships in  
foreign  
countries.**

356D. (1) The Central Government may at the request of the Government of a country to which the Convention applies, cause any of the International Pollution Prevention Certificate to be issued in accordance with the Convention in respect of a ship in that country, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued it shall contain a statement that it has been issued on a request.

(2) The Central Government may request the Government of a country to which the Convention applies, to issue any of the International Pollution Prevention Certificates in accordance with the Convention in respect of a ship and the certificate issued in pursuance of such a request containing a statement that it has been so issued shall have the same effect as if it had been issued by the Central Government under this Act.

**Requirement  
for  
construction  
and  
equipment in  
ships to  
prevent**

356E. For the purpose of preventing or reducing discharges of harmful substances or mixtures containing such substances from the oil tankers and other ships, the Central Government may make rules requiring Indian oil tankers and other ships to be fitted with such equipment and to comply with such requirements for construction, survey of equipments

**pollution.** and structure of such oil tankers or other ships and specifying conditions for making of surveys of all oil tankers or other ships prior to issue of International Pollution Prevention Certificates as may be prescribed.

**Record books.** 356F. (1) Every Indian oil tanker and every other ship which carry substances subject to control by the Convention shall maintain, as may be required, on board record books in the prescribed forms.

(2) The manner in which record books shall be maintained, the nature of entries to be made, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

**Inspection and control of oil tankers and other ships to which this Part applies.** 356G. (1) A surveyor or any person authorised in this behalf may, at any reasonable time, go on board an oil tanker or other ship to which any of the provisions of this Part applies, for the purposes of-

- a. ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;
- b. satisfying himself about the adequacy of the measures taken to prevent pollution;
- c. ascertaining the circumstances relating to an alleged discharge of substances which are subject to control by the Convention from the oil tanker and other ship in contravention of the provisions of this Part;
- d. inspecting any record required to be maintained on board; and
- e. checking the validity of the International Oil Pollution Prevention Certificates.

(2) The surveyor or any such person may, if necessary, make, without unduly delaying the oil tanker or the other ship, a true copy of any record of the oil tanker or the other ship and may require the master of such tankers or such ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

**Information regarding contravention of the provisions of the Convention.** 356H.(1) If on report from a surveyor or other person authorised to inspect an oil tanker and other ship under section 356 G, the Director-General is satisfied that any provision of the Convention has been contravened by such oil tanker and other ship within the coastal waters, the Indian Navy or the Coast Guard, as the case may be, upon ordered by the

Director-General, shall-

- a. (a) detain the oil tanker and other ship until the causes of such contravention are removed to the satisfaction of the authority concerned; and
- b. (b) proceed against such oil tanker and other ship for recovery of cost of pollution damage, if any, and the cost of prevention of pollution damage and cleaning of such pollution.

(2) On receipt of information from the Government of any country to which the Convention applies that an Indian oil tanker and other ship have contravened any provisions of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and if satisfied that sufficient evidence is available to establish contravention of any of the provisions of this Part or rules made thereunder, take appropriate action against the owner or master and intimate the reporting Government of the action so taken.

29. In section 356 I of the principal Act, for the words oil reception facilities wherever they occur, the words reception facilities shall be substituted.

**Amendment  
of section  
356 I**

30. In section 356 J of the principal Act, for the word oil wherever it occurs, the words oil or noxious liquid substance shall be substituted.

**Amendment  
of section  
356 J**

31. In section 356 K of the principal Act, for the word oil wherever it occurs, the words oil or noxious liquid substance shall be substituted.

**Amendment  
of section  
356 K**

32. In section 356 O of the principal Act, in sub-section (2),-

**Amendment  
of section  
356 O**

- i. for clauses (a) and (b), the following clauses shall be substituted, namely:-
  - a. prescribe limits of ballast under clause (a), specify substances which are not liable to be disposed of continuously or periodically under clause (j), specify substances subject to control by the Convention under clause (k) and designate noxious liquid substances under clause (p) of section 356B;
  - b. prescribe the forms in which, the duration for which and conditions

