

MERCHANT SHIPPING ACT, 1962



ARRANGEMENT OF SECTIONS

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1962, No. 30

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO MERCHANT SHIPPING, AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

Commence-
ment.

[By Notice, see section 1]

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

PART I
CHAPTER I
PRELIMINARY

Short title,
application
and com-
mencement.

1.—(1) This Act may be cited as the Merchant Shipping Act, 1962 and shall apply throughout the Federation.

(2) This Act shall come into force on a date to be appointed by the Minister by Notice in the *Gazette* and different dates may be so appointed for the purpose of different provisions of this Act.

Interpreta-
tion.

2.—(1) In this Act, unless the context otherwise requires, —

“agreement”, “agreement with the crew”, and “articles of agreement”, in relation to any ship or to any seaman, mean the agreement made between the master and the crew of the ship, or, as the case may be, of the ship to which that seaman belongs, pursuant to Part III or pursuant to the law of any Commonwealth country other than Nigeria; and a ship is said to be a ship for which an agreement with the crew is required, if the master is, either by this Act or by the law of the

Commonwealth country in which the ship is registered or to which she belongs, required to enter into an agreement with the members of the crew ;

"aircraft" means any ship or vessel designed for flying but capable of being manoeuvred on water and includes a seaplane or any ship or vessel able to alight on or hover over water ;

"apprentice" means a person duly indentured as an apprentice to the sea service ;

"barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner or, as the case may be, the charterer of the ship ;

"Board of Survey" means a Board of Survey under this Act ;

"cargo" includes livestock ;

"cargo ship" means a ship which is not a passenger ship ;

"certificate of survey" means a certificate of survey issued under this Act ;

"clearance" means a clearance issued under the Customs and Excise Management Act 1958, and includes a transire issued under that Act ;

No. 55 of
1958.

"coastal trade ship" means a ship, other than an inland waters ship, which does not leave Nigeria ;

"Collector of Customs" means the Board of Customs and Excise and includes the principal or only officer of Customs for the time being at any port ;

"collision rules" means the rules made or deemed to have been made under this Act ;

"Commonwealth" means the Commonwealth of Nations ;

"Commonwealth citizen" has the same meaning as is ascribed to that term in section 13 of the Constitution of the Federation ;

L.N. 159 of
1960.

"Commonwealth country" means a country to which section 13 of the Constitution of the Federation applies ; and except in respect of territories of any such country to which the Safety Convention or the Load Line Convention is not applied by order under this Act includes every territory for whose international relations the government of that country is responsible, and in relation to the Republic of Ireland has the extended meaning given by section three of this Act ;

"Commonwealth ship" means a ship registered in any Commonwealth country, or recognized by the law of any Commonwealth country as a ship of that country ; and a ship is said to belong to a Commonwealth country if it is recognized by the law of that country as a ship of that country and is by the law of that country exempt from registration ;

"conditions of assignment" means such of the load line rules as are made to give effect to Part II of Annex 1 of the Load Line Convention (which relates to the conditions of the assignment of load lines) ;

"Consolidated Revenue Fund" means the Consolidated Revenue Fund of the Federation ;

"construction rules" means rules made or deemed to have been made pursuant to this Act ;

"consular officer", in relation to a foreign country, means a person recognized by the Government of the Federation as a consular officer of that country ;

"country to which the Load Line Convention applies" means—

(a) a country the Government of which has been declared by the Minister, by Order, to have ratified, or acceded to, the Load Line Convention, and which has not been so declared to have denounced that Convention ; and

(b) a territory to which it has been so declared that the Load Line Convention applies, not being a territory to which it has been so declared that that Convention has ceased to apply ;

"country to which the Safety Convention applies" means—

(a) a country the Government of which has been declared by the Minister by Order, to have accepted the Safety Convention, and has not been so declared to have denounced that Convention ; and

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

"court" or "court of competent jurisdiction" means any court having particular jurisdiction for the purposes of this Act ;

"dangerous goods" means goods which, by reason of their nature, quantity or mode of stowage, are liable, either singly or collectively, to endanger the lives of persons on or near any ship, or to imperil any ship ; and includes all explosives within the meaning of the Explosives Act and any other goods which are declared by rules made or deemed to have been made under Chapter 46 of this Act or by the Minister by notice in the *Gazette* to be dangerous goods for the purposes of this act ;

"deck line" means a mark on each side of a ship indicating the position of the uppermost complete deck, as defined by the load line rules ;

"declaration of survey" means a declaration of survey made under this Act ;

"desertion" means the absence of a seaman or apprentice from his ship without leave for a period of forty-eight hours without lawful cause or excuse, or any unlawful departure from his ship with the intention of not returning thereto ;

"detaining officer" means a person authorised by the Minister under Chapter 88 of this Act to detain ships under this Act ;

"distressed seamen" has the meaning assigned thereto in Chapter 9 ;

"effects" includes clothes and documents ;

"fishing boat" means a ship or boat engaged in fishing for profit ;

"foreign country" means a country which is not a Commonwealth country ;

"foreign ship" means a ship, other than a Nigerian licensed ship which is not a Commonwealth ship and is not owned wholly by persons qualified to own a registered Nigerian ship ;

"foreign-going ship" means a ship which is neither a home trade ship, a coastal trade ship nor an inland waters ship ; and "engaged in the foreign trade" has a corresponding meaning ;

"freeboard" means, in the case of any ship which is marked with a deck line, the height from the water to the upper edge of the deck line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured ;

"freight" includes passage money and hire ;

"go to sea" or "proceed to sea" includes the getting under way for the purpose of going to sea ;

"Government of the Federation" means the Government of the Federation of Nigeria ;

"gross tons" or "gross tonnage", in relation to any ship, means the tonnage of that ship determined in accordance with the tonnage regulations, without making the deductions directed by those regulations to be made for the purpose of ascertaining register tonnage ;

"home trade limits" mean the limits specified in the First Schedule ;

"home trade ship" means a ship which is authorised to ply only within home trade limits ;

"inland waters ship" means a ship which is authorised only to ply within inland waters ;

"inspector" means any inspector appointed for the purposes of chapter 93 ;

"international load line ship" means a load line ship of one hundred and fifty tons gross tonnage or more which carries cargo or passengers ;

"international voyage" means, for the purposes of Part IV, a voyage from a port in one country to a port in another country, either of those countries being a country to which the Safety Convention applies ; and

"short international voyage" means for the purposes of that Part, an international voyage as so defined in the course of which a ship is not more than two hundred nautical miles from a port or place in which passengers and crew could be placed in safety :

Provided that, for the purposes of these definitions—

(i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstances that neither the master, nor the owner, nor the charterer, if any, of the ship could have prevented or forestalled ; and

(ii) every colony, overseas territory, protectorate or other territory for whose international relations a Government that has accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country ;

"international voyage" means, for the purposes of Part V, a voyage from a port in one country to a port in another country, either of those

First
Schedule.

countries being a country to which the Load Line Convention applies, so, however, that for the purposes of this definition—

(a) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstances that neither the master, nor the owner, nor the charterer, if any, of the ship could have prevented or forestalled; and

(b) every colony, overseas territory, protectorate or other territory for whose international relations a Government that has accepted the Load Line Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country;

“legal personal representative” means any person constituted executor, administrator or other representative of a deceased person by any probate, administration or other instrument;

“load lines” means the marks indicating the several maximum depths to which a ship is entitled to be loaded in various circumstances prescribed by the load line rules;

“load line certificate” means a Load Line Convention certificate or a Nigerian load line certificate, as the case may require;

“Load Line Convention” means the International Convention respecting Load Lines, together with the Final Protocol thereof, signed at London on the 5th day of July, 1930, and includes any amendment to or replacement of that Convention and any Rules annexed thereto;

“Load Line Convention certificate” has the meaning assigned thereto by Chapter 35; and “valid Load Line Convention certificate” has the meaning assigned thereto by Chapter 36;

“Load Line Convention ship” means an international load line ship registered in or belonging to a country to which the Load Line Convention applies;

“Load line rules” means rules made or deemed to have been made pursuant to chapter 35;

“load line ship” means any seagoing ship which is not—

(a) a ship to which rules made or deemed to have been made pursuant to Chapter 35 apply, or in respect of which a certificate by the Minister under that Chapter is in force, or

(b) a ship engaged solely in fishing, or

(c) a pleasure yacht;

“local load line ship” means a load line ship that—

(a) is of less than one hundred and fifty tons gross tonnage; or

(b) does not carry cargo or passengers;

“Marine Board” means the marine board under this Act;

“master” means any person, except a pilot, having command or charge of any ship;

“Mercantile Marine Office” includes a Mercantile Marine Sub-office;

"Minister" means the Minister for the time being charged with responsibility for matters relating to merchant shipping; and "Ministry" has a corresponding meaning;

"motor ship" means a ship propelled by mechanical power other than steam;

"national colours" means the national colours of Nigeria;

"Nigerian citizen" means a citizen of Nigeria;

"Nigerian Government ship" means a ship which belongs to the Government of the Federation or of a Region; but does not include a ship which forms part of the Royal Nigerian Navy or the Royal Nigerian Naval Reserve;

"Nigerian licensed ship" means a ship licensed by virtue of Chapter 81;

"Nigerian load line certificate" has the meaning assigned thereto by this Act;

"Nigerian ship" means—

(a) a ship which is registered or licensed in Nigeria under this Act; or

(b) a ship not exceeding fifteen register tons employed solely on the coasts or inland waters of Nigeria and exempted under this Act from being licensed;

"officer", when used in relation to a ship, means the master, mate or engineer of a ship, by whatever name called and whether certificated or not, and also any radio officer qualified in accordance with the radio rules;

"officer of customs" has the same meaning as the word "officer" in the Customs and Excise Management Ordinance, 1958; No. 55 of 1958.

