

# Gibraltar Merchant Shipping (Safety, etc.) Act, 1993

## Principal Act

Act. No. 1995-13	<i>Commencement (LN.1997/157)</i>	
	<i>(except 59(4), (5) and 121(1))</i>	22.12.1997
	<i>Assent</i>	22.9.1995

Amending enactments	Relevant current provisions	Commencement date
Act. 2001-25	s. 2	2.8.2001
2004-35	s. 2	24.11.2004
2014-17	Sch.	12.6.2014
LN. 2020/410	s. 95(1A), (3)	1.1.2021
Act. 2022-17	ss. 3A, 21(2), 118(1)(c)	23.12.2022
2023-09	ss. 2, 119(3A)	16.2.2023

## Transposing:

EC Regulation No. 392/2009

**ARRANGEMENT OF SECTIONS**

Section

**PART I.  
PRELIMINARY PROVISIONS.**

1. Title and commencement.
2. Interpretation.

**PART II.  
ADMINISTRATION.**

3. Appointment of Maritime Administrator.
- 3A. Maritime Labour Notice.

**PART III.  
MASTER AND SEAMEN.**

4. Application of Part III.
5. Manning.
6. Temporary exemption from manning requirements.
7. Production of certificate and documents of qualification.
8. Report of officers on board ship.
9. Language of the crew.
10. Employment of children and young persons.
11. Crew Agreements.
12. Discharge of seamen.
13. Discharge of seamen when ship ceases to be registered in Gibraltar.
14. Time and manner of payment of seamen's wages.
15. Account of seamen's wages.
16. Commencement of right to wages.
17. Regulations relating to wages and accounts.
18. Power of Maritime Administrator to decide disputes about wages.
19. Allotment notes.
20. Right to wages and salvage not forfeited.
21. Wages not to depend on freight, etc.
22. Wages where service terminated.
23. Master's remedy for wages and expenses.
24. Crew accommodation and crew facilities.
25. Medical stores and treatment.
26. Medical examinations.
27. Misconduct endangering ships, persons or structures.

28. Continued or concerted disobedience, neglect of duties, etc.
29. Offences committed by certain other persons.
30. Civil liability for absence without leave.
31. Civil liability for smuggling.
32. Civil liability for fines imposed under immigration laws.
33. Payment in advance.
34. Withholding of Seaman's Identification and Record Book.
35. False statements.
36. Offences to be entered in ship's official log book.
37. Desertion, etc.
38. Inciting desertion, etc.
39. Stowaways.
40. Master's power of arrest.
41. Safety of seamen.
42. Compensation for loss of life.
43. Annual and Public Holidays.
44. Relief and return of seamen left behind, etc.
45. Reports of deaths, births and injuries.
46. Reports of shipping casualties.
47. Handing over of documents on change of master.
48. Official Log Book.
49. Crew lists.
50. Seaman's Identification and Record Book.

**PART IV.**  
**SAFETY.**

51. Application of Part IV.
52. Appointment of surveyors.
53. Reports and returns by surveyors to the Maritime Administrator.
54. Inspections.
55. Powers of surveyor, etc.
56. Appointment and powers of inspectors to report on accidents, etc.
57. General duty to render assistance to persons in danger at sea.
58. Obligation to assist ships etc. in distress.
59. Safety and health on registered ships.
60. Powers to detain unsafe ships.
61. Liability for costs and damages.
62. Load Line Convention.
63. Life saving appliances.
64. Power of Maritime Administrator to exempt from safety requirements.
65. Mode of survey and declaration of survey.
66. Passenger Ships Safety Certificates and Exemption Certificates.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

---

67. Cargo Ship Safety Construction Certificates and Exemption Certificates.
68. Cargo Ships Safety Equipment Certificates and Exemption Certificates.
69. Cargo Ships Radio Certificates and Exemption Certificates.
70. General Safety Certificates etc. on partial compliance with regulations.
71. Notice of alterations and additional surveys.
72. Prohibition on proceeding to sea without appropriate certificates.
73. Transmission of certificate.
74. Cancellation of certificate.
75. Delivery up of a certificate.
76. Posting up certificate.
77. Offence in respect of dangerously unsafe ship.
78. Owner liable for unsafe operation of ship.
79. Duration of a certificate.
80. Returns of passengers.
81. Overcrowding of passenger ships.
82. Right to exclude drunken passengers on the home-trade passenger ship.
83. Ticket to be issued for passage.
84. Report of dangers to navigation.
85. Nautical publications.
86. Restriction on the carriage of dangerous goods.
87. Power to deal with goods suspected of being dangerous.
88. Forfeiture of dangerous goods improperly sent or carried.
89. Instructions as to the carriage of dangerous goods.
90. Saving of other enactments relating to dangerous goods.
91. Inquiries and investigations into shipping accidents.
92. Enquiries into death of crew members and others.

### **PART V. HOVERCRAFT.**

93. Application of provisions with respect to hovercraft.

### **PART VI. SUBMERSIBLE APPARATUS.**

94. Submersible and supporting apparatus.

### **PART VII. CARRIAGE OF PASSENGERS, THEIR LUGGAGE AND LIMITATION OF LIABILITY.**

95. Convention relating to the carriage of passengers and their luggage by sea.
96. Limitation of liability.
97. Exclusion of liability.

**PART VIII.**  
POLLUTION.

98. Prevention of pollution from ships etc.

**PART IX.**  
MISCELLANEOUS PROVISIONS.

99. Power of Maritime Administrator to dispense with evidence.  
100. False declarations.  
101. Proof of attestation not required.  
102. Admissibility of documents and evidence.  
103. Service of documents.  
104. Consular authentication not required.  
105. Enforcing detention of the ship.  
106. Suspension of registration.  
107. Limitation on time for proceedings.  
108. Provision as to jurisdiction in case of offences.  
109. Limitations of actions.  
110. Division of loss.  
111. Jurisdiction in cases of loss of life or personal injury.  
112. Damages for personal injuries.  
113. Right of contribution.  
114. Sums ordered to be paid leviable by distress on ship.  
115. Immunity from civil liability.  
116. Recovery of fines.  
117. Responsibility of owner.  
118. Regulations.  
119. International Conventions.  
120. Offences and penalties.  
121. Application of the Merchant Shipping Acts and the Merchant Shipping Act.  
122. Repeal of the Merchant Shipping (Health and Welfare) Act 1988.

**SCHEDULE**  
International Conventions

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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AN ACT TO MAKE PROVISION FOR THE CONTROL, REGULATION AND ORDERLY DEVELOPMENT OF MERCHANT SHIPPING IN GIBRALTAR, FOR THE PROPER QUALIFICATION OF PERSONS EMPLOYED IN SHIPS REGISTERED IN GIBRALTAR, FOR THE SAFETY OF SUCH SHIPS AND THEIR CREWS AND PASSENGERS, FOR COMPLIANCE WITH INTERNATIONAL OBLIGATIONS IN RESPECT THEREOF, TO REPEAL THE APPLICATION TO SHIPS REGISTERED IN GIBRALTAR OF CERTAIN ACTS AND ACTS OF PARLIAMENT AND FOR MATTERS CONNECTED WITH AND INCIDENTAL TO THE FOREGOING.

### **PART I.** **PRELIMINARY PROVISIONS.**

#### **Title and commencement.**

1. This Act may be cited as the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 and shall come into effect on such day as the Governor may, by order in the Gazette, appoint and different days may be so appointed for different purposes and such notice may contain such transitional or other incidental and supplementary provisions as may appear to the Governor necessary or expedient.

#### **Interpretation.**

2. In this Act, unless the context shall otherwise require—

“accident” means any contingency whereby—

- (a) there is loss of life or serious injury to any person on board, or any person is lost from a ship or a ship’s boat; or
- (b) a ship is lost or presumed to be lost, or is abandoned or materially damaged; or
- (c) a ship strands or is in collision; or
- (d) a ship is disabled; or
- (e) any material damage is caused by a ship;

“administrative instructions” means the instructions, written or oral made and issued by the Maritime Administrator for the purpose of giving proper effect to the operation of this Act in accordance with section 3 (5);

“allotment note” means a note mentioned in section 19;

“approved” means approved by the Maritime Administrator;

“bareboat charter”, in relation to a ship, means the hiring of a ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew and “bareboat charterer” shall be construed accordingly;

“bareboat registration” means–

- (a) in respect of a registration to which section 32 of the Gibraltar Merchant Shipping (Registration) Act, 1993 applies, a registration on the Register of a ship under a bareboat charter; or
- (b) in respect of a registration to which section 33 of that Act applies, a registration on a registry outside of Gibraltar of a ship registered on the Register under a bareboat charter;;

“Certificate of Bareboat Registry” means a certificate issued under section 32(1) of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“certificate of competency” means a certificate issued to a person under Part III showing his competency as a master or a seaman, and includes a licence issued under section 5;

“Certificate of Registry” means the certificate issued under section 20 of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“Certifying Authority” means the Certifying Authority provided for in the instructions made under section 9 of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“Collision Regulations” means the regulations contained in the International Regulations for Preventing Collisions at Sea, 1972, as amended;

“commencement date” means in respect of any section of this Act the date appointed under section 1;

“consular official” means a person appointed by the responsible state to be or to perform the functions of a consular official in respect of Gibraltar outside of Gibraltar;

“contravene”, in relation to any provision, includes a failure to comply with that provision, or with any requirement of an International Convention ratified by the United Kingdom and the application of which has been extended to Gibraltar and to which the provision relates;

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

---

- “Council Directive” means a directive of the European Economic Communities;
- “crew agreement” means an agreement, which agreement may be referred to as the “Articles of Agreement”, between the master of a ship and the crew thereof entered into in accordance with section 11;
- “crew list” means the list required to be kept by section 49;
- “declaration of survey” means the declaration provided to an owner by a surveyor and to which section 65 applies;
- “fishing boat” means a ship of whatever size, and in whatever way propelled which for the time being is employed in sea fishing except a ship for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure;
- “foreign going ship” means a ship employed on voyages beyond the limits of a home-trade voyage;
- “Government ship” means a ship falling within Part VII of the Gibraltar Merchant Shipping (Registration) Act, 1993;
- “home-trade ship” means a ship employed in trading or going between Gibraltar and some place or places situate within the following limits, that is to say, the Continent of Europe between Lisbon and Valencia inclusive, and the Continent of Africa between Agadir and Oran inclusive;
- “IMO” means the International Maritime Organisation;
- “inspector” means an inspector appointed under section 56;
- “Flag State and Port State International Obligations” means all obligations and duties arising from IMO instruments, or other instruments of international law extended to Gibraltar, relating to flag state and port state maritime matters, and to those common areas for which the Maritime Administrator is responsible;
- “international voyage” means a voyage from a port in one country to a port in another country, either of those countries being a country to which a Safety Convention applies, and “short international voyage” means an international voyage–
- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passengers or crew could be placed in safety, and

(b) which does not exceed 600 nautical miles in length between the last port of call in the country in which the voyage begins and the final port of destination;

so, however, for the purpose of the definitions contained in this paragraph—

- (i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather nor any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and
- (ii) every colony, overseas territory, protectorate or other territory for whose international relations the government that had accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country;

“Load Line Convention” means the International Convention on Load Lines of 1966, and any amendment thereto or replacement thereof;

“log book” means the ship’s journal or tabulated summary of the performance of the ship, its engines and other daily events;

“manifest” means any document containing a statement of the ship’s cargo;

“Maritime Administrator” means the person appointed under section 3;

“master” includes every person (except a pilot) having command or charge of a seaplane, ship or other craft when it is on or in or close to the water and, in relation to submersible apparatus which is a submersible craft, means the person in charge of the parent craft;

“Minister” means the Minister for the Port and Shipping;

“official log book” means the log book kept in respect of a ship under section 48;

“operator” means, where that person is not the owner, the person having the right to or exercising the powers of operating the ship;

“owner” as applied to an unregistered ship or share therein means the legal owner, and as applied to a registered ship or share therein means the registered owner;

“passenger” means any person carried on a ship other than—

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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

“passenger ship” means a ship for hire carrying or intended for carrying more than twelve passengers;

“pilot” except in relation to submersible apparatus, means any person not belonging to a ship who has the responsibility for the safe navigation thereof;

“port” includes a port or harbour properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties or other works in or at which ships can obtain shelter, or ship or discharge goods or passengers;

“port authority” means the person or authority responsible for the provision of port facilities in any port;

“prescribed fee” means the fee prescribed for that purpose in regulations made under section 118;

“Provisional Certificate of Registry” means the certificate of registry issued under section 17 of the Gibraltar Merchant Shipping (Registration) Act, 1993 and “provisionally registered” shall be construed accordingly;

“radio navigational aid” means radio apparatus on board a ship being apparatus designed for the purpose of determining the position or direction of ships or other objects;

“Register” means the register provided for in section 6(1)(a) of the Gibraltar Merchant Shipping (Registration) Act, 1993, and “registered” and “registered ship” shall be construed accordingly;

“Register of Ships Under Construction” means the register provided for in section 6(1)(b) of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“registered agent” means a person defined as a registered agent under section 6 of the Gibraltar Merchant Shipping (Registration) Act, 1993 and regulations made thereunder;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974, the Protocol of 1978, and the amendments to the Convention adopted on 20th November 1981, and any amendment thereto or replacement thereof;

“Safety Convention certificate” means a certificate that is issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention, and includes a passenger ship safety certificate, a safety construction certificate, a safety equipment certificate, a safety radiotelegraphy certificate, and any such certificate that is limited, modified or restricted by an exemption certificate;

“Safety Convention ship” means a ship registered in a country to which the Safety Convention applies;

“seamen” includes every person (except a master or pilot) employed or engaged in any capacity on board any ship;

“Seaman’s Identification and Record Book” means the identification document provided for in section 50;

“ship” includes every description of vessel used in navigation which is not propelled by oars, and includes every description of lighter, barge or other vessel howsoever or whether or not propelled;

“ship under construction” means a ship that may be registered under section 6(1)(b) of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“standard scale” means the standard scale of penalties contained in the Criminal Procedure Act and references to levels on that scale are references to the levels as determined from time to time in accordance with that Act;

“surveyor” means a person appointed or authorised under section 52 to survey and measure ships;

“tonnage” has the definition given to it in the International Convention on Tonnage Measurement of Ships, 1969 and any amendment thereto or replacement thereof and “gross tonnage”, “net tonnage” and “registered tonnage” shall be similarly construed;

“tonnage instructions” means the instructions made under section 9 of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“wages” includes emoluments;

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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“year”, in relation to the compulsory inspection of a ship, means a period of twelve calendar months from the date of the latest certificate of inspection of a ship, and in relation to all other matters means calendar year.