- subject to which various International Pollution Prevention certificates shall be issued under sub-sections (1), (2), (3) and (4) of section 356 C;
- c. prescribe the period within which, the manner in which and conditions for making surveys of oil tankers or other ships prior to issue of International Pollution Prevention Certificates, the requirements as to equipment which are to be fitted for prevention of pollution by an oil tanker and other ship under section 356E;
  - ii. in clause ( c), for the words oil record books, the words record books shall be substituted;
  - iii. in clause (d), for the words oil monitoring system, oily water separator, oil content metre, crude oil washing system, inert gas system or other equipments or contrivances carried out on board for preventing pollution of sea by oil, the words various equipments carried out on board under the Convention shall be substituted;
  - iv. after clause (e), the following clause shall be inserted, namely:
  - v. any other matter which has to be or may be prescribed.

## **Merchant Shipping (Amendment) Act, 2003**

THE MERCHANT SHIPPING (AMENDMENT) ACT, 2003

NO.59 OF 2003

(30th December, 2003)

An act further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

1 (1) This Act may be called the  
Merchant Shipping  
(Amendment) Act, 2003.

### **Short title and commencement**

(2) It shall come into force on  
such date as the Central  
Government may, by notification  
in the Official Gazette, appoint.

**Substitution of  
new sections  
for  
sections 356 A  
to**

2 For sections 356A to 356H of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), the following sections shall be substituted, namely:-

**44 of 1958.**

## 356 H.

### Application

356A (1) Save as otherwise provided, this Part shall apply to-

- a. oil tankers of one hundred and fifty tons gross or more, other ships of four hundred tons gross or more and off-shore installations; and
- b. incidents of marine casualty or acts relating to such casualty occurring with grave and imminent danger to Indian coast line or related interests from pollution or threat of pollution in the sea or air either by deliberate, negligent or accidental release of oil, ballast water, noxious liquid and other harmful substances into sea or including such incidents occurring on the high seas.

(2) This Part shall not apply to war ship or other ships owned or operated by the Government and used for the time being on Government non-commercial service.

356B In this Part, unless the context otherwise requires,-

- a. ♦ballast♦ means any solid or liquid placed in a ship to increase the draft to change the trim, to regulate the stability, or to maintain stress load within such limits as may be prescribed;
- b. ♦cargo♦ includes ballast and ships stores and fuel;
- c. ♦coasts♦ has the same meaning assigned to it in section 357;
- d. ♦coastal waters♦ means any part of the territorial waters of India, or any marine areas adjacent thereto over which India has, or, may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or any other law for the time being in force;
- e. ♦Convention♦ means the International Convention for the Prevention of Pollution from Ships, 1973 including its Protocol of

### Definitions

80 of 1976



1978, as amended from time to time in the manner specified therein;

- f. ♦international pollution prevention certificate♦ means any Certificate issued in accordance with the provisions of Pollution Prevention Conventions and Protocols thereto which are acceded to by India;
- g. ♦mile♦ means a nautical mile of 1,852 metres;
- h. ♦noxious liquid substance♦ means any substance which has been designated as such by rules made under this Part;
- i. ♦off-shore installation♦ means an installation, whether mobile or fixed, which is used or is intended to be used for under-water exploration or exploitation of crude oil, petroleum or other similar mineral oils, under lease, licence or any other form of contractual arrangement and includes-
  - a. any installation which could be moved from place to place under its own motive power or otherwise; and
  - b. a pipe-line;
- j. ♦oil♦ means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;
- k. ♦oily mixture♦ means a mixture with any oil content;
- l. ♦oil tanker♦ means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes any combination carrier or, any chemical tanker when it is carrying a cargo or part cargo of oil in bulk;
- m. ♦reception facilities♦, in relation to a port, means facilities for enabling tankers or ships using the port to discharge or deposit residue or mixture of any substance subject to control by the Convention;
- n. ♦ship♦ means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

356 C (1) No Indian oil tanker or other Indian ship shall proceed to sea unless there is in force, in respect of that ship, a Certificate issued by the Central Government, to be called an international oil pollution prevention certificate, in such form, for such duration and subject to such conditions as may be prescribed.