"passenger" means any person carried on a ship, other than—

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

(b) a person on board the ship either in pursuance of an obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master, nor the owner, nor the charterer, if any, could have prevented or forestalled; and

(c) a child under one year of age;

"passenger ship" means a ship which is constructed for, or which is habitually, or on any particular occasion used for, carrying more than twelve passengers;

"person in command", in relation to any aircraft, means, in a case where a person other than the pilot in charge is in command, that person, and, in any other case, the pilot in charge;

"persons qualified to own a registered Nigerian ship" has the meaning assigned to that expression by Chapter 64; and "persons not qualified to own a registered Nigerian ship" has a corresponding meaning;

"pilot", in relation to any ship, means any person not belonging to the ship who has the conduct thereof;

"pleasure yacht" means a ship, however propelled, that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward ; but does not include a ship that is provided for the transport or entertainment of lodgers at any institution, hotel, private hotel, boarding house, lodging house, guest house or other establishment ;

"port" includes place and harbour ;

"Port Health Officer" includes the Chief Medical Adviser of the Federation and any officer for the time being performing the duties of a Port Health Officer ;

"port of registry", in relation to any ship, means the port at which she is for the time being registered ;

"proper officer" means—

(a) with respect to a port in a Commonwealth country other than Nigeria, the person who is, by the law of that country, authorized or required—

(i) to do or perform the act or duty to which reference is made in the provisions of this Act in which the expression occurs ; or

(ii) to do or perform, in relation to ships registered in or belonging to that country, any act or duty of the same nature as the act or duty to which reference is made in the provisions of this Act in which the expression occurs ; and

(b) with respect to a port in a foreign country, in the following order,—

(i) a consular officer of Nigeria stationed at that port ; or, in the absence thereof,

(ii) a consular officer of any Commonwealth country other than Nigeria stationed at that port ; or, in the absence of either of such officers,

(iii) a consular officer of Nigeria or any other Commonwealth country stationed nearest to that port in that foreign country ;

"proper return port", in relation to a seaman or apprentice discharged or left behind abroad, means—

(a) the port at which the seaman or apprentice was shipped ; or

(b) a port in a country of which the seaman or apprentice is a national ; or

(c) a port agreed to as such by the seaman or apprentice ;

"radio certificate", "qualified radio certificate" and "radio exemption certificate" have the respective meanings assigned thereto by Chapter 31 ;

"radio navigational aid" means radio apparatus on board a ship, being apparatus designed for the purpose of determining the position or directions of ships or other objects ;

"radio rules" means the rules made or deemed to have been made under Chapter 29 ;

"radio surveyor" means a radio surveyor appointed or recognized as such under Chapter 30 ;

"Registrar" means the Registrar of ships under this Act ;

"report of character" means the report referred to in Chapter 7 ;

"rules for direction finders" means the rules made or deemed to have been made under Chapter 29 ;

"rules for lifesaving appliances" means the rules made or deemed to have been made under chapter 26 ;

"running agreement" means the agreement referred to in Chapter 5 ;

"safety certificate" means a general safety certificate, a short voyage safety certificate, a qualified safety certificate or a qualified short voyage safety certificate, as the case may require ; and

"general safety certificate", "qualified safety certificate", "short voyage safety certificate" and "qualified short voyage safety certificate", have the respective meanings assigned to those expressions by Chapter 31 ;

"Safety Convention" means the International Convention for the Safety of life at sea signed at London on the 10th day of June, 1948 and includes any amendment to or replacement of that convention and any Rules annexed thereto ;

"Safety Convention Certificate" means a safety certificate; a safety equipment certificate, a radio certificate, a qualified safety equipment certificate, a qualified radio certificate, an exemption certificate corresponding to a qualified certificate of any of the foregoing descriptions or a radio exemption certificate, as the case may require ; and

"accepted Safety Convention certificate" has the meaning assigned thereto by Chapter 32 ;

"Safety Convention ship" means a ship registered in or belonging to a country to which the Safety Convention applies, being a ship that is subject to the provisions of the Safety Convention ; and the expressions,—

"Safety Convention passenger ship" and "Safety Convention cargo ship" shall be construed accordingly ;

"safety equipment certificate" and "qualified safety equipment certificate" have the respective meanings assigned thereto by Chapter 31 ;

"sailing ship" means a ship propelled solely by sails ;

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

"scientific referee" means a scientific referee appointed pursuant to Chapter 55 ;

"seaman" means any person (except a master, pilot or apprentice, or a person temporarily employed on the ship while in port) employed or engaged in any capacity on board any ship ;

"ship" means any vessel other than—

(a) a vessel propelled solely by oars or paddles, or

(b) a vessel which has been generally exempted from the provisions of this Act by the Minister under Chapter 96, or

(c) a vessel which has been partially exempted under provisions of this Act by the Minister under Chapter 96 to the extent of such exemption ;

"Shipping Laws" means the Merchant Shipping Act, 1894 of the United Kingdom and its amendments and other Acts read with and forming part thereof to the extent of their several application by any means to Nigeria, and includes all Orders in Council and proclamations and any rules, regulations or notices made or given or purporting to be made or given under those Acts or any of them ;

"Superintendent" means the Superintendent of the Mercantile Marine Office and, subject to the provisions of subsection (3) of section 20, includes any officer appointed under subsection (2) of that section ;

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"superior police officer" has the meaning assigned thereto by the Police Act ;

"surveyor" means a surveyor of ships or a radio surveyor, as the case may require ;

"surveyor of ships" means a surveyor of ships appointed or recognized as such under Chapter 25 ;

"tidal water" means any part of the sea, or of a river within the ebb and flow of the tide at ordinary spring tides ;

"timber cargo rules" means the rules made or deemed to have been made under Chapter 37 ;

"ton", "register ton", "tonnage" and "register tonnage" mean the register tonnage of the ship calculated in accordance with the tonnage regulations ;

"tonnage regulations" has the meaning assigned to that term by Chapter 79 ;

"vessel" means anything constructed or used for the carriage on, through or under water of persons or property and includes a hovercraft ;

"wages" includes any emoluments.

(2) In this Act any reference to a ship built or constructed before or after any date shall be construed as a reference to a ship the keel of which has been laid before or after that date, as the case may be.

3.—The provisions of this Act shall have the same operation in relation to the Republic of Ireland and to the citizens thereof, and to ships and aircraft registered therein or belonging thereto, and to the owners of those ships and aircraft, and any other persons for the time being responsible for their navigation and management, and to the masters and persons in command and to the crew and other persons in the service of those ships and aircraft and to all other persons who are or have been on board those ships or aircraft or connected therewith, in the same manner as if the Republic of Ireland were a Commonwealth country, and as if the citizens thereof were Commonwealth citizens.

Application
of Act to
Republic of
Ireland.

4.—(1) Where the Minister is satisfied that any provisions of the law of any Commonwealth country other than Nigeria, or of any foreign country, which apply with respect to ships registered in or belonging to that country while they are at any port in Nigeria, are substantially the same as, or equally effective with, any of the provisions of this Act, the Minister may, by Order, direct that any such provisions of this Act shall not apply with respect to ships registered in or belonging to that country while they are at any port in Nigeria, if it is proved that those ships comply with the corresponding provisions of the law of the country in which they are registered or to which they belong :

Power to
apply Act to
ships and
aircraft of
Common-
wealth or
foreign
countries,
and to
exempt such
ships.

Provided that no such Order shall be made with respect to ships registered in or belonging to any foreign country, unless the Minister is satisfied that the Government of that country has provided or has undertaken to provide for the exemption of Nigerian ships, while they are at any port in that country, from the corresponding provisions of the law of that country.

(2) Where the Minister is satisfied that the Government of any Commonwealth country other than Nigeria or of any foreign country desires that any of the provisions of this Act which do not apply to ships or aircraft registered in or belonging to that country, or to any class or description of those ships or aircraft, should so apply either generally or in specified circumstances, and no special provision for that application is made elsewhere in this Act, the Minister may, by Order, declare that such of the provisions of this Act as are specified in the Order shall, subject to any limitation set out in the Order, apply to ships or aircraft registered in or belonging to that country, or, as the case may be, to any class or description of those ships or aircraft, and to the owners of those ships or aircraft and any other persons for the time being responsible for their navigation and management, and to the masters or persons in command and the crews and other persons in the service of those ships or aircraft, when not locally within the jurisdiction of the country in which they are registered or to which they belong, in the same manner as if those ships were Nigerian ships or, as the case may be, as if those aircraft were aircraft registered in or belonging to Nigeria.

PART II

CHAPTER 2

RESTRICTION ON TRADING IN NIGERIA

Certificate or
licence
required by
all ships
trading in
Nigeria.

5.—(1) No ship shall trade in or from the waters of Nigeria unless the ship—

(a) is a Nigerian ship ;

(b) is a Commonwealth ship ; or

(c) is provided with a certificate of foreign registry or other document similar or equivalent to that required by this Act.

(2) (a) Every register, certificate or licence authorised or required by this section may be proved either by the production of the original or by a copy thereof purporting to be certified under the hand of the Minister, a registrar of ships appointed to act under the merchant shipping laws of any Commonwealth country, or any person duly authorised to deputise for any such registrar, or any other person who may happen to have charge of the original, which certified copy he is hereby required to furnish to every person applying at a reasonable time for the same and paying therefor such fee as shall be prescribed.

(b) Every document when so proved shall, until the contrary is proved, be received as evidence of all matters therein recited, stated or appearing.

(3) The owner, agent and master of every ship contravening subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine, not exceeding one hundred pounds and the ship shall be liable to be detained by any officer of customs or police officer.

PART III.—MASTERS AND SEAMEN

CHAPTER 3

*COMPETENCY OF MASTERS AND CREW AND
CERTIFICATES THEREOF*

When
officer
deemed duly
certificated.

6.—An officer shall not be deemed to be duly certificated under this Act unless he is the holder for the time being of a valid certificate of competency granted under this Act, or under any written law in force in Nigeria immediately before the commencement of this Act, of a grade appropriate to his station in the ship or of a higher grade.

7.—(1) The Minister may grant certificates of competency in accordance with this Act or any regulations made under this Act authorizing the issue of such certificates for each of the following grades that is to say,—

Grades of
certificates of
competency.

- (a) (i) master of a foreign-going ship,
(ii) first mate of a foreign-going ship,
(iii) second mate of a foreign-going ship,
(iv) master of a home trade ship,
(v) mate of a home trade ship,
(vi) tug master (foreign-going),
(vii) yacht master (coastal),
(viii) river master,
(ix) quartermaster,
(x) riverman,
(xi) able seaman and efficient deckhands,
(xii) lifeboat man :
- (b) (i) first-class engineer (steam, motor, or combined),
(ii) second-class engineer (steam, motor, or combined),
(iii) third-class engineer (steam, motor, or combined),
(iv) engineering-assistant (steam, motor or combined),
(v) motorman,
(vi) power-driven small craft operator :
- (c) (i) skipper (fishing) ;
(ii) mate (fishing) ;
(iii) coxswain (fishing) ;
- (d) (i) motorman (fishing) grade I,
(ii) motorman (fishing) grade II.