### **PART II.** **ADMINISTRATION.**

#### **Appointment of Maritime Administrator.**

3.(1) The Minister shall appoint and may remove an officer, to be styled the “Maritime Administrator” who shall exercise such functions as are from time to time conferred upon him by this Act and keep such records and perform such other duties as the Minister may direct.

(2) The Minister may appoint and remove officers to perform on behalf of the Maritime Administrator such of his functions as the Minister or the Maritime Administrator may direct.

(3) The Minister may by regulation designate any person to discharge, on behalf of the Maritime Administrator, such of his functions as may be prescribed in the regulations subject to such conditions and limitations, if any, as may be so prescribed:

Provided that the functions falling within this sub-section shall not include those of the Maritime Administrator’s functions which are for the purpose of ensuring–

(a) standards–

(i) of safety in relation to registered ships and the operation of such ships;

(ii) of pollution prevention in relation to such ships and the operation of such ships,

which standards shall be the standards of those registers of British Possessions, as defined by section 11 of the Merchant Shipping Act 1988, which, by virtue of an order under that section, have assigned to them a category which does not thereby impose any restriction on the registration of ships in such registers (other than a restriction imposed by the law of that British Possession);

(b) the maintenance of the standards referred to in paragraph (a);

(c) that, in respect of matters falling within paragraphs (a) and (b), the provisions of the Act are complied with.

(4) The Minister may give to the Maritime Administrator directions of a general nature as to the discharge of any of his functions.

(5) The Maritime Administrator—

- (a) may make and issue such administrative instructions, not inconsistent with this Act, as may be required or as may appear to him to be necessary or expedient for the better carrying out of the provisions of this Act, and
- (b) shall make and issue administrative instructions where required to do so by the provisions of this Act or regulations or Ministerial direction made thereunder and shall, in such case, do so in accordance with those provisions,

and where those instructions are issued in fulfilment of the requirement of this Act or regulations or Ministerial direction made thereunder, they shall be in published form and shall be supplied—

- (i) to the registered agent of every registered ship to which they are applicable;
- (ii) on demand from the Register in Gibraltar and from every office of the Maritime Administrator.

(6) Where in this Act there is a reference to a specified form or manner—

- (a) that form or manner may be specified by the Maritime Administrator in administrative instructions; and
- (b) if the administrative instructions so provide, deviation from the specified form or manner not affecting the substance thereof shall not invalidate such form or manner.

(7) In this section “officer” means an employee of the Government.

**Maritime Labour Notice.**

3A.(1) The Maritime Administrator may, with prior approval of the Minister, make and issue a Maritime Labour Notice for all or any of the following purposes—

- (a) to implement any Standard or Guideline or both that is grouped in one of the five Titles of the Regulations and the Code of the MLC;
- (b) to provide Guidance, if the Standard or Guideline referred to in subsection (a) does not provide any specific method of compliance, on how to achieve such compliance;

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (c) to provide Guidance on compliance with the Regulations which give effect to any provision of the MLC;
  - (d) to provide explanations or other information to the shipowners and seafarers of what is required in order to comply with a particular Regulation, Standard or Guideline;
  - (e) to implement and provide Guidance on-
    - (i) any other relevant international obligations or standards under the MLC; or
    - (ii) any recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations or standards under the MLC; and
  - (f) to prescribe forms for different purposes under the MLC.
- (2) Every Maritime Labour Notice issued under this section shall-
- (a) be published in the Gazette; and
  - (b) have the force of law.
- (3) Where a master or an owner of a ship fails to comply with any obligation or requirement imposed by a Maritime Labour Notice issued under this section-
- (a) the master or the owner of the ship or both shall be guilty an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; or
  - (b) the ship shall, as a consequence of such failure, be liable to be inspected and detained in accordance with the Regulations implementing the MLC in Gibraltar.
- (4) In any proceedings for an offence under subsection (3), it is a defence for the person charged to show that all reasonable steps had been taken by that person to ensure compliance with any obligation or requirement imposed by a Maritime Labour Notice.
- (5) In this section-
- “the Code” means the Code of the MLC;
  - “Guideline” means one of the elements (other than Regulation and Standard) in a group under a Title of the MLC;

“MLC” means the Maritime Labour Convention, 2006 adopted on 23 February 2006 by the General Conference of the International Labour Organisation, as amended from time to time;

“Regulation” means one of the elements (other than Guideline and Standard) in a group under a Title of the MLC;

“Standard” means one of the elements (other than Regulation and Guideline) in a group under a Title of the MLC;

“Title” means one of the five general areas under which the Regulations and the Code of the MLC have been organised.

**PART III.**  
**MASTER AND SEAMEN.**

**Application of Part III.**

4.(1) This Part shall apply to ships registered under Part III of the Gibraltar Merchant Shipping (Registration) Act, 1993, except ships–

- (a) which are registered on the Register of Ships under Construction; or
- (b) which, in the exercise of the provisions of section 33 of that Act–
  - (i) are registered on a registry other than that of Gibraltar, and
  - (ii) to which section 33 (3) of that Act applies.

(2) Where in this Part reference is made to an owner, that reference shall, in respect of a ship registered by virtue of sections 7(1)(b) and 32 of the Gibraltar Merchant Shipping (Registration) Act, 1993, be construed to be a reference to the bareboat charterer.

**Manning.**

5.(1) Subject to subsection (2), the Government may make regulations–

- (a) requiring ships to which this section applies to carry such number of qualified officers of any description and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and
- (b) prescribing standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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and other seamen of any description in order to be qualified for the purposes of this section:

Provided that regulations made under this subsection shall not permit any exception which would result or would be likely to result in a failure to comply with the requirements of any relevant International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;

- (c) enabling the Maritime Administrator to issue and record documents certifying the attainment of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under paragraph (b);
  - (d) prescribing the circumstances in and the procedure, including the holding of inquiries, by which a certificate or document referred to in this section may be suspended or cancelled, and having been cancelled may be reissued;
  - (e) giving effect to the provisions of any relevant International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
  - (f) providing that a failure to comply with the requirements of such regulations shall be an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (2) Regulations made under subsection (1) shall require ships to carry seamen only to the extent that it is necessary or expedient in the interest of safety.
- (3) Regulations under this section may make different provisions for different descriptions of ship or for ships of the same description in different circumstances.
- (4) Without prejudice to the generality of paragraph (b) of subsection (1), regulations made for the purposes of that paragraph may make provision for—
- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
  - (b) the conduct of any examinations, the conditions for admission to, and fees payable in respect of them and the appointment and remuneration of examiners; and
  - (c) the issue, form and recording of certificates and other documents;

- (d) providing that specified certificates not issued under the provisions of this subsection, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of this Act as are so specified to be issued in pursuance of this section and to confer on the person to whom they are issued such qualifications for the purposes of this section as are so specified,

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

(5) Regulations made under this section may provide that the Maritime Administrator shall keep a record in the manner prescribed of—

- (a) certificates issued under this section;
- (b) amendments to and suspensions and cancellations of such certificates;
- (c) such other related matters as are prescribed.

**Temporary exemption from manning requirements.**

6. Where, because of exceptional circumstances, a relevant International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar, permits that a temporary exemption from the manning requirements otherwise applicable to a registered ship may be granted, the Government may grant such an exemption subject to such restrictions and conditions as are necessary to ensure compliance with any such relevant Convention:

Provided that notwithstanding the provisions of any relevant Convention, no exemption may be granted which might reasonably be likely to—

- (a) endanger the ship or persons on the ship; or
- (b) result in a failure to comply with any other provisions of this Act other than section 5 and regulations made for the purpose of giving effect to that section.

**Production of certificate and documents of qualification.**

7.(1) Any person serving or engaged to serve in any ship to which section 5 applies and holding any certificate or other document which is evidence that he is qualified for the purposes of that section, shall on demand produce it to the Maritime Administrator or a person properly appointed or authorised by him or to a surveyor or an inspector and (if he himself is not the master) to the master of the ship.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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(2) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he is guilty of an offence.

### **Report of officers on board ship.**

8. Upon the signing of a crew agreement, and annually on the first day of July and on any such occasions as the Maritime Administrator may determine, the master of every ship to which section 5 applies shall immediately inform the Maritime Administrator in writing of the prescribed particulars in respect of each officer (including the master himself) employed on the ship.

### **Language of the crew.**

9.(1) Where in the opinion of the Maritime Administrator, or a person properly appointed or authorised by him, or of a surveyor or an inspector, the crew of a ship to which section 5 applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English or because of the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, the Maritime Administrator shall so inform the master.

(2) Until such time as the Maritime Administrator is satisfied that the circumstances specified in subsection (1) no longer operate, the Maritime Administrator may suspend the registration of the ship or detain the ship.

### **Employment of children and young persons.**

10.(1) No person under the age of eighteen years shall be employed in any registered ship, except—

- (a) upon work, approved by the Maritime Administrator, on board a school-ship or training ship; or
- (b) where the Maritime Administrator certifies that he is satisfied, having due regard to the health and physical condition of the person and to the prospective and immediate benefit to him of the employment, that the employment will be beneficial to him.

(2) No person under the age of eighteen years shall be employed in any capacity in any registered ship unless there has been delivered to the master of the ship a certificate granted by a qualified doctor certifying that such person is fit to be employed in that capacity.

(3) Every medical certificate under subsection (2)—

- (a) shall be valid for one year from the date of issue, unless earlier revoked; and
- (b) may at any time be revoked by a qualified doctor if he is satisfied that the young person is no longer fit for work.

**Crew Agreements.**

11.(1) Except as provided for by regulations made under subsection (2), an agreement in writing shall be made between each person employed as a seaman in a registered ship and the persons employing him and shall be signed both by him and by or on behalf of them.

- (2) The Government may in respect of crew agreements make regulations which shall—
  - (a) provide for compliance with the provisions of any relevant Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
  - (b) not permit exemptions or practices which would result or be likely to result in a failure to comply with the provisions referred to in paragraph (a);
  - (c) generally make provision for matters necessary or incidental to the formation and operation of crew agreements.

**Discharge of seamen.**

12.(1) Subject to section 34, the master shall sign and give to a seaman discharged from his ship, being a registered ship, either on his discharge or on payment of his wages, his Seaman's Identification and Record Book, with an entry specifying the period of his service and the time and place of discharge, but not containing any statement as to his wages or the quality of his work.

(2) The master shall, upon the discharge of every certificated officer whose Seaman's Identification and Record Book has been delivered to and retained by him, return the Seaman's Identification and Record Book to the officer.

(3) Regulations made under section 11 shall prescribe the procedure to be followed in connection with the discharge of seamen from registered ships and such procedure shall comply with the requirements of any relevant Convention of the International Labour Organization which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar.

**Discharge of seamen when ship ceases to be registered in Gibraltar.**

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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13. Where a registered ship ceases to be so registered, any seaman employed in that ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship, and sections 14 to 17 shall apply in relation to his wages due to him prior to the time when the registration ceased as if the ship had remained registered.

### **Time and manner of payment of seamen's wages.**

14.(1) The master or owner of a registered ship shall pay to each seaman belonging to that ship his wages due to him under the crew agreement in accordance with the provisions of that agreement or regulations provided for in subsection (2) and in any case shall have paid to him such wages in full at the time when he leaves the ship on being discharged.

(2) Regulations made under sections 11 and 17 shall provide for the time, manner and amount of payments due to a seaman at the time of his discharge and otherwise.

(3) Where a seaman is employed under a crew agreement relating to more than one ship, subsection (1) shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

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

15.(1) Subject to subsection (4) and to regulations made under sections 17 and 44, the master or owner of every registered ship shall deliver to every seaman employed in the ship under an agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

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

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

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

**Commencement of right to wages.**

16. A seaman's right to wages and to provisions shall be taken to begin either at the time at which he commences work or at the time specified in the crew agreement for his commencement of work or presence on board a registered ship, whichever first occurs.

**Regulations relating to wages and accounts.**

17. The Government shall by regulation prescribe the deductions that may be made from wages due to a seaman and the manner in which those deductions may be made and such other matters as are necessary to give proper effect to section 14, 15 and 16.

**Power of Maritime Administrator to decide disputes about wages.**

18. (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by agreement by both parties for decision to the Maritime Administrator, or a person properly appointed or authorised by him, who shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

(2) The decision of the Maritime Administrator or of a person properly appointed or authorised by him on a dispute submitted to him under this section shall be final.

**Allotment notes.**

19.(1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wage during his absence shall be inserted in the crew agreement, and shall state the amounts and times of the payments to be made.

(2) Regulations made under sections 11 and 17 shall provide for the manner of recording allotment notes and for the effect in prescribed circumstances of such notes.

**Right to wages and salvage not forfeited.**

20.(1) A seaman shall not by any agreement—

- (a) forfeit his lien on a registered ship; or
- (b) be deprived of any remedy for the recovery of his wages to which, in the absence of the agreement, he would be entitled; or
- (c) abandon his right to wages in case of the loss of the ship; or

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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(d) abandon any right that he may have or obtain in the nature of salvage;

and any stipulation in any agreement inconsistent with this or any other provision of this Part or regulations made thereunder shall be void.

(2) Sub-section (1) shall not apply to a stipulation made by the seamen belonging to any registered ship, which, according to the terms of the crew agreement, is to be employed on salvage service with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to another ship.

### **Wages not to depend on freight, etc.**

21.(1) The right to wages shall not depend on the earning of freight, and every seaman who would be entitled to demand and recover any wages if the registered ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the wages, notwithstanding that freight has not been earned.

(2) *Omitted.*

(3) Where a seaman who, but for death, would, in the event of a wreck, be entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, they shall be paid and applied in the same way as the wages of a seaman who dies during a normal voyage.

### **Wages where service terminated.**

22. Where the service of a seaman terminates before the date contemplated in the crew agreement or where he fails to work in accordance with the terms of the crew agreement, such seaman shall be entitled to wages as prescribed by regulations made under section 17.

### **Master's remedy for wages and expenses.**

23.(1) The master of a registered ship, so far as the case permits, shall have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Part or regulations made thereunder or by any law or custom.

(2) The master of a registered ship shall have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the vessel as he has in respect of wages under subsection (1).

(3) Where, in any proceedings regarding the claim of a master in respect of wages or of disbursements or liabilities, any right of set-off or counter claim is set up, the court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceedings, and may direct payment of any balance found to be due.