(2) The Central Government may request the Government of a country to which the Convention applies, to issue any international pollution

**Issue of  
Pollution  
Prevention  
Certificate**

prevention certificate in accordance with the Convention in respect of a ship and the certificate issued in pursuance of such a request containing a statement that it has been so issued shall have the same effect as if it had been issued by the Central Government under this Act.

356E. For the purpose of preventing or reducing discharges of harmful substances or mixtures containing such substances from the oil tankers or other ships, the Central Government may make rules requiring Indian Oil tankers and other Indian ships to be fitted with such equipment and to comply with such requirements for construction, survey of equipments and structure of such oil tankers or other ships and specifying conditions for making of surveys of all oil tankers or other ships, as may be prescribed, prior to issuing of international pollution prevention certificates.

**Requirement  
for construction  
and equipment  
in ships to  
prevent  
pollution**

356F. (1) Every Indian oil tanker or other Indian ship which carries substances subject to control by the Convention shall maintain, as may be required, record books in the prescribed forms, on board the oil tanker or other ship.

**Record books**

(2) The manner in which record books shall be maintained, the nature of entries to be made therein, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

**Inspection  
and control of  
oil tankers  
and other  
ships to which  
this Part  
applies.**

356 G. (1) A surveyor or any person authorized in this behalf may go, at any reasonable time, on board an oil tanker or other ship to which any of the provisions of this Part applies, for the purposes of-

- a. ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;
- b. satisfying himself about the adequacy of the measures taken to prevent pollution;
- c. ascertaining the circumstances relating to an alleged discharge of substance which is subject to control by the Convention from the oil tanker other ship in contravention of the provisions of this Part;
- d. inspecting any record required to be maintained on board; and
- e. checking the validity of the international oil pollution prevention certificates.

(2) The surveyor or any such person may, if necessary, make, without unduly delaying the oil

tanker or the other ship, a true copy of any record of the oil or the other ship and may require the master of such tanker or ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

356 H. (1) If, on report from a surveyor or other person authorized to inspect an oil tanker or other ship under section 356 G, the Director-General is satisfied that any provision of the Convention has been contravened by such oil tanker or other ship within the coastal waters, the Director-General or any officer authorized by him in this behalf, may-

**Information regarding contravention of the provisions of the Convention.**

- a. detain the oil tanker or other ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorized by him; and
- b. proceed against such oil tanker or other ship for recovery of cost of pollution damage, if any, and the cost of prevention of pollution damage and cleaning of such pollution;

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the oil tanker or other ship from proceeding to sea, and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(2) On receipt of information from the Government of any country to which the Convention applies that an Indian oil tanker or other ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and if satisfied that sufficient evidence is available to establish contravention of any of the provisions of this Part or the rules made thereunder, take appropriate action against the owner or master of the concerned oil tanker or other ship and intimate the reporting Government of the action so taken.

**Amendment of section 356 I.**

3. In section 356-I of the principal Act, for the words oil reception facilities, wherever they occur, the words reception facilities shall be substituted.

**Amendment to section 356 J**

4. In section 356 J of the principal Act, for the word ♦oil♦, wherever it occurs, the words ♦oil or noxious liquid substance♦ shall be substituted.

**Amendment to section 356 K.**

5. In section 356 K of the principal Act, for the word ♦oil♦, wherever it occurs, the words ♦oil or noxious liquid substance shall be substituted.

6. In section 356O of the principal Act, in sub-section (2),- **Amendment of section 356-O.**

(i) for clauses (a) and (b); the following clauses shall be substituted, namely:-

- a. prescribe the limits of ballast, and designate noxious liquid substances, under clauses (a) and (h) respectively, of section 356B;
- b. prescribe the forms in which, the duration for which and the conditions subject to which, various international pollution prevention certificates shall be issued under section 356 C;

(bb) prescribe the period within which, the manner in which and the conditions for making surveys of oil tankers or other ships prior to issuing an international pollution prevention certificate and the requirements as to equipment which are to be fitted for prevention of pollution by an oil tanker and other ship under section 356E.

(ii) in clause (c), for the words oil record books, the words record books shall be substituted;

(iii) in clause (d), for the words oil monitoring system, oily water separator, oil content metre, crude oil washing system, inert gas system or other equipments or contrivances carried out on board for preventing pollution of sea by oil, the words various equipments required under the Convention shall be substituted;

(iv) after clause (e), the following clause shall be inserted, namely:-

(ee) any other matter which, for the implementation of the Convention has to be or may be prescribed.