(2) The Minister may also, subject to such conditions as he may think fit to impose, issue to any person who is, in the opinion of the Minister, suitably qualified, a permit to serve in any of the capacities laid down in subsection (1), on board any vessel, proceeding to sea from or plying within the waters of Nigeria, and such permit shall, for the purposes of this Act, be deemed to be the equivalent of a certificate of competency issued or recognised under this Act.

(3) A person who has attained the substantive rank of lieutenant in any Commonwealth Navy and is able to prove seven years sea service, may apply to be granted a Certificate of Service as Master of a foreign-going ship and an Engineer Officer of any Commonwealth Navy may apply to be granted a Certificate of Service as first or second class engineer, subject to any conditions which may be laid down in any regulations made under this Act.

(4) For the purposes of this section the certificates referred to in each paragraph of subsection (1) shall be deemed to rank among themselves in the order in which they are mentioned :

Provided that a certificate of competency as mate shall not entitle the holder thereof to go to sea as master of any ship which is required by regulations made under this Act to be provided with a duly certificated master, nor shall a certificate for a home trade ship entitle the holder thereof to go to sea as master or mate of a foreign-going ship.

Eyesight tests.

8.—No certificate of competency in any of the grades specified in paragraph (a) of subsection (1) of section 7 shall be delivered to any person unless and until he has undergone and passed such eyesight tests as may from time to time be approved by the Minister for such purpose.

Certificates granted by certain competent authorities recognised.

9.—Every officer who holds a foreign-going certificate issued by a competent authority in the United Kingdom or in any territory the certificates of which the Minister has, by Order, declared to have the same force as if they were granted under this Act, shall be deemed to be duly certificated under this Act if his certificate is of a grade appropriate to his station in the ship or of a higher grade.

Certificates of competency to be held by officers of various ships.

10.—(1) Every Commonwealth ship required by regulations under this Act to have certificated officers, when proceeding from any place in Nigeria, shall be provided with officers, duly certificated under this Act, according to the scale prescribed for such ship.

(2) The master of every ship, required by regulations made under this Act to have certificated officers, leaving or attempting to leave any port in Nigeria without having on board, and where articles of agreement are required by this Act entered on those articles, officers possessing the prescribed certificates shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred pounds; and the ship may be refused clearance in case of non-compliance with the provisions of this section.

Production of certificates of competency to Superintendent.

11.—(1) The master of every Commonwealth ship—

(a) on signing the agreement with the crew before the Superintendent, shall produce to him the certificates of competency which the officers of the ship are, by this Act, required to hold; and

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

(2) If the master of any ship fails to comply with the requirements of this section, the ship may be detained at any port until the certificates are produced.

Ship leaving without clearance.

12.—If any ship leaves or attempts to leave any port in Nigeria when port clearance has been refused under this Part, the master thereof shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months or to both.

Uncertificated and unauthorised officers.

13.—Any person who, having been engaged in any of the capacities mentioned in this Chapter in any such ship as aforesaid, goes to sea in that capacity without being entitled to, and in possession of, the required certificate, and any person who employs any person in any of the above capacities in such ship without ascertaining that he is entitled to, or possessed of, such certificate, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

Examinations for certificate of competency.

14.—(1) For the purpose of granting certificates of competency under this Chapter to persons desirous of obtaining such certificates, examinations shall be held at such places and times as the Minister may direct.

(2) The Minister may appoint, remove and re-appoint examiners to conduct the examinations and determine the remuneration of those examiners, and may regulate the conduct of all the examinations and the qualification of the applicants, and may do all such acts and things as he thinks expedient for the purpose of the examinations.

15.—Any person who—

(a) makes, assists in making or procures to be made any false representation for the purpose of procuring, either for himself or for any other person, a certificate of competency;

(b) fraudulently uses a certificate or copy of a certificate of competency which has been forged, altered, cancelled or suspended, or to which he is not entitled; or

(c) fraudulently lends his certificate of competency, or allows it to be used by any other person,
shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three years or to both.

Forgery, etc.,
of certificate
of compe-
tency.

16.—(1) Where there has been any allegation of misconduct or breach of the provisions of this Act by the holder of a certificate of competency issued under this Act, the Minister may order a board of inquiry to be held by one or more officers who, in the opinion of the Minister are qualified to do so. The members of such board shall have all the powers of inspectors under this Act and they shall, at the conclusion of their investigation, send a full report of the proceedings and evidence to the Minister who, if it appears to him that the person against whom the allegations were made was guilty of such misconduct or breach, may cancel or suspend the certificate of that person. Such suspension or cancellation may also be summarily imposed by the Minister if the holder of a certificate of competency issued under this Act, is convicted of a criminal offence by any court in Nigeria.

Power to
suspend or
cancel
Nigerian
certificates of
competency.

(2) Where in any case a certificate of competency is believed on reasonable grounds not to be genuine or is held by some person not entitled to it, any person authorised by this or any other Act to peruse the certificate of competency may impound it; and if the certificate of competency is impounded it shall forthwith be sent to the Minister who may in his discretion cause such investigation to be made as he thinks fit.

(3) The Minister may, in his discretion, at any time direct the re-issue or return of any certificate of competency suspended or impounded under this section or may direct the grant of a certificate of competency of the same or a lower grade.

CHAPTER 4

APPRENTICESHIP TO THE SEA SERVICE

17.—The Superintendent shall give to persons desirous of apprenticing boys to, or requiring apprentices for, the sea service such assistance as may be in his power, and may receive from those persons such fees as may be prescribed.

Assistance
to be given
by Superin-
tendent.

18.—(1) Every indenture of apprenticeship shall be executed in duplicate in the prescribed form and shall be exempt from stamp duty.

(2) Every indenture of apprenticeship made in Nigeria, and every assignment or cancellation thereof, and, where the apprentice bound dies or deserts, the fact of the death or desertion, shall be recorded.

Special
provisions
as to
apprentice-
ship.

(3) For the purpose of the record—

(a) a person to whom an apprentice is bound shall, within seven days of the execution of the indenture, take or transmit to the Superintendent the indenture executed in duplicate, and the Superintendent shall keep and record the one indenture and endorse on the other the fact that it has been recorded and re-deliver it to the master of the apprentice; and

(b) the master shall notify any assignment or cancellation of the indenture or the death or desertion of the apprentice to the Superintendent, within seven days of the occurrence, if it occurs within Nigeria, or as soon as circumstances permit, if it occurs elsewhere.

(4) Any person who fails to comply with any requirement of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

(5) There shall be paid in respect of the recording of an indenture under this section such fee as may be prescribed.

Production
of indenture
to Superin-
tendent
before
voyage in
foreign-
going ship.

19.—(1) The master of a foreign-going ship shall, before carrying an apprentice to sea from a port in Nigeria, cause the apprentice to appear before the Superintendent, and shall produce to the Superintendent the indenture by which the apprentice is bound and every assignment thereof.

(2) The name of the apprentice, with the date of indenture and of the assignments thereof, if any, and the names of the ports at which the same have been recorded, shall be entered on the agreement with the crew.

(3) Any master who fails, without reasonable cause, to comply with any requirement of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

CHAPTER 5

ENGAGEMENT OF CREW AND GENERAL PROVISIONS RELATING THERETO

Mercantile
Marine
Office.

20.—(1) The Minister may appoint a place, to be called the Mercantile Marine Office, and other places to be called Mercantile Marine Sub-Offices, at which places shall be conducted all the business within Nigeria connected with the engagement and discharge in Nigeria of seamen on board Commonwealth ships.

(2) There shall be appointed a Superintendent of the Mercantile Marine Office, and such other officers as may be necessary for service in that office or in any Mercantile Marine Sub-Office.

(3) Any act done by, or to or before, any such officer within the powers conferred upon him by the Superintendent shall have the same effect as if done by, to or before the Superintendent.

(4) (a) No seaman shall, except with the approval of the Superintendent, be engaged to do duty on board a Commonwealth or foreign ship elsewhere than at the Mercantile Marine Office, save that, in the case of a foreign ship, a seaman may be engaged before a consular officer resident in Nigeria representing the flag of such foreign ship.

(b) No seaman shall be engaged to do duty on board any Nigerian ship unless he has produced to the Superintendent a certificate of discharge from such seaman's last ship, or, failing production thereof, such seaman has given a satisfactory explanation to the Superintendent of the cause of such non-production.

(c) Any person engaging without reasonable cause a seaman in contravention of this subsection shall be guilty of an offence; and on conviction shall be liable to a fine not exceeding fifty pounds.

21.—(1) The master of every Nigerian ship, except a ship of less than eighty tons exclusively employed in trading within such limits as may be prescribed, shall enter into an agreement, in accordance with this Chapter, with every seaman whom he carries to sea from any port in Nigeria.

Agreement
with crew.

(2) If a master of a Nigerian ship carries any seaman to sea without entering into an agreement with him in accordance with this Chapter, the master in the case of a foreign-going ship, and the owner and master in the case of any other ship, shall be guilty of an offence; and on conviction shall be liable to a fine not exceeding fifty pounds.

22.—(1) Every agreement with the crew shall be in the prescribed form, and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.

Form, period
and conditions
of
agreement
with crew.

(2) The agreement with the crew shall contain as terms thereof the following particulars—

(a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman;

(g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishment for misconduct which have been approved by the Minister as regulations proper to be adopted and which the parties agree to adopt.

(3) The agreement with the crew shall be so framed as to admit of such stipulations, not being contrary to law as may be agreed between the master and the seaman in any case.

(4) If the master of a ship registered at a port not in Nigeria has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, and engages seamen individually in Nigeria, such seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the prescribed form.

Special provisions as to agreement with crew of foreign-going ship.

23.—The following provisions shall have effect with respect to the agreements with the crew made in Nigeria in the case of foreign-going ships—

(a) the agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of the Superintendent ;

(b) the Superintendent shall cause the agreement to be read over and explained to each seaman, or otherwise ascertained that each seaman understands the same, before he signs it, and shall attest each signature ;

(c) when the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the Superintendent, and the other shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship ;

(d) when a substitute is engaged in the place of a seaman who duly signed the agreement and whose services are, within twenty-four hours before the ship puts to sea, lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before the Superintendent, and, when not practicable, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature ;

(e) the agreement may be made for a voyage or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages shall be known as "running agreements" ;

(f) running agreements shall not be for a longer period than six months, or the first arrival of the ship at her port of destination in Nigeria after the expiration of that period, or the discharge of cargo consequent on that arrival ;

(g) on every return to a port in Nigeria before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law ; and, if a master wilfully makes a false statement in any such endorsement, he shall be guilty of an offence and on conviction shall be liable to a penalty not exceeding fifty pounds ;

(h) the master shall deliver the running agreement so endorsed to the Superintendent, and that officer shall, if the provisions of this Chapter relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

24.—The following provisions shall have effect with respect to the agreements with the crew made in Nigeria of a ship, other than a foreign-going ship, for which an agreement with the crew is required under this Chapter—

Special provisions as to agreement with crew of a ship other than a foreign-going ship.