**Crew accommodation and crew facilities.**

24.(1) The Government shall by regulation prescribe the crew accommodation, provisions, water and other facilities to be provided in registered ships and, without prejudice to the generality of the foregoing, regulations made under this section shall—

- (a) make such provisions as may be necessary to give effect in respect of registered ships to the provisions of any relevant Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
- (b) not permit exemptions or practices which would result or be likely to result in a failure by a registered ship to comply with the provisions referred to in paragraph (a);
- (c) in respect of a Convention falling within paragraph (a), apply the provisions of that Convention, where they require matters to be as approved by a competent authority, in such a way that the Maritime Administrator, as the competent authority, approves standards comparable with those determined by the ratifying State.

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

(3) In the event of a failure to comply in respect of a registered ship with requirements of regulations made under subsection (1) or administrative instructions made to give effect to those regulations, the Maritime Administrator may suspend the registration of the ship or detain the ship.

**Medical stores and treatment.**

25.(1) The Government shall by regulation prescribe that registered ships, or such descriptions of registered ships as may be specified, shall carry such medicines and other medical stores (including books containing instructions and advice) as may be specified and may make different provisions for different circumstances.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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(2) The owner and master of a registered ship shall ensure that the ship carries medicines, medical stores, and appliances in accordance with the regulations issued under subsection (1).

(3) If a person empowered under this Act to inspect the medical stores carried in a registered ship is not satisfied that the ship carries the stores which it is required to carry, that person shall give notice in writing to that effect to the master, the owner and to the Maritime Administrator and the Maritime Administrator may suspend the registration of the ship until he is satisfied that the matter complained of has been remedied.

(4) Where a registered ship does not carry a doctor among the seamen employed on it, the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for that purpose.

(5) If a person, whilst employed on a registered ship, receives, other than in his country of residence any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him, and if he dies while so employed and is buried or cremated outside his country of residence, the expenses of his burial or cremation shall also be borne by those persons.

### **Medical examinations.**

26. The Government shall by regulation prescribe arrangements giving effect to the provisions of any relevant International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar in respect of the medical examination of persons seeking certificates of competency or employment on registered ships and for the issuing of medical certificates in respect of such persons.

### **Misconduct endangering ships, persons or structures.**

27.(1) If the master of, or any seaman employed on, a registered ship—

- (a) does any act which causes or is likely to cause the loss or destruction of or serious damage to the ship, or its machinery navigational equipment, or safety equipment or the death of or serious injury to a person on board the ship, or the loss or destruction of or serious damage to any other ship or any structure or the death of or serious injury to a person not on board the ship; or
- (b) omits to do anything required to preserve the ship or its machinery, navigational equipment or safety equipment from loss, destruction or serious damage or to preserve any person on board the ship from death or serious injury, or to prevent

the ship from causing the loss or destruction of any other ship or structure or the death of or serious injury to a person not on board the ship;

and the act of omission is deliberate or amounts to a breach or neglect of duty, or he is under the influence of drink or a drug at the time of the act or omission, he shall, subject to subsection (3), be guilty of an offence.

- (2) If a person to whom this section applies—
- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (1), or
  - (b) fails to discharge any of his duties, or to perform any such function properly, to such an extent as to cause, or to be likely to cause, any of those things,

he shall, subject to subsection (3), be guilty of an offence.

- (3) In proceedings for an offence under this section, it shall be a defence to prove—
- (a) in the case of an offence under subsection (1), where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;
  - (b) in the case of an offence under subsection (2), that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
  - (c) in the case of an offence under either of these subsections—
    - (i) that the defendant could have avoided committing the offence only by disobeying a lawful command, or
    - (ii) that in all the circumstances, the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of it being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

- (4) In this section—

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

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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“duty”–

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

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

### **Continued or concerted disobedience, neglect of duties, etc.**

28.(1) If a seaman employed in a registered ship–

- (a) persistently and wilfully neglects his duties; or
- (b) persistently and wilfully disobeys lawful commands; or
- (c) combines with other seamen employed in that ship–
  - (i) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
  - (ii) to neglect any duty which is required to be discharged at such a time;
  - (iii) to impede, at such a time, the progress of a voyage or the navigation of a ship,
- (d) quits the ship without leave after its arrival at a port and before it is securely moored in a safe berth;
- (e) assaults the master, any officer or any member of the crew of the ship;
- (f) wilfully damages the ship or dishonestly misappropriates or converts to his own use or wilfully damages any of the ship’s stores or cargo;
- (g) commits an act of smuggling, whereby loss or damage is occasioned to the master or owner of the ship;

- (h) aids or procures a person to stow away on the ship, and that person is afterwards convicted of that offence,

he shall be deemed to be in breach of contract and liable to dismissal.

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

(3) A seaman shall not be deemed to be in breach of contract by reason only of his refusing to undertake a duty during a lawful strike after his ship has arrived in port and has been securely moored in a safe berth.

**Offences committed by certain other persons.**

29. Where a person goes to sea in a registered ship without the consent of the master or of any other person authorised to give that consent or is conveyed in a ship in pursuance of regulations made under section 44, section 27 and paragraphs (a), (c), (e), (f), (g) and (h) of section 28(1) shall apply as if he were a seaman employed in that ship.

**Civil liability for absence without leave.**

30.(1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a registered ship to damages for being absent from his ship at a time when he is required, by the agreement under which he is engaged, to be on board.

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

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

- (a) if no special damages are claimed his liability shall be £10;
- (b) if special damages are claimed his liability shall not be more than £100.

(4) For the purposes of this section a person shall be regarded as absent without leave if—

- (a) he deserts from his ship;
- (b) he neglects or refuses, without reasonable cause to join his ship, or to go to sea on his ship, or is absent without leave at anytime within the period of 24 hours next before the ship’s sailing from a port, either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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reason from his ship or from his duty, and the act or omission does not constitute or is not treated by the master as constituting the offence of desertion.

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

31. If a seaman employed in a registered ship is found in civil proceedings to have committed an act of smuggling, whether within or outside of Gibraltar, he shall be liable to make good any loss or expense that the act has caused to any other person.

### **Civil liability for fines imposed under immigration laws.**

32.(1) The following provisions of this section shall apply where, when a registered ship is in the national or territorial waters of any country other than of Gibraltar, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention referred to in subsection (1), a penalty is incurred under those laws by the persons employing the seaman, the penalty shall be treated as being attributable to the seaman's absence without leave and may, subject to the provisions of section 30, be recovered from him as special damages for breach of contract.

(3) If, by reason of the contravention, penalties are incurred under those laws by any other person, the amount thereof, or if that amount exceeds £100, £100 may be recovered by that other person from the seaman.

### **Payment in advance.**

33.(1) Where a seaman has entered into an agreement in writing to be engaged on a registered ship, and has received under that agreement an amount by way of payment in advance, the seaman shall be deemed to be in breach of contract and liable to dismissal if he wilfully or through misconduct fails to join the ship or deserts therefrom before the amount paid by way of advance becomes due to him.

(2) The provisions of subsection (1) shall not remove or limit any remedy, by way of civil action or otherwise, of any person in respect of the monies paid by way of advance or which an owner or master would otherwise have against the seaman for breach of contract.

### **Withholding of Seaman's Identification and Record Book.**

34. Where it is shown to the satisfaction of the Maritime Administrator that a seaman, engaged under a crew agreement in a registered ship has wilfully or as a result of misconduct, failed to rejoin his ship, the Maritime Administrator may direct the master or owner to retain the Seaman's Identification and Record Book of that seaman for such period as the Maritime

Administrator may determine, and for that period the person having custody of the documents may, notwithstanding anything in this or any other Act, refuse to furnish copies of the Seaman's Identification and Record Book or certified extracts of any particulars of service or character.

**False statements.**

35. A seaman who, before being engaged under an agreement in respect of a registered ship, wilfully and with an intention to deceive, makes a false statement of the name of his last ship or alleged last ship or of his own name, is guilty of an offence.

**Offences to be entered in ship's official log book.**

36.(1) Where, on or in respect of a registered ship, a seaman commits—

- (a) an offence under the provisions of section 27, or a breach of contract under sections 28 or 33; or
- (b) an act of misconduct in respect of which the crew agreement to which that seaman is a party provides for a fine, and it is intended to enforce the fine,

an entry detailing the offence or act, as the case may be, shall, as soon as the occurrence or alleged occurrence of the offence or act is known to the master, be made in the official log book and shall be signed by the master and also by an officer or member of the crew.

(2) Where an entry in the official log book is made in accordance with subsection (1) and the seaman by whom the offence or act, as the case may be, was committed is still on the ship—

- (a) a copy of that entry shall be provided to the seaman;
- (b) the entry shall be read distinctly and audibly to the seaman.

(3) The seaman to whom a copy of an entry in the official log book is provided or who has been read such entry, in accordance with subsection (2), may make a reply to the allegations contained in the entry and that reply shall be recorded in the official log book in accordance with the provisions of subsection (1).

(4) The requirements of subsections (2) and (3) shall be satisfied—

- (a) if the ship is at sea, before the ship next arrives in port; or
- (b) if the ship is in port, before the ship leaves port,

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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and a declaration that those requirements were complied with shall be entered into the official log book in accordance with the provisions of subsection (1).

(5) In any subsequent and related proceedings, the entries in the official log book made under the provisions of this section shall, if practicable, be produced or proved to the court, and if they are not so produced or proved, the court hearing the case may, in its discretion, refuse to hear evidence of the offence or act of misconduct.

### **Desertion, etc.**

37. Where, in the application of regulations made under section 44 there is an allegation of desertion by a seaman, it shall be sufficient for the person alleging the desertion to show that—

- (a) a seaman was engaged under a crew agreement in respect of that ship or otherwise belonged to the ship;
- (b) the seaman had left the ship before the completion of the voyage or the engagement, as the case may be; and
- (c) an entry in respect of his desertion had been made in the log book in accordance with section 36(1):

Provided that the allegations shall be treated as refuted where the seaman can produce a proper certificate of discharge or can otherwise show to the satisfaction of a court that he had sufficient reason for leaving his ship.

### **Inciting desertion, etc.**

38.(1) No person shall incite or seek to incite a seaman to—

- (a) neglect or refuse to join;
- (b) refuse to go to sea on;
- (c) desert from; or
- (d) otherwise absent himself from his duty on,

a registered ship in respect of which that seaman is party to the crew agreement or to which that seaman otherwise belongs.

- (2) No person shall harbour a seaman knowing him to have deserted from a registered ship.

**Stowaways.**

39.(1) No person shall, without the consent of the owner or master or the authorised representative of the owner or master, go to sea on a registered ship.

(2) A person who in contravention of subsection (1) secretes himself on a ship and goes to sea shall, so long as he remains on the ship, be deemed to belong to the ship and shall be subject to the same laws and regulations for preserving discipline and liable to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of the crew and had signed the crew agreement.

(3) The master of a registered ship shall discharge a person found on his ship in contravention of subsection (1) at the first convenient port of call and shall make arrangements, to the account of the owner, for the repatriation of that person to the port of embarkation or to his country of residence.

**Master's power of arrest.**

40. The master of any registered ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interests of safety or for the preservation of good order or discipline on board the ship.

**Safety of seamen.**

41.(1) The Government may make regulations for securing, as far as practicable, safe working conditions and safe means of access for masters and seamen employed in registered ships and for requiring the reporting to the Maritime Administrator of injuries sustained by them.

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

- (a) provide for compliance with the provisions of any relevant Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;
- (b) not permit exceptions or practices which would result or be likely to result in a failure to comply with the provisions referred to in paragraph (a); and

may make different provisions for different descriptions of ships and for ships of the same description under different circumstances.

**Compensation for loss of life.**

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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42.(1) The Government may by regulation require the owner of a registered ship to provide, to the account of that owner and without–

- (a) cost to the seaman; and
- (b) prejudice to any claim his estate may have in negligence or otherwise in respect of a wrongful death of the seaman,

financial compensation in respect of the death of a seaman occurring whilst a seaman is–

- (c) properly engaged on the ship under the terms of the crew agreement or otherwise; or
- (d) off the ship–
  - (i) in accordance with the instructions of the master, and
  - (ii) in the course of his duties.

(2) Regulations made under subsection (1) shall provide for the nomination of designated beneficiaries of a seaman, and in the absence of a nominated beneficiary or where the nominated beneficiary is no longer alive or cannot be found, for the payments due under those regulations to be made to such beneficiary or beneficiaries as may be determined in accordance with the provisions of those regulations.

### **Annual and Public Holidays.**

43.(1) Every seaman engaged on a registered ship shall be entitled, after twelve months of continuous service on his ship or for the same employer, to paid holiday, the duration, timing and conditions of which shall be as specified in the provisions of the relevant Convention of the International Labour Organisation, for each year of service and pro rata if the period of continuous service is less than 12 months, and such holiday shall be taken at a time or times to be agreed between the master or owner, as the case may be, and the seaman and in the territory of the engagement of the seaman, unless he shall have agreed otherwise.

(2) In addition to the entitlement to paid holiday under subsection (1), every member of the crew of a registered ship shall be entitled to 5 days paid holiday in each period of 12 months in lieu of public holidays or to a pro rata amount of paid holidays if the period served is less than 12 months.

### **Relief and return of seamen left behind, etc.**

44.(1) Where a person employed as a seaman on a registered ship is left behind in any country outside of Gibraltar or is taken to such a country on being shipwrecked, the persons who last employed him as a seaman shall make such provision for his return, and for his relief and maintenance until his return, and such other provisions as may be required by the provisions of this section.

(2) The Government shall by regulation make provision for the relief and return of seamen left behind, and without prejudice to the generality of the foregoing, such regulations shall provide for the application of the provisions of any relevant Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar.

(3) Regulations made under subsection (2) shall apply to a person left behind on being discharged in pursuance of section 13 whether or not at the time he was left behind the ship was still a registered ship.

(4) Where any expenses are incurred in respect of any matter for which the master or owner is required to make provision under subsection (1), then—

- (a) if the expenses are incurred by the Maritime Administrator, or are incurred by the government of any country outside Gibraltar and repaid to them by the Maritime Administrator, the Maritime Administrator may recover those expenses from the master or owner;
- (b) if expenses are incurred by the seaman, he may recover them from the master or owner unless the master or owner prove that the seaman would not have been left behind but for his own wrongful act or neglect.