## **Merchant Shipping (Amendment) Act, 2014**

### **THE MERCHANT SHIPPING (AMENDMENT) ACT, 2014**

**(NO. 31 OF 2014)**

*[9th December, 2014.]*

An Act further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 2014.

**Short title and commencement**

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**44 of 1958.**

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after Part XIA, the following Part shall be inserted, namely:—

**Insertion of new Part XIB.**

## **PART XIB**

### **CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS**

356P. (1) Save as otherwise provided in this Part, this Part shall apply to—

**Application.**

- (a) every Indian ship, wherever it is;
- (b) ships not entitled to fly the flag of India, but which operate under the authority of India; and
- (c) ships that enter a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

**80 of 1976.**

(2) This Part shall not apply to any warship, naval auxiliary or other ship owned or operated by or under the authority of India and used, for the time being, only on Government non-commercial service:

Provided that in case of such ships, the Government shall ensure by the adoption of appropriate measures not impairing operations or operational capabilities of such ship that such ships are operated in a prescribed manner consistent with this Part.

**Definitions**

356Q. In this Part, unless the context otherwise requires,—

- (a) “anti-fouling system” means a coating, paint, surface treatment, surface, or device that is used on a ship to

- control or prevent attachment of unwanted organisms;
- (b) "authority" means—
- (i) the Government of India under whose authority the ship is operating;
  - (ii) with respect to a ship entitled to fly a flag of any other country, the Government of that country; and
  - (iii) with respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to Indian coast over which Government of India exercises sovereign rights for the purposes of exploration and exploitation of its natural resources (including Floating Storage Units and Floating Production Storage and Offloading Units), the Government of India;
- (c) "Committee" means the Marine Environment Protection Committee of the Organisation;
- (d) "Convention" means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;
- (e) "gross tonnage" means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention as ratified or acceded to or adopted by the Government of India;
- (f) "international voyage" means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State;
- (g) "length" means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention as ratified or acceded to or adopted by the Government of India;
- (h) "Organisation" means the International Maritime Organisation;
- (i) "port" shall have the same meaning as assigned to it in the Indian Port Act, 1908, the Major Port Trusts Act, 1963, or

under any other law for the time being in force and shall include any terminal, either within the port limits or otherwise;

- (j) "ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

356R. (1) Every Indian ship and other ships which are not entitled to fly Indian flag but operating under the authority of India, shall comply with the requirements set forth in this Part, including the applicable standards and requirements as prescribed from time to time as well as effective measures to ensure that such ships comply with the requirements, as may be prescribed from time to time.

**Control of  
anti-fouling  
systems.**

(2) All other vessels to which this Part applies shall comply with requirements of the anti-fouling systems as prescribed from time to time.

356S. (1) No Indian ship or other ships entitled to fly Indian flag or operating under its authority, which is of 400 gross tonnage and above shall engage in International Voyage unless there is on-board, in respect of that ship, a certificate issued by the Director-General, to be called as International Anti-Fouling System Certificate, in such form, for such duration and subject to such procedures and conditions as may be prescribed, from time to time.

**Issuance of  
International  
Anti-Fouling  
System  
Certificate.**

(2) No Indian ship or other ships entitled to fly Indian flag or operating under its authority excluding fixed or floating platforms, Floating Storage Units and Floating Production Storage and Offloading Units which is of 24 metres or more in length, but less than 400 gross tonnage, shall engage in international voyage unless there is onboard a declaration in such form and subject to such procedures and conditions as may be prescribed, from time to time.

(3) Indian ships entitled to fly Indian flag which are of 400 gross tonnage and above, with appropriate conditions as applicable for each type of ships and not engaged in international voyage and are required to be registered under this Act, shall be issued an Indian Anti-Fouling System Certificate, as may be prescribed from time to time.

356T. (1) The Central Government may, at the request of the Government of a country to which the Convention applies, cause an International Anti-Fouling System Certificate to be issued in accordance with the Convention in respect of any ship of that country to which the Convention applies, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been so issued on a request, as per the procedure prescribed in this behalf from time to time.

**Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in Foreign countries**

(2) The Central Government may request the Government of a country to which the Convention applies, to issue an International Anti-Fouling System Certificate in accordance with the Convention in respect of a ship to which this Part applies and the certificate so issued in pursuance of such a request shall contain a statement that it has been so issued and shall have the same effect as if it had been issued by the Central Government under this Act.

356U. Taking into account the international rules, standards and requirements, the Central Government shall prescribe the rules and take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system, are collected, handled, treated and disposed of in a safe and environmentally sound manner, by any person in India, to protect human health and the environment.

**Controls of waste materials.**

356V. (1) Every ship to which this Part applies shall maintain, a record of antifouling systems in the prescribed form.

**Record of anti-fouling systems.**

(2) The manner, in which the record of anti-fouling systems to be



maintained shall be prescribed having regard to the provisions of the Convention and this Part.

**Inspection  
and control of  
all ships  
above 400  
gross  
tonnage.**

356W. (1) Any person authorised by the Director-General as Surveyor in this behalf may inspect, at any reasonable time, any ship to which any of the provisions of this Part applies, for the purposes of—

- (a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;
- (b) verifying that, where required, there is on-board a valid International Anti-Fouling System Certificate or a declaration on anti-fouling system; or
- (c) brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account the procedures as prescribed from time to time; and
- (d) verifying any record required to be maintained on-board.

(2) For the purposes of clause (c) of sub-section (1), the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(3) Any person authorised by the Director-General as surveyor in this behalf, may, certify any matter referred to in sub-section (1) in respect of such ship as a copy of the records of the ship to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

**Information  
regarding  
contravention  
of the  
provisions of  
Convention.**

356X. (1) If, on receipt of a report from a surveyor or other person authorised to inspect a ship, the Director-General is satisfied that any provision of this Part has been contravened by such ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may—

- (a) detain the ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) levy penalty on such ship as specified in section 436:

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the ship from proceeding to sea and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(2) On receipt of information from the Government of any country to which the Convention applies that a ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and, if satisfied that sufficient evidence is available, conduct investigation of the alleged violations and take appropriate measures in respect thereof.

**Power to  
make rules.**

356Y. (1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

- (a) appropriate measures for operation of ships under the proviso to sub-section (2) of section 356P;
- (b) the standards, requirements and measures to ensure compliance under section 356R;
- (c) procedure and conditions and the fees which may be levied for inspection and issuance of international Anti-Fouling Systems Certificate under section 356S;
- (d) procedure and the fees which may be levied for issuance of Anti-Fouling Systems Certificate for foreign ships in India and Indian ships in foreign countries under section 356T;
- (e) procedure for collection, handling and disposal of wastes under section 356U;
- (f) the format of record of Anti-Fouling Systems, the manner in which such record shall be maintained under section

356V;  
(g) any other matter which is required to be or may be prescribed.'.

3. In section 436 of the principal Act, after serial number 115G and the entries relating thereto, the following shall be inserted, **Amendment of section 436.**  
namely:—

Sl. No.	Offences	Section of this Act to which offence has reference	Penalties
1	2	3	4
115H	If the owner of an Indian ship fails to comply with section	356R	356R Fine which may extend to fifteen lakh rupees.
115-I	If a master proceeds or attempts to proceed to sea in contravention of section 356S	356S	Fine which may extend to three lakh rupees.
115J	If the owner of an Indian ship or any person fails to comply with the rules made or measures taken by the Central Government under section 356U	356 U	Fine which may extend to one Lakh and fifty thousand rupees.
115K	If the master of a ship fails to maintain records as required by section 356V	356 V	Fine which may extend to one lakh and fifty thousand rupees.
115L	If the master of a ship fails to comply with sub-section (1) of section 356W	356W(1)	Fine which may extend to one lakh and fifty thousand rupees.".

## Merchant Shipping (Second Amendment) Act, 2014

THE MERCHANT SHIPPING (SECOND AMENDMENT) ACT,  
2014  
(NO. 32 OF 2014)

[9th December, 2014.]