(a) agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the nature of the service shall be specified in the agreement ;

(b) crews or individual seamen shall be engaged before the Superintendent in the same manner as they are required to be engaged for foreign-going ships ; but, if the engagement is not so made, the master shall, if practicable, before the ship puts to sea, and, if not, as soon thereafter as possible, cause the agreement to be read and explained to each seaman ; and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature ;

(c) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly ;

(d) agreements shall not be for a longer period than six months, or the first arrival of the ship at her final port of destination in Nigeria after the expiration of the period, or the discharge of cargo consequent on that arrival :

Provided that the owner or his agent may enter into time agreements in the prescribed form with individual seamen to serve in any one or more ships belonging to such owner, and those agreements need not expire at the time of the ship's agreement with the crew.

25.—(1) The fees payable upon all engagements and discharges shall be such as may be prescribed.

Fees upon engagement and discharge.

(2) The Superintendent shall cause a scale of such fees, together with a copy of this section to be conspicuously exhibited in the Mercantile Marine Office, and may require the payment of such fees before proceeding with any engagement or discharge.

(3) The master of a ship engaging or discharging any seaman at the Mercantile Marine Office shall pay to the Superintendent the whole of the prescribed fees.

26.—(1) The master of every foreign-going ship whose crew has been engaged before the Superintendent shall, before finally leaving Nigeria, sign and send to the nearest Superintendent a full and accurate statement, in the prescribed form, of every change which takes place in his crew before finally leaving Nigeria, and that statement shall be admissible in evidence.

Changes in crew of foreign-going ships to be reported.

(2) Any master who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Certificate as to agreement with crew of foreign-going ships.

27.—(1) In the case of a foreign-going Nigerian ship, on the due execution of an agreement with the crew in accordance with this Chapter, and also, where the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Chapter respecting that agreement, the Superintendent shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going Nigerian ship shall, before proceeding to sea, produce to the Superintendent that certificate, and any such ship may be detained until the conditions precedent to the grant of such certificate exist.

(3) The master of every foreign-going Nigerian ship shall, within forty-eight hours after the ship's arrival at her final port of destination in Nigeria or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the Superintendent, and that officer shall give the master a certificate of that delivery.

(4) Any such master who fails, without reasonable cause, so to deliver the agreement with the crew shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Certificate as to agreement with crew of a Nigerian ship other than a foreign-going ship.

28.—(1) The owner or master of a Nigerian ship, other than a foreign-going ship shall, within twenty-one days after the expiration of any agreement with the crew or within forty-eight hours of her next arrival in Nigeria, whichever first happens, deliver or transmit to the Superintendent in Nigeria such agreement.

(2) The Superintendent, on receiving such agreement, shall give the owner or master of the ship a certificate to that effect, and the ship may be detained until the conditions precedent to the grant of such certificate exist.

(3) Any such owner or master who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Copy of agreement to be made accessible to crew.

29.—(1) The master of every Nigerian ship to which the provisions of section 21 apply shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement with the crew, omitting the signatures, to be posted up in some part of the ship which is accessible to the crew.

(2) Any master who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Forgery, etc., of agreement with crew.

30.—(1) Any person who fraudulently alters, makes any false entry in or delivers a false copy of any agreement with the crew shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or to both.

(2) Any person who assists in committing or procures to be committed any such offence, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or to both.

31.—Every erasure, interlineation or alteration in any agreement with the crew, except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship, shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration by the written attestation of the Superintendent or proper officer.

Alterations
in agreement
with crew.

32.—In any legal or other proceeding, a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case without producing, or giving notice to produce, the agreement or any copy thereof.

Seamen not
to be bound
to produce
agreement.

CHAPTER 6

AGREEMENT WITH LOCAL SEAMEN

33.—(1) Where in the case of seamen engaged in Nigeria who are nationals of or are domiciled in Nigeria it is agreed that the engagement of any such seamen shall end at any port not in Nigeria, the agreement shall contain such stipulations as may be prescribed by the Minister from time to time.

Engagement
of local sea-
men.

(2) Every such stipulation shall be signed by the owner of the vessel or by the master on his behalf.

34.—(1) Where the master of a foreign ship at any port in Nigeria engages any seamen who are nationals of or are domiciled in Nigeria to proceed to any port not in Nigeria, he shall, save in any case provided for in subsection (4) of section 22, enter into an agreement with such seamen and the agreement shall be made before the Superintendent in the manner provided for the making of agreements in the case of foreign-going ships.

Engagements
between
masters of
foreign ships
and local
seamen.

(2) All the provisions of section 33 respecting the stipulations to be contained in such agreements, and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of any such foreign ship shall, if so required by the Superintendent, give to the Superintendent a bond with the security of some person resident in Nigeria and approved by the Superintendent for an amount calculated at the rate of ten pounds for every such seaman and conditioned for the due performance of the agreement and any prescribed stipulations and for the repayment to the Government of the Federation of all expenses which it may incur in respect of any such seaman who is discharged or left behind at any port out of Nigeria, and becomes distressed, and is relieved under the provisions of this Act or of the Shipping Laws as the case may be.

35.—If any seaman who is domiciled in Nigeria is engaged by the master of any foreign ship otherwise than in accordance with this Chapter such master shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds for every such seaman so engaged.

Penalty for
breach.

Inspection of foreign ships in connection with engagement of local seamen.

36.—The Superintendent may enter on board any foreign ship for the purpose of ascertaining that the requirements of section 34 have been complied with in respect of any seaman domiciled in Nigeria who has been engaged in Nigeria to proceed in such ship to any port not in Nigeria; and for such purposes, the Superintendent shall have all the powers of an inspector under this Act.

CHAPTER 7

DISCHARGE OF SEAMEN

Procedure on discharge and provision for seaman left behind or remaining in Nigeria.

37.—(1) No master shall discharge in Nigeria any seaman from any Commonwealth or foreign ship without the approval of the Superintendent or of the consular officer, if any, representing the nation to which such ship belongs, and unless due provision is made for the subsistence and maintenance of such seaman to the satisfaction of the Superintendent, in the case of a Commonwealth ship or to the satisfaction of a consular officer, in the case of a foreign ship whose flag is represented in Nigeria; and any master who discharges a seaman in contravention of this subsection shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds:

Provided that no such provision shall be necessary in respect of any seaman who was engaged in Nigeria or any seaman who, being a Nigerian citizen or a Commonwealth citizen domiciled in Nigeria, is discharged in accordance with the terms of his agreement.

(2) No seaman shall, except with the approval of the Superintendent be discharged from any Commonwealth ship, elsewhere than at the Mercantile Marine Office.

(3) Whenever any seaman is discharged at the Mercantile Marine Office from any ship within Nigeria, the master of such ship shall give to such seaman at the time of such discharge a written certificate specifying the time and nature of service, and the time and place of discharge, of such seaman, signed by himself, and, if the master fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) The master shall also, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer; and if, without reasonable cause, he fails so to do, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

(5) Any master or other person belonging to a Commonwealth ship who wrongfully forces on shore and leaves behind, or otherwise wilfully leave behind in Nigeria any seaman or apprentice belonging to such ship before the completion of the voyage for which the seaman or apprentice was engaged, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both.

Report of seamen's character.

38.—(1) When a seaman is discharged before the Superintendent, the master shall make and sign, in the prescribed form, a report of the conduct, character and qualifications of the seaman discharged, or may state in that form that he declines to give any opinion upon such particulars or upon any of them.

(2) The Superintendent before whom such discharge is made shall, if the seaman desires, give to him or endorse on his discharge a copy of such report.

39.—Any person who—

(a) makes a false report of character under this Act, knowing the same to be false; or

(b) forges or fraudulently alters any certificate of discharge or report of character, or a copy of a report of character; or

(c) assists in committing or procures to be committed any such offence as foresaid; or

(d) fraudulently uses any certificate of discharge or report of character, or copy of a report of character, which is forged or altered or does not belong to him,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years or to both.

False or
forged
certificate
of discharge
or report
of character.

CHAPTER 8

SPECIAL PROVISIONS AS TO SEAMEN LEFT BEHIND ABROAD

40.—(1) The master of a Nigerian ship shall not leave a seaman or apprentice behind at any place out of Nigeria on shore or at sea (except where a seaman is discharged in accordance with this Part, or, as the case may be, the service of an apprentice is terminated in accordance with his indenture of apprenticeship), unless the master previously obtains, endorsed on the agreement with the crew, the certificate of the proper officer at the port at which the seaman or apprentice is left behind, stating the cause of his being so left behind, whether the cause be unfitness or inability to proceed to sea, desertion, disappearance or otherwise.

Certificate of
proper
officer
required
where
seaman left
behind
abroad.

(2) A proper officer shall, when application is made for his certificate under this section, inquire into the grounds on which the seaman or apprentice is to be left behind, and may for that purpose, if he thinks fit, administer oaths or affirmations, and may grant or refuse the certificate as he thinks just; but the certificate shall not unreasonably be withheld.

(3) Where a seaman or apprentice from a Nigerian ship is left behind at any place outside Nigeria on shore or at sea by reason of his desertion, absence without leave or failure to join the ship, the provisions of the Second Schedule shall apply in respect of such seaman or apprentice.

Second
Schedule.

(4) If the master of a ship fails to comply with the requirements of this section or of the Second Schedule, he shall in addition to any other liability under this Act, be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or to both; and for the purposes of any proceedings under this section the burden of proving that the certificate was obtained, or could not be obtained without unreasonable delay to the ship, or was unreasonably withheld, shall lie on the master.

Account of wages in case of seaman left behind on ground of unfitness or inability to proceed to sea.