(5) Where, in the case of any seaman, expenses are incurred by the Maritime Administrator or incurred by the government of any country outside Gibraltar and are paid to that government by the Maritime Administrator and the expenses are those which under the provisions of this section and regulations made hereunder the master or owner would not be required to pay, the Maritime Administrator may recover those expenses from the seaman, or if he has died, from his personal representative.

**Reports of deaths, births and injuries.**

45.(1) The master of a registered ship shall—

- (a) upon the arrival of that ship at a port, or
- (b) at such time and place as the Maritime Administrator may, with respect to any ship or class of ships, direct,

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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deliver to the Maritime Administrator in the specified form a report of facts recorded by the master relating to any births, deaths or injuries on board the ship.

(2) The master of a registered ship shall provide to the Maritime Administrator a report of the death, wherever occurring outside of Gibraltar, of any person employed on the ship and shall notify that death to such person (if any) as the deceased may have named to the master as his next of kin.

(3) Where the master of the ship is unable to perform the duty imposed on him by subsections (1) and (2) because he has himself died or is incapacitated or missing, the Maritime Administrator shall record the specified information in respect of a death—

- (a) which has been the subject of an inquest held by the coroner or an enquiry held in pursuance of section 91 or 92 and the findings of the inquest or enquiry include a finding that the death occurred; or
- (b) where a post-mortem examination has been made of the deceased's body and in consequence the coroner is satisfied that an inquest is unnecessary.

(4) The Maritime Administrator shall provide to the Registrar of Births, Deaths and Marriages and such other person as may be prescribed such information in respect of a birth or death to which this section applies as may be required to be so provided by any other Act.

### **Reports of shipping casualties.**

46. Where any such casualty as is mentioned in section 91 or 92 has occurred in the case of a registered ship or a boat of that ship, the owner or the master of the ship shall, as soon as practicable, and in any case not later than twenty-four hours after the ship's arrival at the next port, report the casualty to the Maritime Administrator, giving a brief description of it and stating the time and place where it occurred, the name and official number of the ship, its position at the time of the report and the next port of call.

### **Handing over of documents on change of master.**

47. If a person ceases to be the master of a registered ship during the voyage of the ship, he shall deliver to his successor the documents relating to the ship or its crew which are in his custody and that successor shall immediately on assuming the command of the ship enter in the official log book a list of the documents transferred to him.

### **Official Log Book.**

48.(1) An official log book in a specified form shall be kept on each registered ship of 100 gross tons and over.

(2) The official log book may, in the discretion of the master, be kept apart or may form part of the ship's ordinary log, but in any case, the entries required in the official log book shall be completed.

(3) An entry required to be made in the official log book by this Act shall be made as soon as possible after the occurrence to which it relates, and if it is not made on the same day as that occurrence, it shall be made and dated so as to show the date of the occurrence and the date of the entry in respect of that occurrence, and if, the entry is in respect of a occurrence happening before the arrival of the ship at its final port of destination, that entry shall be made not later than twenty-four hours after such arrival.

(4) Each entry in the official log book shall be signed by the master and an officer or other member of the crew and, if the entry relates to sickness, injury or death, it shall be signed by the medical practitioner on board (if any).

(5) Without prejudice to the provisions of this section or to any other requirement in this Act in respect of an entry in the official log book, the Government may by regulation prescribe the particulars to be entered in an official log book, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in the amendment or cancellation thereof.

(6) Any entry made in the official log book shall be admissible in evidence.

(7) The master of any registered ship to which this section applies shall, upon the ship's arrival in its final port of destination or upon the discharge of the crew, whichever shall first occur, deliver a copy of the official log book of the voyage to the owner, who shall retain that official log book for a period of seven years thereafter and shall produce the same on demand to the Maritime Administrator.

#### **Crew lists.**

49.(1) The Government shall by regulation make provision for the form of and matters to be entered in the crew list which the master shall make out and sign in respect of a registered ship.

(2) The master of any registered ship shall, upon the ship's arrival in its final port of destination or upon the discharge of the crew, whichever shall first occur, deliver a copy of the crew list to the owner, who shall retain that crew list for a period of seven years thereafter and shall produce the same on demand to the Maritime Administrator.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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(3) Where a registered ship is lost or abandoned, the master or owner shall, if practicable and as soon as possible after the event, deliver to the Maritime Administrator a crew list completed in accordance with subsection (1) and made out to the time of the loss or abandonment of the ship.

### **Seaman's Identification and Record Book.**

50.(1) The Maritime Administrator shall provide by administrative instruction the form and content of the Seaman's Identification and Record Book and in such instruction may make provision for the application for and the issue, return, replacement and safe keeping of such books.

(2) No person shall go to sea on a registered ship as a member of the crew unless he has been issued with and has provided to the master a Seaman's Identification and Record Book.

(3) A person to whom a Seaman's Identification and Record Book has been issued shall produce that book on demand to the Maritime Administrator, a person properly appointed or authorised by him, the master or the owner and to such other person in such circumstances as may be provided for in the administrative instructions made under subsection (1).

(4) Instructions made under subsection (1) may be so framed as to apply to all seamen on a registered ship or to any description of them and may provide for exemptions thereto:

Provided that—

- (a) the instructions shall provide for the application of the provisions of any relevant Convention of the International Labour Organisation which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar; and
- (b) no exemption shall be given which would result or be likely to result in a failure to comply with the provisions referred to in paragraph (a).

### **PART IV. SAFETY.**

#### **Application of Part IV.**

51.(1) This Part shall apply to ships registered under Part III of the Gibraltar Merchant Shipping (Registration) Act, 1993, except ships—

- (a) which are registered on the Register of Ships under Construction; or

- (b) which, in the exercise of the provisions of section 33 of that Act,
  - (i) are registered in a registry other than that of Gibraltar, and
  - (ii) are ships to which section 33(3) of that Act applies.

(2) Where in this Part reference is made to an owner, that reference shall, in respect of a ship registered by virtue of sections 7(1)(b) and 32 of the Gibraltar Merchant Shipping (Registration) Act, 1993, be construed to be a reference to the bareboat charterer.

**Appointment of surveyors.**

52.(1) The Maritime Administrator may appoint or authorise, either generally or for special purposes or on special occasions, any suitably qualified person he thinks fit to be a surveyor of ships for the purposes of this Act and the Gibraltar Merchant Shipping (Registration) Act, 1993, and a person so appointed may be appointed either as a ship surveyor or as an engineer surveyor or as a radio surveyor or, if suitably qualified, a person may be appointed as a ship and engineer surveyor.

(2) The Maritime Administrator may remove any surveyors appointed or authorised by virtue of subsection (1).

(3) The duties of a surveyor shall be performed under the direction of the Maritime Administrator and in accordance with—

- (a) the provisions of this Act and regulations made thereunder;
- (b) the provisions of the Gibraltar Merchant Shipping (Registration) Act, 1993 and any regulations made thereunder;
- (c) the administrative instructions of the Maritime Administrator.

**Reports and returns by surveyors to the Maritime Administrator.**

53.(1) Surveyors shall make such reports and returns to the Maritime Administrator as he may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipment of ships surveyed by them.

(2) The master, engineer and owner of any ship so surveyed shall, on demand, give to surveyors all such information and assistance within his power as they require for the purposes of those reports and those returns.

**Inspections.**

54.(1) For the purpose of seeing that the provisions of this Act, and regulations and administrative instructions made thereunder, and of the Gibraltar Merchant Shipping (Registration) Act, 1993, or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations or instructions, are duly complied with, any of the following persons, that is to say, the Maritime Administrator or a person properly appointed or authorised by him either generally or for this purpose, may at all reasonable times go on board a registered ship wherever that ship may be and inspect that ship and its equipment or any part thereof, and any articles on board, and any documents carried in the ship in pursuance of this Act, the Gibraltar Merchant Shipping (Registration) Act, 1993, or regulations or instructions made hereunder or thereunder.

(2) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may—

- (a) if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for survey of its hull or machinery;
- (b) if he considers the ship unsafe or, the ship being a passenger ship, unfit to carry passengers, or the machinery or equipment defective in any way so as to expose persons on board to serious danger or he finds that any provisions of this Act or regulations or instructions made hereunder have not been complied with in respect to the ship and for that reason considers that the ship should not go to sea, cause that ship to be detained until he is satisfied that the ship may properly go to sea.

(3) A surveyor, or a person appointed or authorised in accordance with subsection (1) in exercise of his powers under this section, may require that the machinery of the ship be put in motion so that he may satisfy himself as to its condition.

**Powers of surveyor, etc.**

55. Where—

- (a) the Maritime Administrator or a person properly appointed or authorised by him;  
or
- (b) a surveyor,

has reason to suspect that any provision of this Act or any law for the time being in force relating to merchant seamen or navigation of a registered ship is not complied with, he may—

- (i) require the owner, master or any of the crew of that ship to produce any official log books or other documents relating to the crew or any member thereof in their respective possession or control;
- (ii) require any such master to produce a list of all persons on board his ship, and take copies of official log books or documents or any part thereof;
- (iii) muster the crew of any ship; and
- (iv) summon the master to appear and to give any explanation concerning the ship or her crew or the official log books or documents produced or required to be produced.

**Appointment and powers of inspectors to report on accidents, etc.**

56.(1) The Maritime Administrator shall, as and when he thinks fit, appoint any person as inspector to report to him—

- (a) upon the nature and causes of any accident or damage that any registered ship, or ship's boat, which shall include a life raft, has sustained or caused, or is alleged to have sustained or caused; or
  - (b) whether any requirements, restrictions or prohibitions imposed by or under this Act or any law mentioned in section 55 have been complied with or, as the case may be, contravened (the reference to requirements, restrictions or prohibitions to include any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act); or
  - (c) whether the hull and machinery of any registered ship are sufficient and in good condition.
- (2) The Government shall by regulation prescribe—
- (a) the powers of an inspector appointed under subsection (1);
  - (b) the procedures to be followed generally by such an inspector in the conduct of investigations and any specific provisions as appear necessary in respect of particular aspects of an investigation or of investigations of a particular kind.

(3) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the Supreme Court.

(4) The Government shall in regulations made under subsection (2) prescribe the arrangements for submission to the Maritime Administrator of reports of investigations conducted by an inspector or another person under this section and for the publication in prescribed circumstances of reports and other information relating to accidents.

**General duty to render assistance to persons in danger at sea.**

57.(1) The master or person in charge of a registered ship shall, in so far as he can do so without serious danger to his own ship, her crew and passengers (if any), render assistance to every person even if such person be a subject of a state at war with the United Kingdom, who is found at sea in danger of being lost.

(2) Compliance by the master or person in charge of the ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

**Obligation to assist ships etc. in distress.**

58.(1) The master of a registered ship, on receiving at sea a signal of distress or information from any source that a ship, the boat of a ship or aircraft is in distress, shall proceed with all speed to the assistance of the person in distress (informing them if possible that he is doing so) unless he is unable, or in special circumstances considers it unreasonable or unnecessary to do so, or unless he is released under the provisions of subsection (3) or (4).

(2) Where the master of any ship in distress has requisitioned any registered ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the persons in distress.

(3) The master shall be released from the obligation imposed by subsection (1) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) The master shall be released from the obligation imposed by subsection (1), and, if his ship has been requisitioned, from the obligation imposed by subsection (2), if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) Nothing in this section shall effect the application of section 57, and compliance by the master of the ship with the provisions of this section shall not effect his right, or the right of any other person, to salvage.

(6) The Maritime Administrator may by administrative instructions specify the circumstances in which, and the purposes for which, any signal specified as a signal of distress

by instructions made under this subsection, is to be used and the circumstances in which it is to be revoked.

**Safety and health on registered ships.**

59.(1) The Government shall, by regulations, in this section referred to as “safety regulations”, prescribe provisions for—

- (a) securing the safety of registered ships and persons on them and for protecting the health of the persons on registered ships;
- (b) giving effect to any International Agreement or Convention ratified by the United Kingdom and extended to Gibraltar so far as that Agreement or Convention relates to the safety of ships and persons on them, or to the protection of other persons.

(2) Safety regulations made in pursuance of subsection (1) may make provisions with respect to any of the following matters, namely—

- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
- (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on the ship that is not cargo, machinery or equipment;
- (c) the carrying out of any operation involving a ship;
- (d) the use of the machinery and the equipment of the ship or anything on the ship which is not cargo, machinery or equipment;
- (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
- (f) the arrangements for ensuring communications between persons on different parts of a ship and between persons on the ship and other persons;
- (g) the access to, presence in and egress from the ship and different parts of it, of persons of any description;
- (h) the ventilation, temperature and lighting of different parts of a ship;
- (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (j) the steps to be taken to prevent, detect, and deal with outbreaks of fire on a ship;
- (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;
- (l) the steps to be taken in a case where a ship is in distress or stranded or wrecked for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
- (m) the removal, by jettison or otherwise, of its equipment and of other things from the ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and warning persons who are not on the ship of the danger or suspected danger;
- (o) the making of records and keeping of documents relating to ships, and the keeping and use on the ship of information to facilitate the navigation of the ship;
- (p) the keeping of registers and issue of certificates in cases for which registration or a certificate is required by virtue of safety instructions;
- (q) the furnishing of information;
- (r) all matters necessary or incidental to the proper survey, inspection and supervision of registered ships for the purposes of this section;
- (s) providing—
  - (i) terms of approvals given by the Maritime Administrator and terms of any document which the Maritime Administrator considers relevant from time to time;
  - (ii) for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such approval; and

any approval given in pursuance of the regulations shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given;

- (t) providing, without prejudice to subsection (6)(b)–
- (i) for the granting by the Maritime Administrator, on such terms (if any) as the Maritime Administrator may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
  - (ii) for the alteration or cancellation of exemptions granted in pursuance of the regulations,

and the provisions of this section shall be construed for the purpose of giving effect to subsection (1).

(3) Safety regulations made under this section may provide that in such cases of contravention as are specified in the regulations, a ship shall be liable to be detained and that section 60 shall have effect, with such modifications (if any) as are specified by the regulations, in relation to that ship, and may make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with safety regulations, for any expense or loss caused in consequence of the signals being taken to be a signal of distress, and any compensation falling to be paid by virtue of such regulation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(4) The Government may by regulation–

- (a) make such repeals or other modifications of provisions of this Act or of any regulations or administrative instruments made thereunder as are appropriate in consequence or anticipation of the making of safety regulations;
- (b) make such repeal or other modifications of provisions of any enactment passed and any instrument made before the passing of this Act as is appropriate in connection with any modification made or to be made in pursuance of paragraph (a);
- (c) provide for anything done under a provision repealed or otherwise modified by virtue of either paragraph (a) or (b) to have effect as if done under safety regulations and make such other transitional provisions and such incidental and supplemental provisions as are appropriate in connection with any modifications made by virtue of either of those paragraphs.