An Act further to amend the Merchant Shipping Act,  
1958.

BE it enacted by Parliament in the Sixty-fifth Year of the  
Republic of India as follows:—

- |    |  |                                       |
|----|--|---------------------------------------|
| 1. | (1) This Act may be called the Merchant Shipping (Second Amendment) Act, 2014.   | <b>Short title and commence ment.</b> |
|    | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. |                                       |

- |                   |   |  |
|-------------------|---|--|
| <b>44 of 1958</b> | 2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), in PART VII, under the heading, for the sub-heading, the following sub-heading shall be substituted, namely:—<br>"Classification of seamen, seafarer, maritime labour standards and prescription of minimum manning scale." | <b>Substitution of subheading in PART VII.</b> |
|-------------------|---|--|

- |   |   |
|---|---|
| 3. In the principal Act, after section 88, the following sections shall be inserted, namely:—   | <b>Insertion of new sections 88A and 88B.</b> |
| '88A. In this Part, unless the context otherwise requires,—   |   |
| (a) "Declaration of Maritime Labour Compliance" means a declaration issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him in this behalf, in respect of a ship that it meets with the requirements and standards set out in the | <b>Definitions.</b>                           |

provisions of the Maritime Labour Convention;

(b) "Maritime Labour Certificate" means the certificate issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him in this behalf, in accordance with the provisions of the Maritime Labour Convention;

(c) "Maritime Labour Convention" means the International Convention of Maritime Labour Organisation on Maritime Labour Standards signed in Geneva on the 23rd February, 2006;

(d) "seafarer" means any person who is employed or engaged or works in any capacity on board a sea going ship, but does not include—

(i) the employment or engagement or work on board in any capacity of any person in a ship of war; or

(ii) any Government ship used for military or non-commercial purposes.

**Application  
of maritime  
labour  
standards  
to seafarers  
and ships.**

88B. (1) The provisions relating to maritime labour standards as contained in the Maritime Labour Convention, shall apply to all seafarers and ships engaged in commercial activities, but does not include—

- (a) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply;
- (b) ships engaged in fishing activities;
- (c) traditionally built ships such as dhows and junks;
- (d) ships of war or naval auxiliaries.

(2) Subject to the provisions of sub-section (1), the Central Government may, on the recommendation of the Director-General of Shipping, by order, extend the provisions of the said sub-section to ships not engaged in commercial activities with such exceptions and

modifications as it may consider necessary.'.

**Amendment of section 91.** 4. In section 91 of the principal Act, for the words "boys not under fifteen years of age", the words "young persons not under the age of sixteen years" shall be substituted.

**Amendment of section 92.** 5. In section 92 of the principal Act,—  
(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The apprenticeship of any person to the sea service shall be by contract in writing between the apprentice or if he is a young person, then, on his behalf by his guardian, and the master or owner of the ship requiring the apprentice.";

(b) in sub-section (3),—

(i) in clause (a), in sub-clause (iii), for the words "fifteen years", the words "sixteen years" shall be substituted;

(ii) in clause (b), for the words "a minor" the words "an young person" shall be substituted.

**Amendment of section 95.** 6. In section 95 of the principal Act, in the Explanation, clause (b) shall be omitted.

**Amendment of section 99A.** 7. In section 99A of the principal Act, the Explanation thereto shall be omitted.

8. In section 101 of the principal Act, in sub-section (2),—

(i) after clause (c), the following clause shall be inserted, namely:—

"(cc) hours of work and rest in a week, as may be prescribed;"

(ii) after clause (f), the following clause shall be inserted, namely:—

**Amendment of section 101.**

"(ff) the entitlement for leave, as may be prescribed;"; and

(iii) in clause (j), for the words "arising out of and", the words "arising out of employment or" shall be substituted;

(iv) after clause (k), the following clause shall be inserted, namely:—

"(kk) the terms of agreement with the crew shall be determined after consultation with such organisations in India as the Central Government may, by order, notify to be the most representative of the employers of seamen and of seamen.".

9. For section 109 of the principal Act, the following section shall be substituted, namely:—

"109. (1) No person under the age of sixteen years shall be engaged or carried to sea to work in any capacity in any ship.