41.—(1) Where the master of a Nigerian ship leaves a seaman behind on shore at any port out of Nigeria on the ground of his unfitness or inability to proceed to sea, the master shall deliver to the proper officer at that port a full and true account of the wages due to the seaman ; and, if the port is a port in a foreign country, he shall deliver the account in duplicate.

(2) Any master who fails to comply with the requirements of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Payment of wages of seaman left behind on ground of unfitness or inability to proceed to sea.

42.—(1) Where any seaman is left behind at any port in a Commonwealth country, other than Nigeria, on shore or at sea, the master shall pay the wages due to the seaman himself and, where the seaman is so left behind at any port in a foreign country, on shore or at sea, he shall pay those wages to the proper officer.

(2) Where payment is made to a proper officer in a foreign country, that officer shall retain one duplicate of the account delivered to him, and, if satisfied with the account, endorse on the other duplicate a receipt for the payment, and return it to the master.

(3) The master shall—

(a) if the voyage of the ship is to terminate in Nigeria, within forty-eight hours after the ship's arrival at her port of destination in Nigeria ;

(b) if in the course of the voyage the ship touches and remains for forty-eight hours at any port in Nigeria ; or

(c) in any other case, within forty-eight hours after the ship's arrival at her port of destination,—

deliver the duplicate account to the Superintendent or proper officer at that port.

(4) The payment shall be made, whenever it is practicable, in money, and, when not so practicable, by bills drawn on the owner of the ship.

(5) The following provisions shall apply where payment is made by bills—

(a) the proper officer shall certify by endorsement on the bill that the bill is drawn for seamen's wages, and shall also endorse on the agreement with the crew the amount for which the bill is drawn, and such further particulars as the Minister may require ;

(b) if the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or endorsee thereof, and it shall not be necessary, in any proceeding against the owner upon the bill, to prove that the master had authority to draw it ;

(c) a bill purporting to be drawn and endorsed under this section shall, if produced out of the custody of the Minister or the Superintendent, be admissible in evidence ; and any endorsement on any such bill purporting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the endorsement.

(6) If a master fails, without reasonable cause, to make such payment of wages as is provided by this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

43.—Where the amount of wages due to a seaman left behind is, pursuant to section 42, paid to a proper officer in a foreign country, that officer shall deal with the sum so paid to him in the following manner—

Application by proper officer of payments on account of seaman left behind in foreign country.

(a) if the seaman subsequently obtains employment at or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman pursuant to this Part (except such expenses as the owner or master is by this Part required to defray), and shall pay the remainder to the seaman, and deliver to him an account of the sums so received and expended on his behalf;

(b) if the seaman dies before his ship quits the port, he shall deal with the sum as part of the property of a deceased seaman;

(c) if the seaman is sent to a proper return port at the public expense in accordance with this Act or any regulations made under this Act he shall account for the sum to the Minister; and the sum, after deducting therefrom any expenses duly incurred in respect of the seaman (except such expenses as the owner or master is by this Part required to defray) shall be dealt with as wages of the seaman.

44.—(1) Where the service of a seaman or apprentice belonging to a Nigerian ship terminates during the currency of the agreement at any port out of Nigeria otherwise than by the consent of the seaman to be discharged, or otherwise than in accordance with the indenture of apprenticeship, the master of the ship shall, besides complying with the other applicable provisions of this Part, make adequate provision in accordance with this Part for the maintenance of the seaman or apprentice and for his return to a proper return port; and the proper officer shall endorse upon the agreement with the crew of the ship which the seaman or apprentice is leaving the particulars of any provision so made.

Repatriation of seaman on termination of service at foreign port.

(2) If the master fails, without reasonable cause, to comply with the requirements of subsection (1), the expenses of maintenance and of return to the proper return port—

(a) if defrayed by the seaman or apprentice, shall be recoverable as wages due to him; and

(b) if defrayed by the proper officer or by any other person, shall, unless the seaman or apprentice has been guilty of barratry, be a charge upon the ship to which the seaman or apprentice belonged, and may also be recovered in the same manner as seamen's wages are recoverable from—

(i) the owner of the ship for the time being; or

(ii) where the ship has been lost, the person who was the owner of the ship at the time of the loss; or

(iii) where the ship has been transferred to persons not qualified to own a registered Nigerian ship, either the owners for the time being or the person who was the owner of the ship at the time of the transfer,—

at the suit of the person defraying the expenses, or, if they have been repaid to that person out of moneys allowed by the Minister, as a debt due to the Government of the Federation.

(3) Where the master of a ship is, under subsection (1), required to provide for the return of a seaman or apprentice to a proper return port, the master, instead of providing the seaman or apprentice with a passage or the expenses of his journey, or of providing the seaman or apprentice with means to pay his passage or those expenses, may deposit with the proper officer such sum as that officer considers sufficient to defray the expenses of the return of the seaman or apprentice to a proper return port.

CHAPTER 9

DISTRESSED SEAMEN

Rules as to relief and maintenance of distressed seamen.

45.—(1) The Minister may make rules with respect to the relief, maintenance and return to a proper return port, of masters, seamen and apprentices who are shipwrecked or found otherwise in distress at any place beyond the limits of Nigeria; and such masters, seamen and apprentices are in this Act referred to as distressed seamen.

(2) Without prejudice to the generality of subsection (1), rules made pursuant to this section may—

(a) make such conditions as are deemed expedient with regard to the relief and maintenance of distressed seamen and their return to a proper return port; and

(b) make such provision as may be necessary for enabling proper officers and, in the case of expenses required to be incurred in Nigeria, the Minister or the Superintendent, to defray any expenses properly incurred by or on behalf of the Government of any Commonwealth country (other than Nigeria) or of any foreign country, or by any person, in making arrangements for the return of a distressed seaman to a proper return port; and any expenses so incurred shall, for the purposes of this Part, be deemed to be expenses incurred on behalf of the distressed seaman.

(3) Save as provided by this Act or any other written law, a master, seaman or apprentice shall not have any right to be relieved, maintained or sent to a proper return port except in the cases and to the extent and on the conditions provided by rules made or deemed to have been made pursuant to this section.

(4) All expenses paid under this Act by or on behalf of the Government of the Federation for the relief of distressed seamen shall be charged upon the Consolidated Revenue Fund without further appropriation than this section, and all sums received or recovered towards those expenses shall be carried to that Fund.

Provisions for relief and maintenance of distressed seamen.

46.—Where any distressed seaman—

(a) whether or not he is a Nigerian citizen, is found at any place out of Nigeria and has been shipwrecked from any Nigerian ship or any Nigerian Government ship, or by reason of having been discharged or left behind from any such ship in any place out of Nigeria, is in distress in that place; or

(b) being a Nigerian citizen who has been engaged by any person acting either as principal or agent to serve on a ship belonging to the Government or a subject or citizen of a Commonwealth country other than Nigeria or a foreign country, is in distress in any place out

of Nigeria, a proper officer shall, in accordance with, and on the conditions prescribed by rules made or deemed to have been made pursuant to section 45, provide in accordance with this Act for the return of that distressed seaman to a proper return port, and also provide for his necessary clothing and his maintenance until his departure for such a port, and, in addition, in the case of a shipwrecked seaman, for the repayment of any expenses incurred in his conveyance to port after his shipwreck, and his maintenance while being so conveyed.

47.—(1) Where any expenses, other than excepted expenses as defined by this section, are incurred by or on behalf of the Government of the Federation, or are incurred by the Government of any Commonwealth country (other than Nigeria) or of any foreign country and repaid to that Government by or on behalf of the Government of the Federation, on account of any distressed seaman, either for his maintenance, medical expenses, necessary clothing, conveyance to a proper return port, or in case of death for his burial, or otherwise in accordance with this Act, those expenses, together with the wages, if any, due to the distressed seaman, shall be a charge upon the ship, whether or not she is a Commonwealth ship, to which the distressed seaman belonged, and shall be a debt due to the Government of the Federation from the master of the ship and—

- (a) from the owner of the ship for the time being; or
- (b) where the ship has been lost, from the person who was the owner of the ship at the time of the loss; or
- (c) where the ship has been transferred to persons not qualified to own a registered Nigerian ship, either from the owners for the time being or from the person who was the owner of the ship at the time of the transfer;

and also, in the case of a seaman or apprentice who belonged to any foreign ship, from the person, whether principal or agent, who engaged the seaman or apprentice for service on the ship.

(2) The debt, in addition to any penalties which may have been incurred, may be recovered by the Minister on behalf of the Government of the Federation in the Court and in the manner in which wages may be recovered by seamen.

(3) In any proceeding for that recovery, the production of the account, if any, of the expenses furnished in accordance with this Act, and proof of payment of the expenses by or on behalf of the Minister, or by his direction, shall be sufficient evidence that the expenses were incurred or repaid under this Act by or on behalf of the Government of the Federation.

(4) For the purpose of this section, "excepted expenses" means—

(a) expenses incurred in cases where the certificate of the proper officer obtained on leaving a seaman or apprentice behind states, or the Minister is otherwise satisfied, that the cause of the seaman or apprentice being left behind is desertion, disappearance, imprisonment for misconduct or discharge from his ship by a naval court on the ground of misconduct; and

(b) expenses incurred on account of the return to a proper return port of a distressed seaman who has been discharged at the port at which he was shipped, or at some neighbouring port.

Recovery of money advanced for distressed seamen.

Mode of providing for return.

48.—(1) A distressed seaman may be sent to a proper return port by any reasonable route by land, sea or air, or by any two or more of those modes of travel, in accordance with subsection (2).

(2) Provision shall, where practicable, be made for the return of the distressed seaman by sea as to the whole or any part of the route, by placing such seaman on board a Commonwealth ship which is in want of seamen to make up its complement; and, where that is not practicable, by providing such seaman with a passage on any Commonwealth ship, or with the money for his passage on any such ship or on any other ship and, as to any part of the route which is by land or by air, by paying the expenses of his journey and of his maintenance during the journey, or providing him with means to pay those expenses.

Decision of questions as to return by proper officer.

49.—(1) If any question arises as to what return port a distressed seaman is to be sent to in any case, or as to the route by which he should be sent, that question shall be decided by the proper officer.

(2) In deciding such a question, the proper officer shall—

(a) have regard to the provisions of this Act relating to the proper return port; and

(b) subject to those provisions, have regard both to the convenience of the distressed seaman and to the expense involved, and also, where that is the case, to the fact that a Commonwealth ship, which is in want of seamen to make up its complement, is about to proceed to a proper return port.

Provisions as to taking distressed seamen on ships and as to payment for passage provided.