(5) Where the Government proposes to make safety regulations or the Maritime Administrator proposes, in accordance with powers contained in safety regulations, to give an approval in pursuance of safety regulations, the Government (or the Maritime Administrator, as the case may be), shall before giving effect to the proposal, consult such persons in Gibraltar (if any) as it or he considers will be affected by the proposal.

(6) Safety regulations may–

- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only to such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside Gibraltar.

(7) The power to make regulations conferred by this section shall extend also to the making of regulations for the prevention of collisions between sea planes on the surface of water and between ships and sea planes, and subsection (2)(k) and subsections (3) to (6) shall have effect accordingly.

**Powers to detain unsafe ships.**

60.(1) Where it appears to the Maritime Administrator, a person properly appointed or authorised by him, a surveyor or an inspector, as provided for in the Act or in regulations or administrative instructions made thereunder, that a registered ship is an unsafe ship, that ship may be detained.

(2) The person in exercise of powers under subsection (1) who detains a ship, shall serve on the master of the ship a detention notice which shall–

- (a) state that the person by whom the ship is detained is of the opinion that the ship is an unsafe ship;
- (b) specify the matters which, in the opinion of the person by whom the ship has been detained, make the ship an unsafe ship; and
- (c) prohibit the ship from proceeding to sea until it is released by the Maritime Administrator.

(3) Where a ship has been detained under subsection (1) the Maritime Administrator shall require that the ship be inspected or surveyed to investigate any defects believed to exist on or in respect of the ship.

(4) An inspector or surveyor, having carried out an inspection or a survey under the provisions of subsection (2) shall, as soon as practicable after the completion of that inspection or survey, forward to the Maritime Administrator a full report thereof together with copies of any reports of inspections or survey and copies of relevant certificates.

- (5) In this section, “unsafe ship” means a ship that is by reason of—
- (a) the condition, or the unsuitability for its purpose, of—
    - (i) the ship or its machinery or equipment, or
    - (ii) any part of the ship or its machinery or equipment;
  - (b) undermanning;
  - (c) overloading or unsafe or improper loading;
  - (d) any other matter relevant to the safety of the ship;

unsafe, and the reference in subsection (2) to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

**Liability for costs and damages.**

61.(1) If a ship is detained under the provisions of section 60 and is found at the time of that detention to be an unsafe ship within the meaning of that section, the owner of the ship may, at the discretion of the Maritime Administrator, be liable to pay to the Maritime Administrator his costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage costs.

(2) Any dispute as to liability, costs or compensation under the provisions of this section may be referred to the Registrar of the Supreme Court.

**Load Line Convention.**

62.(1) The Government shall make any regulations necessary for the purpose of giving effect in respect of a registered ship to the Load Line Convention.

(2) Subject to any exemption conferred by or under this Act, no registered ship shall proceed or attempt to proceed to sea unless—

- (a) the ship has been surveyed in accordance with the requirements of the Load Line Convention;

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (b) the ship is marked with a deck-line and load lines in accordance with those requirements and complies with all other relevant requirements of the Load Line Convention.
  
- (3) The Maritime Administrator may suspend the registration of a registered ship which in contravention of subsection (2) attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (a) and (b) of that subsection and may detain the ship until the ship has been so surveyed and marked.
  
- (4) Any registered ship which does not comply with the conditions of assignment made under subsection (1) shall be deemed to be unsafe for the purposes of section 60.
  
- (5) Where a registered ship is marked with load lines the ship shall not be so loaded that—
  - (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged, or
  - (b) in any other case, the appropriate load line on the ship would be submerged if the ship was in salt water and had no list,
  
- and the Maritime Administrator may suspend the registration of a registered ship which attempts to proceed to sea in contravention of paragraph (a) or (b) and may detain the ship until the ship has complied with the relevant provision.
  
- (6) Subject to any exemption given by or under this Act, no registered ship shall proceed or attempt to proceed to sea unless the appropriate load line certificate is in force in respect of the ship.

### **Life saving appliances.**

63.(1) The Government shall make any regulations necessary for the purpose of giving effect in respect of a registered ship to the requirements of the Safety Convention as to life saving appliances.

(2) It shall be the duty of the master and owner of every registered ship to see that his ship is provided, in accordance with the requirements of the Safety Convention for life saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

(3) If a surveyor finds that the requirements of the Safety Convention in respect of life saving appliances or of the regulations made under subsection (1) have not been complied with, he shall give written notice to the owner or master stating in what respects the said

requirements or regulations have not been complied with, and what, in his opinion, is required to rectify the matter.

(4) Every notice given in accordance with subsection (3) shall be transmitted to the Maritime Administrator who shall detain that ship until a certificate under the hand of a surveyor is produced to the effect that the matter has been rectified.

**Power of Maritime Administrator to exempt from safety requirements.**

64.(1) Subject to the requirements of International Conventions ratified by the United Kingdom and the application of which has been extended to Gibraltar, the Maritime Administrator may exempt any registered ship or any class of such ship from any requirements of the regulations made under section 59 or 63, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to the provisions of subsection (1), where a registered ship not normally engaged on international voyages is required to undertake a single international voyage, the Maritime Administrator may, if he is of the opinion that the ship complies with safety requirements that are adequate for the voyage, exempt the ship from any of the safety requirements imposed by or under this Act.

(3) Nothing in section 72 preventing a registered ship from proceeding to sea unless there are in force in relation to the ship, or are produced, the appropriate certificates issued by the Maritime Administrator shall apply to any ship of less than 500 tons gross tonnage other than a passenger ship.

(4) The provisions of subsection (1) shall not prevent the application to any registered ship of 300 tons gross tonnage or upwards of so much of the provisions mentioned in that subsection as relates to certificates issued under sections 67 to 70 by reason only that the ship is of less than 500 tons gross tonnage.

**Mode of survey and declaration of survey.**

65.(1) The owner of every registered ship shall cause the same to be surveyed by a ship surveyor and an engineer surveyor, and, in the case of ships required to be provided with a radio installation, by a radio surveyor in accordance with the requirements of this Act in respect of that ship.

(2) The owner of a ship surveyed in accordance with subsection (1) shall within 14 days after the receipt by him of the declaration of survey transmit it to the Maritime Administrator.

(3) If an owner fails without reasonable cause so to transmit a declaration of survey, that declaration shall not be valid for the purposes of sections 66 to 70.

**Passenger Ships Safety Certificates and Exemption Certificates.**

66.(1) If the Maritime Administrator, on receipt of declarations of survey in respect of a registered ship, is satisfied that the ship complies with the provisions of regulations made under sections 59 and 63 giving effect to the Safety Convention and applicable to the ship and to such international voyages as the ship is to be engaged on, and that the ship is properly provided with the lights, shapes and means of making fog signals required by the Collision Regulations, he shall, on application of the owner, issue in respect of the ship a certificate showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid, and any certificate issued under this subsection is hereafter in this Act referred to as “passenger ship safety certificate:

Provided that if the voyages on which the ship is to be engaged are short international voyages and the ship complies only with such of those regulations as are applicable to those voyages, the certificate shall show that the ship complies with the requirements of the Safety Convention applicable to the ship as a ship plying on short international voyages, and any such certificate is hereafter in this Act referred to as a “passenger ship safety certificate for a short international voyage.”

(2) If the Maritime Administrator, on receipt of declarations of survey in respect to any such passenger ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred upon him by section 64 or conferred on him by the regulations made under section 59 or 63, from any of the requirements of those regulations applicable to the ship and to such international voyages as the ship is to be engaged on, whether short voyages or otherwise, that the ship complies with the rest of those requirements and that the ship is properly provided with lights, shapes and means of making fog signals required by the Collision Regulations, he shall on the application of the owner issue in respect of the ship—

- (a) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in certificate; and
- (b) a certificate showing the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is hereafter in this Act referred to as “a qualified passenger ship safety certificate” or a “qualified short voyage passenger ship safety certificate”, as the case may be.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for one year or such shorter period as may be specified in it, but without prejudice to

the Maritime Administrator's power to cancel it, and an exemption certificate issued under this section shall be in force for the same period as the corresponding qualified certificate.

(4) A certificate issued under this section shall specify the number of passengers which the ship is fit to carry, distinguishing, if necessary, the number to be carried in each part of the ship and any conditions or variations to which that number is subject.

(5) Without prejudice to the power of extension conferred by section 79, where a certificate under this section is in force in respect of a registered passenger ship and the certificate was issued for a shorter period than is allowed for under subsection (3), the Maritime Administrator may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding, together with the period for which it was issued and any period by which it has previously been extended under this subsection, one year.

#### **Cargo Ship Safety Construction Certificates and Exemption Certificates.**

67.(1) If the Maritime Administrator is satisfied, on receipt of declarations of survey in respect to a registered sea going ship of not less than 500 tons gross tonnage (or such lower tonnage as the Maritime Administrator may specify), not being a passenger ship, that the ship complies with the regulations as to construction applicable to the ship and such voyage as the ship is engaged on, he shall, on the application of the owner, issue in respect of the ship—

- (a) if the ship is of not less than 500 tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention;
- (b) in any other case a certificate showing that the ship complies with the said regulations;

and any certificate issued under this subsection is hereafter in this Act referred to as a “cargo ship safety construction certificate”.

(2) If the Maritime Administrator, on receipt of declarations of survey in respect of a registered ship is satisfied that the ship is exempt, by virtue of any exercise of a power conferred on him by section 64 or the regulations made under section 59, from any of the requirements of those regulations applicable to the ship and to such voyage as the ship is engaged on, and that the ship complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship—

- (a) if the ship is of not less than 500 tons gross tonnage and is to be engaged on international voyages—

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (i) an exemption certificate stating which of the requirements of the Safety Convention, being requirements implemented by the regulations and being applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship plying on the voyages and complying with the other conditions (if any) specified in the certificate; and
  - (ii) a certificate showing that the ship complies with the rest of the requirements;
- (b) in any other case, a certificate showing that the ship complies with such of the requirements of the regulations applicable to the ship and to the voyages the ship is to be engaged on as the ship is not exempt from;

and any certificate issued under paragraph (a)(ii) or paragraph (b) is hereafter in this Act referred to as a “qualified cargo ship safety construction certificate”.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for five years or such shorter period as may be specified in it, but without prejudice to the Maritime Administrator’s powers to cancel it, and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

(4) Without prejudice to the power of extension conferred by section 79, where a certificate under this section is in force in respect to a registered ship and the certificate was issued for a shorter period than is allowed for under subsection (3), the Maritime Administrator may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

### **Cargo Ships Safety Equipment Certificates and Exemption Certificates.**

68.(1) If the Maritime Administrator, on receipt of declarations of survey in respect of a registered ship, not being a passenger ship, is satisfied that the ship complies with regulations made under section 63 applicable to the ship and to such international voyages as the ship is to be engaged on, and that the ship is properly provided with lights, shapes, and means of making fog signals required by the Collision Regulations, he shall on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid, and any certificate issued under this subsection is hereafter in this Act referred to as “a safety equipment certificate”.

(2) If the Maritime Administrator, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by section 64, or by regulations made under section 63, from any of the requirements of those regulations applicable to the ship and to such international voyages as the ship is to be engaged on, and that the ship complies with the rest of those requirements and is properly provided with lights, shapes and means of making fog signals required by the Collision Regulations, he shall on the application of the owner, issue in respect of the ship—

- (a) an exemption certificate stating which of the requirements of the Safety Convention, being requirements the subject of the regulations for life saving appliances and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with other conditions (if any) specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is hereafter in this Act referred to as “a qualified safety equipment certificate”.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for a period of two years, or for such shorter period as may be specified in it, but without prejudice to the Maritime Administrator's power to cancel it, and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

#### **Cargo Ships Radio Certificates and Exemption Certificates.**

69.(1) If the Maritime Administrator, on receipt of declarations of survey in respect of a registered ship, not being a passenger ship, is satisfied that the ship complies with the regulations as to radio installations and direction finders made under section 59 applicable to the ship and to such international voyages as the ship is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing the ship complies with such of the requirements of the Safety Convention relating to radio telegraphy and radio telephony and direction finders as are applicable as aforesaid, and any certificate issued under this subsection is hereafter in this Act referred to as a “radio certificate”.

(2) If the Maritime Administrator, on receipt of declarations of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by section 64, or conferred on him by the regulations in question, from any of the requirements of those regulations in respect of radio installations or direction finders applicable to the ship and to such international voyages as the ship is engaged on, and that the ship complies with the rest of the requirements or the regulations in

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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respect of radio installations and direction finders, he shall, on the application of the owner, issue in respect of the ship—

- (a) an exemption certificate stating which of the requirements of the Safety Convention relating to radio telegraphy, radio telephony and direction finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyage and complying with the other conditions (if any) specified in the certificate; and
- (b) a certificate showing that the ship complies with the rest of those requirements;

and any certificate issued under paragraph (b) is hereafter in this Act referred to as a “qualified radio certificate”.

(3) Where any registered ship is wholly exempt from the requirements of the regulations in respect of radio installations and direction finders, the Maritime Administrator shall, on the application of the owner, issue an exemption certificate stating that the ship is wholly exempt from the Safety Convention relating to radio telegraphy, radio telephony and direction finders and specifying the voyages on which, and the conditions (if any) on which the ship is so exempt.

(4) A certificate issued under this section, other than an exemption certificate, shall remain in force for one year, but without prejudice to the Maritime Administrator's power to cancel it and an exemption certificate issued under subsection (2) shall remain in force for the same period as the corresponding qualified certificate.

(5) An exemption certificate issued under subsection (3), shall remain in force for a period of one year, or such short period as is specified in it, without prejudice to the Maritime Administrator's power to cancel it.

### **General Safety Certificates etc. on partial compliance with regulations.**

70. Where a registered ship complies with all the requirements of the regulations made under sections 59 and 63 applicable to that ship and to the voyages on which the ship is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Maritime Administrator may issue in respect to the ship a passenger ship safety certificate, short voyage passenger ship safety certificate, cargo ship safety construction certificate, safety equipment certificate or radio certificate, as the case may be, notwithstanding that the ship is exempt from, or for some other reason does not comply with, any requirements of those instructions that are not applicable requirements of the Safety Convention.