(2) (a) No young person shall be engaged in night work.

(b) The period of night work shall be such, as may be prescribed:

Provided that the Director-General of Shipping,—

(i) for giving effective training; or

(ii) (ii) for performing a specific nature of duty,

at night, may, by order permit engagement of any young person in night work which shall not be detrimental to the health or wellbeing of such young person.".

**Substitution  
of new  
section for  
section 109.  
Prohibition  
of  
engagement  
of underage  
persons in  
certain  
cases.**

10. Section 110 of the principal Act, shall be omitted.

**Omission of  
section 110.**

11. For section 113 of the principal Act, the following section shall be substituted, namely:—

**Substitution  
of new  
section for  
section 113.**

"113. The Central Government may make rules

**Power to**

for the purposes of employment of young persons, prescribing—

**make rules  
respecting  
employment  
of young  
persons**

(a) the authorities, whose certificates of physical fitness shall be accepted for the purposes of section 111;

(b) the form of register of young persons to be maintained in ships where there is no agreement with the crew."

12. In section 132 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

**Amendment  
of section  
132.**

"(a) where the amount in dispute is up to five lakh rupees or such higher amount not exceeding ten lakh rupees, as the Central Government may, by notification, specify, at the instance of either party to the dispute;"

13. In section 168 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

**Amendment  
of section  
168.**

"(7) The master of the ship or any person having charge over the ship shall maintain such standards, in accordance with the provisions of the Maritime Labour

Convention, for the quantity and quality of food and drinking water, and the catering standards applicable to food provided to the seamen on ships, as may be prescribed.

(8) The master of the ship or any person having charge over the ship shall undertake educational activities to promote awareness and implementation of the standards referred to in sub-section (7)."

**Amendment  
of section  
173.**

14. In section 173 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every foreign-going ship carrying—



(a) more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications; and  
(b) less than the prescribed number of persons shall have such medical facilities, as may be prescribed, in accordance with the provisions of the Maritime Labour Convention."

**Insertion of new section** 15. After section 176 of the principal Act, the following section shall be inserted, namely:—

**176A.**

**Ships to possess Maritime Labour Certificate and Declaration of Maritime Labour Compliance.** "176A. (1) All ships of five hundred tons gross or more and engaged in international voyage or operating from a port, or between ports, in another country, shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance.

(2) Ships not covered under sub-section (1) shall, unless, exempted by the Central Government, possess such certificate in such manner and form, as may be prescribed.

(3) The shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer, or any other officer at any port duly authorised in this behalf by the Central Government, may inspect any ship, in such manner as may be prescribed, and the master of the ship or any person having charge over the ship shall make available to such inspecting officer, the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance."

**Insertion of new section** 16. After section 218 of the principal Act, the following section shall be inserted, namely:—

**218A.**

**Power to make rules for purposes of** "218A. (1) The Central Government may, having regard to the provisions of the Maritime Labour Convention, and in consultation with such organisations in India as the Central Government may, by order, notify

**Maritime  
Labour  
Convention.**

to be the most representative of the employers of seamen and of seamen, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the hours of work and rest in a week under clause (cc) of sub-section (2) of section 101;

(ii) the entitlement for leave under clause (ff) of sub-section (2) of section 101;

(iii) the period of night work under clause (b) of sub-section (2) of section 109;

(iv) standards for the quantity and quality of food and drinking water, including the catering standards that apply to food provided to the seamen on ships, under sub-section (7) of section 168;

(v) the qualifications of medical officer under clause (a) and the medical facilities under clause (b) of sub-section (1) of section 173;

(vi) the manner and form of certificate to be provided to ships under sub-section (2) of section 176A;

(vii) the manner of conducting inspection in a ship to verify possession of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance under sub-section (3) of section 176A;

(viii) any other matter which may be or is to be prescribed relating to the Maritime Labour Convention."

17. In section 436 of the principal Act, in sub-section (2), in the Table, against serial number 25,—

(a) in column (2), the word and figures ", section 110", occurring at both the places shall be omitted; and

**Amendment  
of section  
436.**

(b) in column (3), the figures "110," shall be omitted.