50.—(1) Where a distressed seaman is, for the purpose of his return to a proper return port, placed on board any Commonwealth ship, the proper officer of that Commonwealth country shall endorse on the agreement with the crew the name of the distressed seaman so placed on board, together with any particulars directed to be endorsed thereon by the law of that Commonwealth country.

(2) Where a distressed seaman is provided with a passage on any Commonwealth ship (and is not signed on as a member of the crew thereof), on the production of—

(a) a certificate, signed by the proper officer by whose arrangements any distressed seamen to whom any rules made or deemed to have been made pursuant to section 45 apply were received on board any Commonwealth ship, specifying the number and the names of the distressed seamen and the time when each of them was received on board; and

(b) a declaration in writing made by the master of the ship, before the Superintendent or a proper officer stating the number of days during which each distressed seaman has received maintenance,

the master shall be entitled to be paid, in respect of the maintenance and passage of every distressed seaman so conveyed, maintained and provided for by him, such sum for each day or part of a day as is allowed by any rules made or deemed to have been made pursuant to section 45.

51.—(1) The proper officer may—

(a) in the case of any distressed seamen to whom any rules made or deemed to have been made pursuant to section 45 apply; or

(b) at the request of a local representative of any Commonwealth country other than Nigeria, acting in pursuance of the corresponding provisions of the law of that country,

require the master of any Nigerian ship, to receive on board those distressed seamen or, as the case may be, the seamen or apprentices to whom the request relates (in this section included in the expression "distressed seaman") and to afford them a passage and maintenance; but a master shall not be required to receive more than one distressed seaman for every five hundred tons of his ship's tonnage.

(2) Where a proper officer requires the master of a ship to receive and afford a passage and maintenance to any distressed seaman he shall endorse upon the agreement of that ship such particulars as are required by any rules made or deemed to have been made pursuant to section 45 or by the Minister.

(3) The master of any Nigerian ship who is, pursuant to subsection (1), required to receive and afford a passage and maintenance to any distressed seaman shall comply with that requirement, and shall during the passage provide every such distressed seaman with a proper berth or sleeping place, effectually protected against sea and weather; and, if the master fails, without reasonable cause, to comply with this subsection, he shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred pounds.

Proper officer may require master of Nigerian ship to take seamen in distress.

CHAPTER 10

PAYMENT OF WAGES

52.—Where a seaman is discharged before the Superintendent he shall receive his wages through or in the presence of the Superintendent unless otherwise directed by a court of competent jurisdiction; and if the owner or master of a ship pays the wages of a seaman within Nigeria in any other manner, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Payment of wages before Superintendent.

53.—(1) The master of every ship shall, before paying off or discharging a seaman in Nigeria, deliver at the time and in the manner provided by this Act a full and true account, in the prescribed form, of the seaman's wages and of all deductions to be made therefrom on any account whatever.

Master to deliver account of wages.

(2) Such account shall be delivered—

(a) where the seaman is not to be discharged before the Superintendent, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before the Superintendent, either to the seaman himself, at or before the time of his leaving the ship, or to the Superintendent, not less than twenty-four hours before the discharge or payment off.

(3) Any master of a ship who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Deductions
from wages.

54.—(1) A deduction from the wages of a seaman paid off or discharged in Nigeria shall not be allowed unless it is included in the account delivered in pursuance of section 53, except in respect of a matter happening after such delivery.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Notice of
disrating of
seamen.

55.—(1) Where the master of a Nigerian ship disrates a seaman, he shall forthwith enter, or cause to be entered, in the official log-book a statement of the disrating, and shall furnish the seaman with a copy of the entry.

(2) Any reduction of wages, consequent on the disrating, shall not take effect until the entry has been so made and the copy so furnished.

(3) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 53 and 54.

Time of
payment of
wages for
foreign-
going ships.

56.—In the case of a foreign-going Nigerian ship, other than a ship employed on a voyage for which seamen by the terms of their agreement are wholly compensated by a share in the profits of the adventure—

(a) the owner or master of the ship shall pay to each seaman on account, at the time when he lawfully leaves the ship at the end of his engagement, one-fourth of the balance of wages due to him, and shall pay to him the remainder of his wages within two clear days, exclusive of any Sunday, public or bank holiday, after he so leaves the ship ;

(b) if the seaman consents, the final settlement of his wages may be left to the Superintendent, and the receipt of that officer shall, in that case, operate as if it were a release given by the seaman in accordance with this Chapter ; and

(c) in the event of the seaman's wages, or any part thereof, not being paid or settled in accordance with this section, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

Time of
payment of
wages for
Nigerian
ship other
than a
foreign-
going ship.

57.—(1) The owner or master of every Nigerian ship, other than a foreign-going ship, shall pay to every seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first happens.

(2) If an owner or master fails, without reasonable cause, to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

58.—(1) Where a seaman is discharged from a Nigerian ship, and the settlement of his wages completed before the Superintendent, he shall sign, in the presence of the Superintendent, a release, in the prescribed form, of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the Superintendent.

Settlement
of wages.

(2) The release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) The release shall be retained by the Superintendent and, on production from his custody, shall be admissible in evidence.

(4) Where the settlement of a seaman's wages is, by this Chapter, required to be completed through, or in the presence of, the Superintendent, no payment, receipt or settlement made otherwise than in accordance with this Chapter shall operate as, or be admitted as, evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before the Superintendent, the Superintendent shall, if required, sign and give to the master a statement of the whole amount so paid; and the statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments mentioned therein.

(6) A seaman may except from the release signed by him under this section any specified claim or demand against the owner or master of the ship, and a note to any claim or demand so excepted shall be entered upon the release.

(7) Such release shall not operate as a discharge or settlement of any claim or demand so noted, nor shall subsection (4) apply to any payment, receipt or settlement made with respect to any such claim or demand.

59.—(1) Where before the Superintendent a question as to wages is raised between the master or owner of a ship and a seaman or apprentice, and the amount does not exceed five pounds, the Superintendent may on the application of either party, decide the question and the decision of the Superintendent shall be final; but if the Superintendent is of opinion that the question is one which ought to be decided by a court, he may refuse to decide it.

Decision of
questions by
Superinten-
dent.

(2) Where any question, of whatever nature and whatever the amount in dispute, between a master or owner and any of this crew is raised before a Superintendent, and both parties agree in writing to submit the same to him, the Superintendent shall hear and decide the question so submitted.

(3) An award made by him upon the submission shall be conclusive as to the rights of the parties; and the submission or award shall not require a stamp; and a document purporting to be the submission or award shall be admissible as evidence thereof.

Power of Superintendent to require production of ship's papers.

60.—(1) In any proceeding under this Act before the Superintendent relating to the wages, claims or discharge of a seaman, the Superintendent may require the owner, or his agent, or the master, or any mate or other member of the crew, to produce any log-book, paper or other document in his possession or power relating to a matter in question in the proceeding, and may require the attendance of, and examine any of those persons, being then at or near the place, on the matter.

(2) Any person so required who fails, without reasonable cause, to comply with the requisition, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

Rule as to payment of seamen in currency other than that mentioned in agreement.

61.—Where a seaman has agreed with the master of a Nigerian ship for payment of his wages in local currency or any other currency, any payment of, or on account of, his wages, if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the time being current at the place where the payment is made.

CHAPTER 11

ADVANCE AND ALLOTMENT OF WAGES

Advances restricted.

62.—(1) Where an agreement with the crew is required to be made in a prescribed form—

(a) the agreement may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement; and

(b) stipulations for the allotment of a seaman's wages may be made in accordance with this Chapter.

(2) Save as aforesaid, an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from any port in Nigeria shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages; and a person shall not have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Allotment notes.

63.—(1) Any stipulation made under section 62 by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) Where the agreement is required to be made in a prescribed form, the seaman may require a stipulation to be inserted in the agreement for the allotment, by means of an allotment note, of any part, not exceeding one-half, of his wages in favour either of a near relative or of a prescribed bank:

Provided that, by agreement with the master, an allotment note may be granted to a seaman providing for payment of a greater sum than one-half of the wages.

(3) Allotment notes shall be in such form as may be prescribed.

(4) When a seaman has signed the agreement, the Superintendent before whom he is engaged shall enquire if the seaman requires a stipulation for allotment of wages by an allotment note; and if the seaman requires it, the Superintendent shall insert the stipulation in the agreement with the crew, and it shall be deemed to have been agreed to by the master. Save with the agreement of the master, nothing in this subsection shall apply to any stipulation within the proviso to subsection (2) of this section or the proviso to section 67.

(5) For the purposes of this Act and with respect to allotment notes, "near relative" means one of the following persons that is to say, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.

64.—An allotment in favour of a prescribed bank shall be made in favour of such persons, and carried into effect in such manner, as may be prescribed.

Allotment through savings banks.

65.—(1) Where the balance of wages due to a seaman belonging to a Nigerian ship is more than ten pounds, and the seaman expresses to the master of the ship, while the ship is in Nigeria, his desire to have facilities afforded to him for remitting all or any part of the balance to a prescribed bank, or to a near relative in whose favour an allotment note is made, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is in excess of ten pounds, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port, or otherwise than conditionally on the seaman going to sea in the ship.

Master to give facilities to seamen for remitting wages.

(2) Any master of a ship who fails to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

66.—(1) The person in whose favour an allotment note under this Chapter is made may, unless the seaman is shown, in the manner specified in this Act, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted, when and as the same are made payable, with costs from the owner of the ship with respect to which the engagement was made, or from any agent of the owner who has authorized the allotment, in the same court and manner in which wages of seamen not exceeding fifty pounds may be recovered under this Act:

Right of suing on allotment notes.

Provided that the wife of a seaman, if she deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall forfeit all right to further payments under any allotment made in her favour.

(2) In any proceeding for such recovery, it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court—

(a) by the official statement of the change in the crew caused by his absence, made and signed by the master, as required by this Act;

(b) by a certified copy of some entry in the official log-book to the effect that he has left the ship;

(c) by a credible letter from the master of the ship to the same effect; or

(d) by such other evidence as the court, in its absolute discretion, considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Time for
payment of
an allotment
note.

67.—A payment under an allotment note shall begin at the expiration of one month from the date of the agreement with the crew, and shall be paid at the expiration of every subsequent month after the first month, and shall be paid only in respect of wages earned before the date of payment:

Provided that, by agreement with the master, an allotment note may be granted to a seaman providing for payment at a period earlier than one month from the date of the agreement with the crew and at intervals more frequent than one month.