### **Notice of alterations and additional surveys.**

71.(1) The master or owner of a registered ship in respect of which a certificate issued under section 66, 67 or 70 is in force shall, as soon as possible after any alteration is made in the ship's hull, equipment or machinery affecting the efficiency thereof or the seaworthiness of the ship, give written notice to the Maritime Administrator containing full particulars of the alteration.

(2) The master or owner of a registered ship in respect of which any certificate issued under the provisions of section 66, 68, 69 or 70 is in force, shall as soon as possible after any alteration is made in the appliances or equipment required by the regulations for life saving appliances, radio installations or direction finders or the Collision Regulations to be carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipment, give written notice to the Maritime Administrator containing full particulars of the alteration.

(3) If the Maritime Administrator has reason to believe that since the making of the last declaration of survey in respect of any such ship as aforesaid—

- (a) any such alteration has been made as is mentioned in subsection (1) or, as the case may be, in subsection (2); or
- (b) the hull, equipment or machinery of the ship has sustained any injury or are otherwise insufficient; or
- (c) the appliances or equipment of the ship mentioned in subsection (2) have sustained any injury or are otherwise insufficient;

the Maritime Administrator may, without prejudice to his powers under section 74 require the ship to be again surveyed to such extent that he thinks fit and, if such requirement is not complied with, may cancel any passenger ship certificate issued in respect of the ship or any certificate issued in respect of the ship under sections 66 to 70.

(4) For the purposes of this section, the expression “alteration” in relation to anything includes the renewal of any part of it.

**Prohibition on proceeding to sea without appropriate certificates.**

72.(1) No registered ship shall proceed to sea on an international voyage unless there is in force in respect of the ship—

- (a) if the ship is a passenger ship, a passenger ship safety certificate, a passenger ship safety certificate for a short international voyage, a qualified passenger ship safety certificate or a qualified passenger ship safety certificate for a short voyage, which (subject to the provisions of this section relating to short voyage safety certificates)

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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is applicable to the voyage on which the ship is about to proceed and to the trade in which the ship is for the time being engaged;

- (b) if the ship is not a passenger ship–
  - (i) a cargo ship safety construction certificate or a qualified cargo ship safety construction certificate; and
  - (ii) a safety equipment certificate or a qualified safety equipment certificate, and
  - (iii) a radio certificate or a qualified radio certificate, or an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radio telegraphy, radio telephony and direction finders:

Provided that this subsection shall not prohibit a ship, not being a passenger ship, from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if that ship were a passenger ship.

(2) For the purposes of this section, a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate and an exemption certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.

(3) Where the Maritime Administrator permits any passenger ship in respect of which there is in force a short voyage certificate whether qualified or not, to proceed to sea on an international voyage not exceeding twelve hundred nautical miles in length between port of departure and the final port of destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on which the steamer is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

(4) A surveyor may inspect any registered ship for the purpose of seeing that the ship complies with the provisions of this section, and if he finds that the ship fails to comply with those provisions, he shall give to the master or owner notice in writing stating in what respect the ship fails to comply with them and what in his opinion is requisite to remedy the failure.

(5) Every notice under subsection (4) shall be communicated to the Maritime Administrator who may suspend the certificate of registration and the ship shall be detained until a certificate under the hand of the surveyor is produced to the effect that the failure has been remedied.

### **Transmission of certificate.**

73.(1) The Maritime Administrator shall transmit a certificate issued under sections 66 to 70 in duplicate to a person properly appointed or authorised by him at the port determined by the owner of the ship for this purpose, or at the port where the owner or his registered agent is present, or where the ship has been surveyed or is at the time lying.

(2) The Maritime Administrator shall cause notice of the transmission to be given to the master or owner or the registered agent, and the person to whom the certificate has been transmitted shall, on the owner, master or agent applying and paying the proper fee and other sum (if any) mentioned in this Act as payable in that behalf, deliver to him both copies of the certificate.

(3) In proving the issue of a ship's certificate, it shall be sufficient to show that the certificate was duly received by the said person, and that due notice of the transmission was given to the master, owner or registered agent.

**Cancellation of certificate.**

74.(1) The Maritime Administrator may cancel a certificate issued under sections 66 to 70 where he has reason to believe—

- (a) that any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or
- (b) that the certificate has been issued upon false or erroneous information; or
- (c) that since the making of the declaration, the hull, equipment or machinery has sustained any injury or are otherwise insufficient.

(2) In every such case the Maritime Administrator may require the owner to have the hull, equipment or machinery of the ship again surveyed, and to transmit further declarations of survey, before he shall reissue a certificate or grant a fresh one in lieu thereof.

**Delivery up of a certificate.**

75. The Maritime Administrator may require a ship's certificate which has expired or been cancelled, to be delivered up as he may direct.

**Posting up certificate.**

76. The master or owner of every ship required to have a certificate under sections 66 to 70 shall forthwith on the receipt of a certificate by him or his registered agent cause one of the duplicates to be put in some conspicuous place on board the ship so as to be legible to all

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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persons on board and to be kept so put up and legible while the certificate remains in force and the ship is in use.

### **Offence in respect of dangerously unsafe ship.**

77.(1) If, having regard to the nature of the service for which it is intended, a registered ship is, by reason of any of the matters mentioned in subsection (3), not fit to go to sea without serious danger to human life, then, subject to subsections (5) and (6), the master and the owner of the ship shall each be guilty of an offence.

(2) Where, at the time when the ship is not fit to go to sea as mentioned in subsection (1), any responsibilities of the owner with respect to the particular matters by reason of which the ship is not fit to go to sea have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be), by each of those persons either—

- (a) directly, under the terms of a demise charter party or management agreement made with the owner, or
- (b) indirectly under the terms of a series of demise charter parties or management agreements,

the reference to the owner in subsection (1) shall be construed as including a reference to that other person or (as the case may be) to each of those other persons.

(3) The matters referred to in subsection (1) are—

- (a) the condition, or the unsuitability for its purpose of—
  - (i) the ship or its machinery or equipment, or
  - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;
- (d) any other matter relevant to the safety of the ship.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding ten times the amount at level 5 on the standard scale.

(5) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—

- (a) arrangements have been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters falling within subsection (3) which are specified in the charge; or
- (b) it was reasonable for such arrangements not to have been made.

(6) It shall also be a defence in proceedings for an offence under this section to prove—

- (a) that, under the terms of one or more demise charter parties or management agreements entered into by the defendant, the relevant responsibilities, namely—
  - (i) where the defendant is the owner, his responsibilities with respect to the matters referred to in subsection (5)(a), or
  - (ii) where the defendant is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by him as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

- (b) that in all the circumstances of the case the defendant had taken such steps as it was reasonable for him to take, and to exercise such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a),

and in determining whether the defendant had done so, regard shall be had in particular to the matters mentioned in subsection (7).

(7) The matters referred to in subsection (6) are—

- (a) where prior to the time of the alleged offence the defendant was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
- (b) the extent to which the defendant was or was not able, under the terms of any such demise charter party or management agreement as is mentioned in subsection (6)(a)—

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (i) to terminate it, or
- (ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the defendant to place himself in that position.

(8) In this section—

“management agreement”, in relation to a ship, means any agreement (other than a demise charter party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person);

“relevant responsibilities” shall be construed in accordance with subsection (6);

and any reference in this section to going to sea shall, in any case where the service for which a ship is intended consists on going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

(9) References in this section to responsibilities being assumed by a person under the terms of a charter party or management agreement are references to them being assumed by him whether or not he has entered into a further demise charter party or management agreement providing for them to be assumed by some other person.

### **Owner liable for unsafe operation of ship.**

78.(1) It shall be the duty of the owner of a registered ship to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten times the amount at level 5 on the standard scale.

(3) Where any ship—

- (a) is chartered by demise, or
- (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning given to that expression in section 77(8),

any reference to the owner of the ship in subsection (1) or (2) shall be construed as including a reference—

- (i) to the charterer under the charter by demise, or
- (ii) to any such manager as is referred to in paragraph (b), or
- (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,

and accordingly the reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager be construed as the reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

**Duration of a certificate.**

79. A certificate issued under sections 66 to 70 shall be in force as provided for in the relevant section, or for such lesser period as is specified in it, subject to any extension that may have been made in accordance with the relevant section:

Provided that—

- (a) no such certificate shall remain in force after notice is given by the Maritime Administrator to the master or owner of the ship in respect of which it has been issued that the Maritime Administrator has cancelled the certificate;
- (b) the Maritime Administrator may grant an extension of a certificate for a period not exceeding 5 months from the date when the certificate would, but for the extension, have expired.

**Returns of passengers.**

80.(1) The master of every registered ship which carries any passenger shall furnish to the Maritime Administrator or to a person properly appointed or authorised by him a return giving the total number of any passengers so carried, distinguishing, if so directed by the Maritime Administrator, the total number of any class of passengers so carried and giving, if the Maritime Administrator so directs, such particulars with respect to passengers as may for the time being be required by the Maritime Administrator.

(2) Any passenger shall furnish the master of the ship with any information required by him for the purposes of the return.

**Overcrowding of passenger ships.**

81. If a passenger ship has on board at any place a number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger ship's certificate, the master or owner of the ship shall, for the purposes of this section, be deemed to have received those passengers on board at that place.

**Right to exclude drunken passengers on the home-trade passenger ship.**

82. The master of a home-trade passenger ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place, and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

**Ticket to be issued for passage.**

83.(1) If any person receives money from another person for or in respect of a passage in a registered ship, he shall give to the person paying the money a contract ticket signed by or on behalf of the owner or charterer of the ship.

- (2) A contract ticket required by this section shall specify—
- (a) the amount of the fare paid;
  - (b) the places between which the passenger is entitled to be carried;
  - (c) whether the passenger is to be berthed or unberthed;
  - (d) whether the passenger is entitled to food or must purchase or provide his own food for the journey;
  - (e) the amount of baggage the passenger is permitted to carry free of charge; and
  - (f) any other rights or obligations of the parties.

**Report of dangers to navigation.**

84.(1) The master of any registered ship on meeting with—

- (a) dangerous ice;
- (b) a dangerous derelict;

- (c) a tropical storm;
- (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;
- (e) winds of force ten or above on the Beaufort Scale for which no storm warning has been received,

or any other direct danger to navigation, shall send information accordingly, by all means of communications at his disposal and in accordance with any administrative instructions made for the purposes of this section by the Maritime Administrator, to ships in the vicinity and such authorities on shore as may be specified in those instructions.

(2) Instructions for the purposes of this section shall be made by the Maritime Administrator.

(3) For the purposes of this section, the expression “tropical storm” means a hurricane, typhoon, cyclone, or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

**Nautical publications.**

85. The Maritime Administrator may, by administrative instructions, specify such charts, directions or information as appears to the Maritime Administrator necessary or expedient for the safe operation of registered ships and those instructions may require such ships or such descriptions of such ships as may be specified in the instructions, to carry, either at all time or on such voyages as may be specified in the instructions, copies of the charts, directions or information so specified.

**Restriction on the carriage of dangerous goods.**

86. A person shall not send or attempt to send by any registered ship, and a person not being the master or owner of a registered ship, shall not carry or attempt to carry in any such ship, any dangerous goods except in accordance with instructions made under section 89.

**Power to deal with goods suspected of being dangerous.**

87.(1) The master or owner of any registered ship may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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(2) Where any dangerous goods or any goods, which in the judgment of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship without being marked as required by instructions made under section 89 and without such notice having been given as required by such instructions, the master or owner of the ship, having taken account of the provisions of all relevant Conventions or Agreements applicable in the circumstances, may take such action as he reasonably thinks appropriate to safeguard the ship, other ships, the safety of persons whether or not on board the ship, and structures, and neither the master nor the owner of the ship shall be liable to the owner of the goods nor to the consignor or the consignee of the goods in respect of that action.

(3) For the purposes of this section “structure” means any fixed or moveable structures (of whatever description) other than a ship.

### **Forfeiture of dangerous goods improperly sent or carried.**

88.(1) Where any dangerous goods have been sent or carried or attempted to be sent or carried, on board any registered ship without being marked as required by instructions made under section 89 and without such notice having been given as required by instructions made under section 89, or under false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction may declare those goods and any package or receptacle in which they are contained, to be forfeit and they shall thereupon be forfeit and when forfeit shall be disposed of as the court directs.

(2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has no notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong but nevertheless the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeit.

### **Instructions as to the carriage of dangerous goods.**

89.(1) The Maritime Administrator may by administrative instructions specify provisions for regulating in the interest of safety the carriage of dangerous goods in registered ships.

(2) If any of the instructions made in pursuance of this section is not complied with in relation to any registered ship, the ship shall be deemed for the purposes of section 60 to be unsafe by reason of improper loading.

(3) Any goods declared by the instructions made under this section to be dangerous in their nature shall be deemed to be dangerous goods for the purposes of sections 86 to 88.

### **Saving of other enactments relating to dangerous goods.**

90. The provisions of sections 86 to 89 relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object so nevertheless that nothing in the said provision shall be deemed to authorise any person to be sued or prosecuted twice in the same matter.

**Inquiries and investigations into shipping accidents.**

91.(1) Where an accident has occurred and, at the time it occurred the ship was a registered ship, the Maritime Administrator—

- (a) may cause an enquiry into the accident to be held by a person appointed for the purpose by the Maritime Administrator; and
- (b) may, whether or not an enquiry into the accident has been held, cause a formal investigation into the accident to be held.

(2) When an incident has occurred which the Maritime Administrator considers was or is capable of causing an accident into which he would require an enquiry in pursuance of subsection (1), the powers to hold an enquiry or an investigation or both which are conferred by paragraphs (a) and (b) of subsection (1) shall be exercisable in relation to that incident as if it was such accident.

(3) A person appointed under this section to hold an enquiry shall for the purposes of the enquiry have the powers conferred on an inspector by section 56.

(4) The Maritime Administrator may by administrative instructions specify rules for the conduct of an enquiry under this section and without prejudice to the generality of the foregoing, such instructions may provide for the person by whom the enquiry may be conducted, the manner in which any facts may be proved, the persons who may be required or allowed to give evidence and the notices to be given to persons affected.

**Enquiries into death of crew members and others.**

92.(1) Subject to subsection (4), where—

- (a) any person dies in a registered ship or in a boat or life raft from such a ship;
- (b) the master of or a seaman employed in a registered ship dies in a country outside of Gibraltar and of the place of residence of that person,

an enquiry into the cause of the death shall be held by the Maritime Administrator or a person properly appointed or authorised by him at the next port where the ship calls after the death

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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and where there is such a person, or at such other place as the Maritime Administrator may direct.