CHAPTER 12

RIGHTS OF SEAMEN IN RESPECT OF WAGES

Right to
wages, etc.,
when to
begin.

68.—The right of a seaman belonging to a Nigerian ship to wages and provisions shall be taken to begin either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to
recover
wages and
salvage not to
be forfeited.

69.—(1) A seaman belonging to a Nigerian ship shall not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages, to which, in the absence of the agreement, he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he has or obtains in the nature of salvage; and every stipulation in any agreement inconsistent with any provision of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seaman belonging to any Nigerian ship which, according to the terms of the 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 any other ship.

Wages not to
depend on
freight.

70.—(1) The right of a seaman belonging to a Nigerian ship to wages shall not depend on the earning of freight.

(2) Every seaman and apprentice who would be entitled to demand and recover any wages if the 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 same notwithstanding that freight has not been earned.

(3) In all casts or wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(4) Where a seaman or apprentice who would, but for his death, 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 manner provided by this Part with respect to the wages of a seaman who dies during a voyage.

71.—(1) When the service of a seaman employed in a Nigerian ship terminates before the date contemplated in the agreement by reason of the wreck or loss of a ship, he shall be entitled, in respect of each day on which he is in fact unemployed during a period of two months from the date of the termination of the service, to receive wages at the rate to which he was entitled at that date.

Wages on termination of service by wreck.

(2) A seaman shall not be entitled to receive wages under this section if the owner shows that the unemployment was not due to the wreck or loss of the ship, and shall not be entitled to receive wages under this section in respect of any day if the owner shows that the seaman was able to obtain suitable employment on that day.

(3) In this section, "seaman" includes every person employed or engaged in any capacity on board any ship, but, in the case of a ship which is a fishing vessel, does not include any person who is entitled to be remunerated only by a share in the profits or the gross earnings of the working of the vessel.

72.—Where the service of a seaman belonging to a Nigerian ship terminates before the date contemplated in his agreement by reason of his being left on shore at any place not in Nigeria under a certificate granted under section 40, of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Wages on termination of service by illness.

73.—A seaman or apprentice belonging to a Nigerian ship shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

74.—Where a seaman belonging to a Nigerian ship is, by reason of illness, incapable of performing his duty, and it is proved that the illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is, by reason of the illness, incapable of performing his duty.

Forfeiture of wages, etc., of seaman when illness caused by his own default.

75.—Whenever, in any proceeding relating to a seaman's wages, it is shown that a seaman or apprentice belonging to a Nigerian ship has, in the course of the voyage, been convicted of an offence by a competent tribunal and rightfully punished for that offence by imprisonment or otherwise, the court hearing the case may direct any part of the wages due to the seaman, not exceeding one month's wages, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Costs of procuring punishment may be deducted from wages.

76.—If a seaman, having signed an agreement to serve in a Nigerian ship, is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages which he has earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Compensation to seaman improperly discharged.

Restriction
on sale of
and charge
upon wages.

77.—(1) As respects wages due or accruing to a seaman or apprentice belonging to a Nigerian ship—

(a) they shall not be subject to attachment or arrestment from any court;

(b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;

(c) a power of attorney or authority for the receipt thereof shall not be irrevocable; and

(d) a payment of wages to the seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages, or any attachment, encumbrance or arrestment thereof.

(2) Nothing in this section shall,—

(a) affect the provisions of this Part with respect to allotment notes, or

(b) restrict or limit the requirements of the National Provident Fund Act 1961 as to contributions by a seaman or apprentice belonging to a Nigerian ship.

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CHAPTER 13

MODE OF RECOVERING WAGES

Summary
proceedings
for wages.

78.—A seaman or apprentice, or a person duly authorized on his behalf, may, as soon as any wages due to him, not exceeding fifty pounds, become payable, sue for the same in a summary manner in any magistrates' court in or near the place at which his service has terminated, or at which he has been discharged, or at which any person, on whom the claim is made, is or resides, and the order made by the court in the matter shall be final.

Saving for
cases of ships
other than
Nigerian
ships:

79.—Nothing in this Chapter shall be construed as limiting the jurisdiction of a court to refuse to entertain an action for wages—

(a) by the master or a member of the crew of a ship if the ship is not a Commonwealth ship; or

(b) in the case of a Commonwealth ship if a seaman engaged for a voyage or an engagement to terminate in Nigeria is unable to prove that he was discharged in accordance with this Act and with the consent in writing of the master, or is unable to prove such ill-usage on the part or by authority of the master as to warrant reasonable apprehension of danger to his life if the seaman were to remain on board; or

(c) in the case of a Commonwealth ship if a seaman on his return to Nigeria proves that the master or owner has been guilty of any conduct or default which but for this section would have entitled the seaman to sue for wages before the termination of the voyage or engagement, and would under the Shipping Laws have been entitled him to recover compensation in addition to his wages.

Remedies of
master for
wages dis-
bursements,
etc.

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

(2) The master of a ship, and every person lawfully acting as master of a ship by reason of the decease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights,

liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages.

(3) If, in any proceeding in a court of competent jurisdiction touching the claim of a master in respect of wages, or of such disbursements or liabilities as aforesaid, 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 proceeding, and may direct payment of any balance found to be due.

81.—In any action or other legal proceeding by the master of a ship for the recovery of any sum due to him on account of wages, the court may, if it appears to it that the payment of the sum due has been delayed otherwise than owing to the act or default of the master, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the person liable to make the payment, order that person to pay, in addition to any sum due on account of wages, such sum as it thinks just as damages in respect of the delay, without prejudice to any claim which may be made by the master on that account.

Powers of court in case of unreasonable delay paying master's wages.

CHAPTER 14

POWERS OF COURTS TO RESCIND CONTRACTS

82.—(1) Where a proceeding is instituted in or before any court of competent jurisdiction in relation to any dispute between an owner or master of a ship and a seaman or apprentice, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if having regard to all the circumstances of the case it thinks fit, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the court thinks just.

Power of court to rescind contract between owner or master and seaman or apprentice.

(2) This power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

CHAPTER 15

PROPERTY OF DECEASED SEAMEN

83.—(1) If any seaman or apprentice belonging to a Nigerian ship, the crew of which are to be discharged in, or the final port of destination of which is in, Nigeria, dies during a voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

Property of seaman who dies during voyage.

(2) The master may, if he thinks fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official logbook the following particulars—

(a) a statement of the amount of the money and a description of the effects;

(b) in case of a sale, a description of each article sold, and the sum received for each;

(c) a statement of the sum due to the deceased for wages, and of the amount of deductions, if any, to be made from the wages.

(4) The entry shall be signed by the master and attested by a mate and some other member of the crew.

(5) The above-mentioned money, effects and balance of wages are in this Chapter referred to as the "property of the seaman or apprentice".

Dealing with
and account
of property
of seaman
who dies
during
voyage.

84.—(1) Where a seaman or apprentice dies as aforesaid, the master shall, within forty-eight hours after his arrival at his port of destination in Nigeria, deliver and pay the property of the seamen or apprentice to the Superintendent at that port.

(2) In all cases where a seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to the Superintendent such account as, and in such form as, he requires of the property of the seaman or apprentice.

(3) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book made and attested as required by this Act, and also by such other vouchers, if any, as are reasonably required by the Superintendent.

(4) The Superintendent may, if he thinks fit, sell any of the property of the seaman or apprentice delivered to him, or of which he takes charge, under this Chapter, and the proceeds of such sale shall be deemed to form part of such property.

(5) The Superintendent shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect.

Penalty for
non-compliance
with
provisions as
to property
of deceased
seamen.

85.—(1) Any master of a ship to which section 83 refers who fails to comply with the provisions of this Chapter with respect to—

(a) taking charge of the property of the seaman or apprentice; or

(b) making in the official log-book the proper entries relating thereto; or

(c) procuring the proper attestation of those entries as required by this Chapter; or

(d) the payment or delivery of the property of the seaman or apprentice,—

shall be accountable for the property to the Superintendent, and shall pay and deliver the same accordingly, and shall, in addition to paying and delivering the same accordingly, be guilty of an offence and on conviction shall be liable to a fine not exceeding treble the value of the property not accounted for, or, if such value is not ascertained, not exceeding fifty pounds.

(2) If any such property is not duly paid, delivered or accounted for by the master, the owner of the ship shall pay, deliver and account for the same, and such property shall be recoverable from him accordingly, and if he fails to account for and deliver or pay the same, he shall, in addition to his liability for the same, be guilty of an offence and on conviction shall be liable to a fine not exceeding treble the value of the property not accounted for, delivered or paid over, or, if such value is not ascertained, not exceeding fifty pounds.

(3) The property may be recovered in the same court and manner in which the wages of seamen may be recovered under this Act.

86.—(1) Where a seaman or apprentice belonging to a ship to which section 83 refers is lost with the ship to which he belongs, the Superintendent may recover the wages due to him from the owner of the ship in the same court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages of other deceased seamen and apprentices under this Chapter.

Recovery of wages of seamen lost with their ship.

(2) In any proceeding for the recovery of the wages, if it is shown by some official return produced out of the custody of the Superintendent, or by other evidence, that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all hands on board, either immediately after the time at which she was last heard of or at such later time as the court hearing the case thinks probable.

(3) Any duplicate agreement made out, or statement of a change of the crew delivered, under this Part at the time of the last departure of the ship from Nigeria, or a certificate purporting to be a certificate from a consular or other public officer at any port outside Nigeria, stating that certain seamen and apprentices were shipped in the ship from that port, shall, if produced out of the custody of the Superintendent, be, in the absence of proof to the contrary, sufficient proof that the seamen and apprentices therein named as belonging to the ship were on board at the time of the loss.

87.—If a seaman or apprentice belonging to a ship to which section 83 refers dies in Nigeria, and was, at the time of his death, entitled to claim from the master or owner of a ship in which he has served any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the Superintendent at the port where the seaman or apprentice was discharged, or was to have been discharged.

Property of seaman dying in Nigeria.

88.—(1) Where any property of a deceased seaman or apprentice belonging to a ship to which section 83 refers comes into the hands of the Superintendent, the Superintendent, after deducting expenses incurred in respect of that seaman or apprentice, or of his property, such sum as he thinks proper to allow, shall, subject to the provisions of this Chapter, deal with the residue as follows—

Payment over of property of deceased seaman by the Superintendent.