- (2) Subject to subsection (4), where it appears to the Maritime Administrator that—
- (a) in consequence of an injury sustained or a disease contracted by a person when he was the master of or a seaman employed in a registered ship, he ceased to be employed in the ship and subsequently died; and
  - (b) the death occurred in a country outside of Gibraltar and of the place of residence of that person during the period of one year beginning with the day when he so ceased,

the Maritime Administrator may arrange for an enquiry into the cause of the death to be held in accordance with subsection (1).

- (3) Subject to subsection (4), where it appears to the Maritime Administrator that a person may—
- (a) have died in a registered ship or in a boat or life raft from such a ship; or
  - (b) have been lost from such a ship, boat or life raft and has died as the consequence of being so lost,

the Maritime Administrator may arrange for an enquiry to be held by himself or by a person properly appointed or authorised by him into whether the person died as aforesaid and, if it is found that he did, into the cause of the death.

(4) No enquiry shall be held under this section in a case where a coroner's inquest is to be held.

(5) The Maritime Administrator or a person properly appointed or authorised by him holding the enquiry provided for by this section shall for the purposes of the enquiry have the powers conferred on an inspector by section 56.

(6) The Maritime Administrator or the person properly appointed by him holding the enquiry under this section shall make a full report of his findings in writing and that report shall be made available by the Maritime Administrator—

- (a) if the person to whom the report relates was employed on the ship and a person was named as his next of kin in the crew agreement or the list of crew in which the name of the person to whom the report relates last appeared, to the person so named;

- (b) in any case to any person requesting it who appears to the Maritime Administrator to be interested.

**PART V.**  
**HOVERCRAFT.**

**Application of provisions with respect to hovercraft.**

93.(1) The Government may by regulation make such provision as is necessary and expedient—

- (a) with respect to the registration under the provisions of the Gibraltar Merchant Shipping (Registration) Act, 1993 of hovercraft;
- (b) for securing the safety of registered hovercraft and persons and property in such hovercraft and for preventing such hovercraft from endangering other persons or property;
- (c) for prohibiting or restricting the use of registered hovercraft unless the prescribed certificates as to fitness are in force and the prescribed conditions as to maintenance and repair are satisfied with respect to them;
- (d) for prohibiting persons from taking charge or otherwise acting as members of the crew of a hovercraft or from engaging or being employed in connection with the maintenance or repair of such hovercraft, in such capacities as may be prescribed, unless the prescribed conditions as to qualifications and other matters are satisfied with respect of those persons;
- (e) with respect to the investigation of accidents involving registered hovercraft;
- (f) for regulating the noise and vibration which may be caused by registered hovercraft;
- (g) for applying in relation to registered hovercraft or to persons, things or place as connected with registered hovercraft—
  - (i) any enactment or instrument relating to ships, aircraft, motor vehicles or other means of transport or to persons, things or places connected therewith;
  - (ii) any rules of law relating to ships or persons, things or places connected with ships records (other than rules relating to maritime liens),

and without prejudice to the generality of the foregoing provisions of this paragraph, for providing that any enactment shall have effect as if reference in it, in whatever terms, to ships, aircraft or motor vehicles, or activities connected therewith included references to hovercraft or activities connected with hovercraft;

- (h) for substituting references to hovercraft for references in any enactment or instrument to vehicles designed to be supported on a cushion of air;
  - (i) *Not in use.*
  - (j) for repealing the provisions of any enactment or instrument insofar as it appears to the Government that those provisions are not required having regard to any provision made or proposed to be made by virtue of this section;
  - (k) for imposing penalties with respect to any contravention of any provision made by or under the regulations, not exceeding, in respect of any one contravention, a fine at level 5 on the standard scale on summary conviction and imprisonment for 12 months and a fine on conviction on indictment;
  - (l) for detaining any registered hovercraft in order to secure compliance with any provision made by or under the regulations or any registered hovercraft with respect to which such a contravention as aforesaid is suspected to have occurred.
- (2) Nothing in any of the paragraphs of subsection (1) shall be construed as prejudicing the generality of any other of those paragraphs.
- (3) Regulations made under this section may—
- (a) make different provision for different circumstances or for registered hovercraft of different descriptions;
  - (b) provide for exemptions to any of the provisions of any of the regulations;
  - (c) provide for delegation of functions exercisable by virtue of the regulations;
  - (d) include such incidental, supplemental and consequential provisions as appear to the Government to be expedient for the purposes of the regulations;
  - (e) provide that any enactment, instrument or rule of law applied by the regulations shall have effect as so applied subject to such modification as may be specified in the regulations.

(4) The law relating to maritime liens shall apply in relation to registered hovercraft and property connected with registered hovercraft as it applies in relation to ships and to property connected with ships, and shall so apply notwithstanding that the hovercraft is on land at any relevant time.

**PART VI.**  
**SUBMERSIBLE APPARATUS.**

**Submersible and supporting apparatus.**

94.(1) The Government may make regulations in connection with submersible and supporting apparatus and such regulations shall provide for—

- (a) the safety of submersible and supporting apparatus;
- (b) the prevention of accidents in or near or on submersible or supporting apparatus;
- (c) the safety, health and welfare of persons on or in submersible and supporting apparatus;
- (d) prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions or licence granted under the regulations;
- (e) the registration under the provisions of the Gibraltar Merchant Shipping (Registration) Act, 1993 of submersible apparatus;
- (f) all matters relevant to the maintenance of a register of submersible apparatus, including the period for which any registration or exemption is to remain effective without renewal, the alteration or cancellation in any specified circumstances of registration or exemption or any of the conditions attached thereto, the person by whom and the manner in which applications in connection with any registration or exemption are to be made, and information and evidence to be furnished in connection with any such application;
- (g) the marking or other means of identification of any submersible apparatus;
- (h) the issue of certificates of registration or exemption, the custody, surrender, production or display of the certificates or copies of them;
- (i) matters arising out of the termination of any registration or exemption or any conditions attached thereto;

## **1995-13 Gibraltar Merchant Shipping (Safety, etc.)**

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- (j) the making of different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;
- (k) such supplemental and incidental provisions as appear to the Government to be necessary or expedient for giving effect to the regulations.

(2) The operation of any regulations may be excluded in whole or in part in relation to any class or description of submersible or supporting apparatus by provision in such regulations, or, in relation to any particular apparatus, by the instruction of the Maritime Administrator given in such manner as he thinks appropriate, and any such exemption or exclusion may be made subject to the imposition of conditions specified in regulations or instructions:

Provided that where a person is exempted or excluded from the requirement of a regulation or an instruction but, subject to a condition, and the condition is not observed the exemption or exclusion shall not have effect.

(3) This section applies to submersible or supporting apparatus launched or operated from or comprising a registered ship and for the purposes of this section—

“apparatus” includes any vessel, vehicle or hovercraft, and a structure, and a diving plant or equipment and other form of equipment;

“pilot” means the person appointed to command the submersible craft or, in the case of a submersible craft which is an atmospheric diving suit, to operate that diving suit;

“submersible apparatus” means any apparatus used or designated for use, in supporting human life on or under the bed of any waters of elsewhere under the surface of any waters; and

“supporting apparatus” means any apparatus used or designed for use, in connection with the operation of any submersible apparatus.

### **PART VII.**

#### **CARRIAGE OF PASSENGERS, THEIR LUGGAGE AND LIMITATION OF LIABILITY.**

##### **Convention relating to the carriage of passengers and their luggage by sea.**

95.(1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea signed in Athens in 1974, in this section referred to as “the Convention”, together with any amendment or variation to that Convention which is ratified by the United Kingdom and the application of which is extended to Gibraltar, shall apply in accordance with administrative instructions made by the Maritime Administrator and subject to such modifications as are so made.

(1A) Sub-section (1) does not give the force of law in Gibraltar to provisions to the extent that they apply to cases in which EC Regulation No. 392/2009 applies.

(2) Administrative instructions made under subsection (1) shall be amended by the Maritime Administrator to give effect to any revision to the Convention ratified by the United Kingdom, and the application of which is extended to Gibraltar.

(3) In this section “EC Regulation No. 392/2009” means Regulation (EC) No. 329/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

**Limitation of liability.**

96. The Maritime Administrator shall by administrative instructions apply to registered ships the provisions of the Convention on Limitation of Liability for Maritime Claims, 1976 and instructions made under this section shall take effect in respect of such ships:

Provided that that Convention shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if he is on board or employed under a contract of service governed by the law of Gibraltar.

**Exclusion of liability.**

97.(1) Subject to subsection (3), the owner of a registered ship shall not be liable for any loss or damage in the following cases, namely—

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the master or owner of the ship in a bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of—

- (a) the master, member of the crew or servant; and

- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention on Limitation of Liability for Maritime Claims 1976.

**PART VIII.**  
**POLLUTION.**

**Prevention of pollution from ships etc.**

98.(1) The Government shall by regulation make provision for giving effect in respect of registered ships to any of the following which have been ratified by United Kingdom and the application of which has been extended to Gibraltar, namely—

- (a) the International Convention for the Prevention of Pollution from Ships (including its Protocols, Annexes and Appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on the 2nd of November 1993;
- (b) the Protocol relating to Intervention on the High Seas in case of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act of the aforesaid Conference;
- (c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on the 17th of February 1978;
- (d) any international agreement not mentioned in the preceding paragraphs which relates to the prevention, reduction or control of pollution of the sea or other waters by matters from ships,

and in paragraph (d), the reference to an agreement includes an agreement which provides for the modification of another agreement including the modification of an agreement mentioned in paragraphs (a) to (c).

- (2) Regulations made under subsection (1) may—
  - (a) make different provision for different circumstances;

- (b) provide for exemptions from any provision of the regulations;
  - (c) include such incidental, supplemental and transitional provisions as appear to the Government to be necessary for the purpose of giving effect to the Conventions, Protocols and Agreements specified in subsection (1).
- (3) The Maritime Administrator may, where a registered ship is in contravention of regulations made under subsection (1) suspend the registration of that ship or detain the ship until such time as he is satisfied that the contravention has ceased.

**PART IX.**  
MISCELLANEOUS PROVISIONS.

**Power of Maritime Administrator to dispense with evidence.**

99. When under this Act any person is required to make a declaration on behalf of himself or any corporation or other legal entity, or any evidence is required to be produced to the Maritime Administrator or a person properly appointed by him and it is shown to the satisfaction of the Maritime Administrator or that person that for any reasonable cause the declaration cannot be made, or that the evidence cannot be produced, the Maritime Administrator or other appointed or authorised person, on the production of such other evidence and subject to such terms as he may see fit, may dispense with the declaration or evidence.

**False declarations.**

100. Every person, who, in the case of a declaration made in the presence of or produced to a Maritime Administrator or a person properly appointed or authorised by him, or in any document or other evidence produced to such person for the purposes of the Act—

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

shall be guilty of an offence punishable on summary conviction by a fine at level 4 on the standard scale.

**Proof of attestation not required.**

101. When any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by calling the evidence of any person who is able to bear witness to the requisite fact without calling the attesting witness or the attesting witnesses or any of them.

**Admissibility of documents and evidence.**

102.(1) Where a document is by this Act declared to be admissible in evidence, such document shall, on its production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of the parties authority to receive evidence, and, subject to all just exceptions, shall be evidence of the matter stated therein.

(2) A copy of any such document or extracts therefrom shall also be so admissible in evidence if proved to be an examined copy or extract or if it purports to be signed and certified as a true copy or extract by the person to whose custody the original document was entrusted.

**Service of documents.**

103. Where for the purpose of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his place of abode or at the registered office of a body corporate or legal entity;
- (b) if the document is to be served on the master of the ship where there is one, or on a person belonging to a ship, by leaving the same for him on board such ship with a person being or appearing to be in command or charge of the ship;
- (c) if the document is to be served on the master of the ship, where there is no master, or registered agent of the ship, or where no such agent can be found, by affixing a copy thereof to the mast of the ship;
- (d) in the case of any notice authorised or required to be given to the Maritime Administrator, a person properly appointed or authorised by him, a surveyor or an inspector, by delivering it to that person or by leaving it at, or sending it by post to, the office of that person.

**Consular authentication not required.**

104.(1) The Maritime Administrator shall not require that any document submitted in connection with the registration of a ship or the registration or recording of or filing of any document, or the formation of a body corporate or legal entity owning a registered ship, be presented to, authenticated or legalised by a Consular Official, at a locality or port outside of Gibraltar.

(2) No log book, manifest, crew articles or other document used or issued in connection with the internal economy, operation or management of a registered ship shall be subject to presentation, review or authentication by a Consular Official.

(3) No impost, charge, fee or tax imposed against a registered ship or its master, owner or registered agent by a Consul or other official of the Government, in Gibraltar or in a locality or port outside of Gibraltar, shall be lawful unless specifically authorised by the laws and regulations of Gibraltar, and if such charge is found to be unauthorised, the said official may without limitation be subject to surcharge in the amount thereof.

**Enforcing detention of the ship.**

105.(1) Where under this Act a ship is to be or may be detained the Maritime Administrator or person properly appointed or authorised by him may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by the Maritime Administrator, the master of the ship and the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding ten times the amount at level 5 on the standard scale.

(2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any person authorised to detain the ship, or any surveyor or officer of the Maritime Administrator, the master and owner of the ship shall be liable to pay all expenses of and incidental to the officer or surveyor being taken to sea and also on conviction on indictment to a fine, or on summary conviction to a fine not exceeding level 5 on the standard scale.

**Suspension of registration.**

106.(1) Where under any of the provisions of this Act the registration of a ship is suspended, the person by whom the suspension is made shall give to, or cause to be served on, the master of the ship a written notice of the suspension, and thereupon the ship shall not proceed to sea and the master shall forthwith deliver up the certificate of registry to the person by whom it was suspended or, if such person be not immediately available, to a person properly appointed or authorised for this purpose by the Maritime Administrator.

(2) In the case of any contravention of this section the master of the ship shall be liable on summary conviction to a fine at level 5 on the standard scale.

**Limitation on time for proceedings.**

107.(1) Neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceedings, instituted in Gibraltar, unless that proceeding is commenced within twelve months beginning with the commission of the offence or beginning

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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with the date on which the cause of complaint arises, whichever is the earlier, or, if both or either of the parties to the proceedings happen during that time to be out of Gibraltar, unless the same is commenced, in the case of summary conviction within two months, and in the case of the summary order within six months, beginning with the date they both first happen to arrive, or to be at one time, within Gibraltar and, in the case of summary conviction, before the expiration of three years beginning with the date on which the offence was committed.

(2) Neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceedings instituted elsewhere, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises, as the case may be, or, if both or either of the parties to the proceeding happen during that time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced in the case of the summary conviction with two months, and in the case of the summary order within six months after they both first happen to arrive, and be at one time, within that jurisdiction.

(3) No law for the time being in force under any Act or otherwise, which limits the time within which summary proceedings may be instituted shall affect any summary proceedings under this Act.

### **Provision as to jurisdiction in case of offences.**

108.(1) For the purpose of giving jurisdiction under this Act every offence shall be deemed to have been committed and every cause of complaint to have arisen in Gibraltar.

(2) Where in any proceedings under this Act a question arises whether any ship or person is or is not governed by the provisions of this Act, that ship or person shall be deemed to be within those provisions unless the contrary is proved.

### **Limitations of actions.**

109. No action shall be maintainable to enforce any claim or lien against a ship or the owners of the ship in respect of any damage or loss to another ship, the cargo or freight of that ship, or any property on board that ship, or damages for loss of life or personal injury suffered by any person on board that ship, caused by the fault of the former ship, whether such ship be wholly or partly at fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:

Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant ship within the jurisdiction of the court, or within territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give reasonable opportunity.

**Division of loss.**

110. Where by the fault of two or more ships, damages or loss is caused to one or more of the ships, or to their cargoes or freight or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel 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; and
- (b) nothing in this section shall operate so as to find any ship liable for any loss or damage to which her fault has not contributed; and
- (c) nothing in this section shall affect the liability of any persons under contract of carriage or any contract or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Act, the expression “freight” includes passage money and hire, and references to damage or loss caused by the fault of the ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

**Jurisdiction in cases of loss of life or personal injury.**

111. Any enactment which confers on any court admiralty jurisdiction in respect to damage shall have effect as though reference to such damage included references to damages for loss of life or personal injury and accordingly proceedings in respect of such damages may be brought in rem or in personam.

**Damages for personal injuries.**

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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112. Where loss of life or personal injury 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 that ship shall be joint and several:

Provided that 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 or persons entitled to sue in respect to 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.

### **Right of contribution.**

113.(1) Where loss of life or personal injury is suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owner of one of the ships which exceeds the proportion in which he was at fault, the owner may recover by way of contribution the amount of the excess from the owners of any other ship or ships to the extent to which those ships were respectively at fault:

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitations of or exemption from liability or which could not for any other reason have been recovered in the first instance as damages by the person entitled to sue therefore.

(2) In addition to any other remedy provided by law, the persons entitled to having such contribution as aforesaid, shall, for the purposes of receiving the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

### **Sums ordered to be paid leviable by distress on ship.**

114. Where any court has the power to make an order directing payment to be made by any seaman's wages, fines or the sums of money, then if the party so directed to pay the same is the master or owner of the ship, and the same is not paid at the time and in the manner prescribed in the order, the court who made the order may, in addition to any other powers they may have for the purposes of compelling payment, direct that the amount remaining unpaid may be levied by distress or by appointing the sale of the ship, her tackle, furniture and apparel.

### **Immunity from civil liability.**

115. Neither the Maritime Administrator nor any person who is, or is acting as, an officer or agent of the Maritime Administrator nor a person appointed or designated in accordance with section 3, shall be liable to damages or otherwise for any loss occurring to any person by reason

of any acts done or omitted by him in his character of Maritime Administrator, unless it is shown that the act or omission was in bad faith.

**Recovery of fines.**

116. All fines and forfeitures under the provisions of this Act shall be sued for by the Maritime Administrator, a person properly appointed or authorised by him or by the Attorney General.

**Responsibility of owner.**

117. In the absence of any agreement to the contrary, the owner or the bareboat charterer, as the case may be, of the ship shall be the person ultimately responsible as between himself and the other persons by this Act made liable in respect of any default in complying with any requirement thereof.

**Regulations.**

118.(1) The Government may make regulations for all or any of the following purposes—

- (a) for applying such provisions of this Act as are specified in such regulations in such manner and subject to such limitations and variations as are therein specified to—
  - (i) pleasure yachts registered under Part IV of the Gibraltar Merchant Shipping (Registration) Act, 1993;
  - (ii) Government ships registered under Part VII of that Act; and
  - (iii) ships and yachts deemed to be registered by virtue of Part VIII of that Act:

Provided that no regulation made under this subsection shall have the effect of authorising or purporting to authorise a contravention of any requirement of an International Convention which has been ratified by the United Kingdom and the application of which has been extended to Gibraltar;

- (b) prescribing fees and charges that shall be payable under this Act and to whom they shall be payable and providing penalties for non-payment or late payment of fees;
- (c) giving effect in Gibraltar to the law of the European Community or to any provision of a relevant International Agreement or Convention, as revised, modified or amended from time to time, ratified by the United Kingdom and the application of which has been extended to Gibraltar, relating to any of the matters contained in or dealt with under this Act and regulations made under this paragraph

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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may make provision for the repeal or variation of any provision of the Act where such provision is—

- (i) in conflict with;
- (ii) made unclear by;
- (iii) rendered unnecessary by,

a regulation made hereunder, and this power shall include the power to provide for the provision to come into force although the law, Agreement or Convention, as the case may be, has not yet come into force;

- (d) establishing, financing and managing a fund for the purpose of the conduct of investigations required by this Act to be made and for the making on behalf of the Register of affiliation fees and associated costs to international maritime organisations;
  - (e) prescribing anything which under the Act may be prescribed;
  - (f) providing for such other matters as are reasonably necessary for or incidental to the due administration of this Act.
- (2) Regulations made under this section, or any other section of this Act providing a similar power, may—
- (a) make different provisions for different classes of ship, for the same class of ship in different circumstances and for different circumstances;
  - (b) make exceptions to any matter prescribed in such regulations;
  - (c) provide for the delegation of functions, either generally or specifically, exercisable by virtue of the regulation making power in this Act or by virtue of the regulations;
  - (d) where such regulation is for the purpose of giving effect to the provisions of any relevant International Convention or Agreement, take account of any standard of approval or application adopted by the ratifying State;
  - (e) make provision for the determination and implementation of penalties for a failure to comply with instructions made by the Maritime Administrator whether such instructions are made by virtue of a power contained in this Act or in regulations made under this or any other section.

**International Conventions.**

119.(1) International Conventions and Agreements, relating to matters falling under this Act, which have been ratified by the United Kingdom and the application of which has been extended to Gibraltar shall be specified in the Schedule to this Act.

(2) The Government may from time to time vary, amend, add to and delete from the Schedule for the purpose of obtaining compliance with the provisions of subsection (1).

(3) The Maritime Administrator and the master and owner or bareboat charterer, as the case may be, shall comply with the requirements from time to time of any relevant Convention or Agreement specified in the Schedule.

(3A) The Maritime Administrator shall-

- (a) assign responsibilities to monitor, update and revise any relevant policies adopted, as may be necessary in order to comply with Flag State and Port State International Obligations, or otherwise; and
- (b) advise the Government on legislation, guidance and procedures required to ensure consistent implementation and verification of the rights, obligations and responsibilities arising from Flag State and Port State International Obligations;

and for the purposes of this sub-section, the Maritime Administrator may arrange for the discharge of any of his functions by any Government department or by any other authority.

(4) In the application of any provisions of this Act account shall be taken of the requirements of any Convention or Agreement specified in the Schedule as it affects the subject matter of that provision.

**Offences and penalties.**

120.(1) Where, in respect of any registered ship, there is a contravention of any provision of this Act giving effect to the requirements of a relevant International Convention or Agreement ratified by the United Kingdom and the application of which has been extended to Gibraltar, or of such a requirement, the Maritime Administrator may suspend the registration of that ship and may detain that ship until he is satisfied that the contravention has been remedied.

(2) A failure to comply with the requirements of this Act or obstruction of others in the exercise of their duties or obligations under this Act shall be an offence and, except where specific provision is made by this Act, shall be punishable on summary conviction by a fine of the prescribed amount or, where so prescribed, by imprisonment for a period not exceeding

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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six months or both and on indictment, where so prescribed, to a fine or imprisonment for a period not exceeding 2 years or both.

(3) The Government shall by regulation prescribe the penalties and defences in respect of any offence under this Act:

Provided that—

- (a) (i) in respect of an owner no fine on summary conviction shall exceed an amount of ten times the amount at level 5 on the standard scale;
  - (ii) in respect of a master, no fine on summary conviction shall exceed twice the amount at level 5 on the standard scale;
  - (iii) in the case of a seaman, no fine on summary conviction shall exceed level 5 on the standard scale;
  - (iv) in the case of any other person, no fine on summary conviction shall exceed twice the amount at level 5 on the standard scale.
- (b) the limitations in sub-paragraphs (i) and (ii) of paragraph (a) shall not apply in respect of contravention of a provision in this Act falling within Part VIII.

(4) Where an offence under this Act which has been committed by a body corporate is shown to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or any person who is purporting to act in such capacity, he as well as the body corporate, shall be guilty of that offence and liable to be proceeded against accordingly.

(5) Where an owner or bareboat charterer has appointed a registered agent under the provisions of the Gibraltar Merchant Shipping (Registration) Act, 1993, and that person acting on behalf of the owner or bareboat charterer, as the case may be, does or omits to do anything in respect of the ship in contravention of a provision of this Act he as well as the owner or bareboat charterer shall be guilty of an offence.

(6) Where the affairs of a body corporate are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(7) A failure to comply with any provision of this Act shall not of itself constitute a cause of action other than as is herein or elsewhere in this Act provided.

(8) The provisions of this section shall apply to regulations made under this Act as they do to the Act.

**Application of the Merchant Shipping Acts and the Merchant Shipping Act.**

121.(1) The Merchant Shipping Acts 1894-1988 and legislation subsequently added to those Acts and subordinate legislation made thereunder shall not apply to ships and pleasure yachts registered under the Gibraltar Merchant Shipping (Registration) Act, 1993 and section 221 of the Merchant Shipping Act shall be modified to this extent:

Provided that the provisions of those Acts shall apply in respect of matters arising before the commencement date and at that date unresolved and this section shall have no effect in such respect.

(2) The Merchant Shipping Act and subordinate legislation made thereunder shall not apply to ships and pleasure yachts registered under the Gibraltar Merchant Shipping (Registration) Act, 1993 insofar as matters contained in this Act are concerned and to the extent necessary to give effect to this provision, the Merchant Shipping Act is modified or repealed:

Provided that—

- (a) the provisions of that Act shall apply in respect of matters arising before the commencement date and at that date unresolved and this section shall have no effect in such respect;
- (b) where a ship or pleasure yacht to which this section applies is present in Gibraltar, that Act and the subordinate legislation made thereunder shall apply to that ship or pleasure yacht as if it were a ship or pleasure yacht registered elsewhere than in Gibraltar.

**Repeal of the Merchant Shipping (Health and Welfare) Act, 1988.**

122. The Merchant Shipping (Health and Safety) Act 1988 is repealed.

**SCHEDULE**

Section 119

**International Conventions**

- (a) The International Convention for the Safety of Life at Sea, 1960, as amended.
- (b) The International Convention on Load Lines, 1966.
- (c) The International Telecommunication Convention (Montreux), 1965, and the Radio Regulations 1968.
- (d) The Convention on Facilitation of International Maritime Traffic, 1965.
- (e) The International Convention and Amendments on Tonnage Measurement of Vessels 1969.
- (f) The International Health Regulations (Geneva) 1969.
- (g) The International Regulations for Preventing Collisions at Sea 1972.
- (h) The International Convention for Safe Containers 1972.
- (i) The International Convention for the Safety of Life at Sea 1974, and the Protocol of 1978 relating thereto.
- (j) The International Convention and Amendments relating to the Carriage of Passengers and their Luggage by Sea 1974 and the Protocol of 1976 relating thereto.
- (k) The International Convention on Limitation of Liability for Maritime Claims 1976 as amended from time to time.
- (l) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.
- (m) The International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC).
- (n) The International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 (MARPOL 73/78).

- (o) The Inter-Governmental Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended (London Dumping Convention) (LDC) (Gibraltar not now a Contracting State, although UK and all other UK Commonwealth countries are).
- (p) International Labour Organisation (ILO) Convention No. 7 Minimum Age (Sea) 1920.
- (q) ILO Convention No. 8 Unemployment Indemnity (Ship-wreck) 1920.
- (r) ILO Convention No. 22 Seamen's Articles of Agreement 1926.
- (s) ILO Convention No. 108 Seafarers' Identity Documents 1958.
- (t) ILO Convention No. 133 Accommodation of Crews (Supplementary Provisions) 1970.
- (u) ILO Convention No. 147 Merchant Shipping (Minimum Standards) 1976.
- (v) United Nations Convention on a Code of Conduct for Liner Conferences (EIF 6 October 1983).
- (w) International Law on Maritime Search and Rescue 1979.
- (x) International Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 and Protocol.
- (y) International Oil Pollution Compensation Fund 1971.
- (z) International Convention Relating to Intervention on the High Seas in cases of Oil Pollution Casualties - Brussels 29 November 1969, EIF 6 May 1975, UK Ratification 12 January 1971.
- (aa) Protocol to the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties - London 2 November 1973 EIF 30 March 1982, UK Ratification 5 November 1979.
- (bb) Protocol to the International Convention on Civil Liability for Oil Pollution Damage 1969 - London 19 November 1976, EIF 8 APRIL 1981, UK Ratification 31 January 1980.

## **1995-13**      **Gibraltar Merchant Shipping (Safety, etc.)**

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- (cc) Special Trade Passenger Ships Agreement - London 6 October 1971, EIF 2 January 1974, UK Acceptance 16 August 1979, EIF 15 November 1979.
- (dd) Protocol on Space Requirements for Special Trade Passenger Ships - London 13 July 1973, EIF 2 June 1977, UK Acceptance 16 November 1979, EIF 16 February 1989.
- (ee) Convention on the International Maritime Satellite Organization (INMARSAT) as amended - London 3 September 1976, EIF 16 July 1979, UK Ratification 30 April 1979.
- (ff) Amendments to Convention on the International Maritime Satellite Organization (INMARSAT) 1985, UK Acceptance 12 May 1986.
- (gg) Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter as Amended - London, Mexico City, Moscow, Washington 29 December 1972, EIF 30 August 1975, UK Ratification 17 November 1975, EIF 17 December 1975.