(a) if the property exceeds in value one hundred pounds, he shall pay and deliver the residue to the legal personal representative of the deceased;

(b) if the property does not exceed in value one hundred pounds, he may, as he thinks fit, either—

(i) pay or deliver the residue to any claimant who is proved to his satisfaction to be the widow or a child of the deceased, or to be entitled to the personalty of the deceased either under his will, if any, or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(ii) require representation to be taken out and pay and deliver the residue to the legal personal representative of the deceased.

(2) Every person to whom any such residue is so paid or delivered shall apply the same in due course of administration.

Dealing with
deceased
seaman's
property
when he
leaves a will.

89.—(1) Where a deceased seaman or apprentice belonging to a ship to which section 83 refers has left a will, the Superintendent may refuse to pay or deliver any residue under section 88—

(a) if the will was made on board ship, to any person claiming under the will, unless the will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested by, the master or first mate of the ship; and

(b) if the will was not made on board ship, to any person claiming under the will, and not being related to the testator by blood or marriage, unless the will is in writing and is signed or acknowledged by the testator in the presence of, and is attested by, two witnesses, one of whom is the Superintendent or a person holding a similar office, or is a minister of religion officiating in the place in which the will is made, or, where there are no such persons, a magistrate, a consular officer of a Commonwealth country or an officer of customs.

(2) Whenever the Superintendent refuses under this section to pay or deliver the residue to a person claiming under a will, the residue shall be dealt with as if no will had been made.

Claims by
creditors.

90.—(1) A creditor shall not be entitled to claim from the Superintendent the property of a deceased seaman or apprentice received by the Superintendent under this Act, or any part thereof, by virtue of representation obtained as creditor.

(2) A creditor shall not be entitled by any means whatever to obtain payment of his debt out of the property if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.

(3) The demand shall be made by the creditor delivering to the Superintendent an account in writing, stating the particulars of his demand and the place of his abode, and signed by him and verified by a statutory declaration.

(4) If before the demand is made, any claim to the property of the deceased made by any person has been allowed, the Superintendent shall give notice to the creditor of the allowance of the claim.

(5) If no claim has been allowed, the Superintendent shall investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers and papers relating thereto; and, if by means of them the creditor satisfies the Superintendent of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the property then in the hands of the Superintendent will extend for that purpose, and the Superintendent shall thereby be discharged from all further liability in respect of money so paid.

(6) If the Superintendent is not satisfied as to the claim, or if such books, accounts vouchers or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.

(7) In any case whatever, the Superintendent may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand.

(8) If, in the course of such time, a claim to the property of the deceased is made by any person as widow, next of kin or legatee, and allowed by the Superintendent under this Chapter, the Superintendent may pay and deliver the same to that person.

(9) Where the property has been paid and delivered by the Superintendent to any person as widow, next of kin or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

91.—(1) Where no claim to the property of a deceased seaman or apprentice received by the Superintendent under this Chapter is substantiated within one year after the receipt thereof, the Superintendent shall pay the same, or the proceeds thereof, into the Consolidated Revenue Fund.

Dealing with unclaimed property of deceased seaman.

(2) If any subsequent claim is made to such property or the proceeds thereof, and is established to the satisfaction of the Superintendent, the amount, or so much as appears to be due to the claimant, shall be paid to the claimant out of the Consolidated Revenue Fund.

(3) If any claim is not established to the satisfaction of the Superintendent, the claimant may apply by summons to a High Court, and that Court, after taking evidence either orally or on affidavit, shall make such order on the summons as seems just.

(4) After the expiration of six years from the receipt of such property or proceeds by the Superintendent, no such claim shall be entertained without the sanction of the Minister.

92.—Any person who, for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman or apprentice—

Forgery of documents, etc., for purpose of obtaining property of deceased seaman.

(a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any document purporting to show or assist in showing any right to such property ; or

(b) makes use of any document which has been so forged or fraudulently altered as aforesaid ; or

(c) gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false ; or

(d) makes or assists in making, or procures to be made, any false representation, knowing the same to be false ; or

(e) assists in procuring any false evidence or representation to be given or made, knowing the same to be false,—

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years or to both.

CHAPTER 16

PROVISIONS, HEALTH AND ACCOMMODATION

93.—(1) If three or more of the crew of a Nigerian ship, where such ship is within Nigeria, consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or below such scale as may be prescribed, they may complain thereof to the Superintendent or a Port Health Officer, and such officer may either examine the provisions or water complained of or cause them to be examined.

Complaints as to provisions or water.

(2) If such officer, or the person making the examination, finds that the provisions or water are of bad quality and unfit for use, or below such scale or quantity as may be prescribed, he shall signify it in writing to the master of the ship; and, if the master of the ship does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

(3) Such officer, or the person making the examination, shall enter a statement of the result of the examination in the official log-book of the ship, and shall send a report thereof to the Superintendent, and that report shall be admissible in evidence.

(4) If such officer, or the person making the examination, certifies in the statement entered in the official log-book that there were no reasonable grounds for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

(5) Where any provisions or water are examined under this section, there shall be payable by the owner, master or agent, in respect of such examination, such fees as may be prescribed:

Provided that if, in accordance with subsection (4), it is certified that there were no reasonable grounds for the complaint, the owner, master or agent shall be entitled to recover such fee from the complainants in addition to any penalty to which such complainants may be liable under subsection (4).

Inspection of
provisions
and water.

94.—(1) An inspecting officer may inspect, either on board the ship or before shipment, any provisions, other than provisions provided by the crew themselves, or water intended for the use of the crew of any Nigerian ship which is going from any port in Nigeria and for which an agreement with the crew is required under this Act; and, if he finds that the provisions or water are in any respect deficient in quality, the ship shall be detained by the inspecting officer until the defects are remedied to his satisfaction:

Provided that any inspection of provisions or water under this section shall be made before shipment whenever practicable; and, if the owner, agent or master of a ship gives notice to the inspecting officer that any provisions or water for the ship are ready for inspection, the inspecting officer shall not have power to inspect any such provisions or water under this section, if they are at a convenient place for inspection, except within forty-eight hours after the notice is given, without prejudice to the power of the inspecting officer to inspect any provisions or water not specified in the notice or, without unnecessarily delaying the ship, to proceed on board the ship in order to satisfy himself that there has been no evasion of the requirements of this section by the substitution of other provisions or water for those which have been inspected on shore or specified in a notice as being the provisions or water for the ship, or otherwise.

(2) Where any provisions or water are found deficient in quality under this section, the master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, unless the court before which the case is tried thinks that the

finding of the inspecting officer was not justified; but, if the master of the ship shows to the satisfaction of the court that the responsibility for the defects in the provisions or water rests either with the owner of the ship or any agent of the owner of the ship, or with the person who has supplied the provisions or water, that owner, agent or person shall be liable to conviction for the offence instead of the master, and the master shall be exempt.

(3) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the inspecting officer every reasonable facility for the purpose of his inspection under this section; and, if such master or other person refuses or fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

(4) Where any provisions are inspected under this section, either before shipment or on board a ship, there shall be payable in respect of such inspection such fees as may be prescribed:

Provided that, where provisions which have been inspected and sealed by an inspecting officer are found on board any ship within such time as may be prescribed as the time for which the seals are to hold good, no fee shall be charged for the verification of the seals.

(5) The Minister may appoint officers for the purposes of any inspection under this section, and the expression "inspecting officer" wherever used in this section, means an officer so appointed.

95.—If—

(a) during a voyage of a Nigerian ship the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore); or

(b) it is shown that any of those provisions are or have been, during a voyage of any such ship as aforesaid, bad in quality and unfit for use,—

the seaman shall receive, by way of compensation for that reduction or bad quality, such sums as may be prescribed; but, if it is shown to the satisfaction of the court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires.

Allowance
for short or
bad
provisions.

96.—(1) The master of a Nigerian ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises about the quantities.

(2) If the master of any such ship fails, without reasonable cause, to comply with this section, he shall be guilty of an offence and on conviction shall be liable to a fine of not exceeding twenty pounds.

Weights and
measures on
board.

Ship to carry medicines, medical stores, etc., in accordance with scale.

97.—(1) The owner, agent and master of every Nigerian ship of a tonnage exceeding fifteen tons shall cause to be kept on board such ship a supply of medicines and medical stores in accordance with such scale, and a copy of such instructions for dispensing the same, as may be prescribed.

(2) The owner, agent and master of any such ship who wilfully refuses or neglects to provide and keep on board such medicines, medical stores and instructions as are required by this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

Inspection of medicines, etc.

98.—(1) A Port Health Officer may inspect any medicines, medical stores or appliances with which any ship is under the provisions of this Chapter required to be provided, and for the purposes of such inspection shall have all the powers of an inspector under this Act.

(2) If the Port Health Officer is of the opinion that the articles inspected are deficient in quantity or quality, or are placed in improper receptacles, he shall give notice in writing to the Superintendent and also to the owner, agent or master of the ship, and the master of the ship before proceeding to sea shall produce to the Superintendent a certificate under the hand of the Port Health Officer that the default found by him has been remedied; and, if that certificate is not so produced, the ship shall be detained by the Superintendent until the certificate is produced; and, if the ship proceeds to sea, the owner, agent and master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

Expenses of medical attendance in case of injury or illness.

99.—(1) If the master of, or a seaman or apprentice belonging to, a Nigerian ship receives any hurt or injury in the service of the ship, or suffers from any illness, not being an illness due to his own wilful act or default or to his own misbehaviour, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is returned to his proper return port, and of his conveyance to such port, and, in the case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from the wages of such master, seaman or apprentice:

Cap. 222.
1961, No. 20.

Provided that nothing in this section shall prejudice the rights of any master, seaman or apprentice under the Workmen's Compensation Act, or the National Provident Fund Act, 1961 so, however, that no person shall be entitled to periodical payments under either of those Acts in respect of the period during which the owner of the ships is liable to defray the expenses of such person's maintenance under this Chapter.

(2) If any such master, seaman or apprentice as is mentioned in subsection (1) is, on account of any illness, temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal and of providing the necessary advice, attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in the manner provided in subsection (1).

(3) The expense of all medicines, surgical and medical advice and attendance given to a master, seaman or apprentice as aforesaid whilst on board his ship shall be defrayed in the manner provided in subsection (1).

(4) In all other cases, any reasonable expenses duly incurred by the owner of any such ship for any seaman or apprentice in respect of illness, and also any reasonable expenses duly incurred by the owner of any such ship as aforesaid in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of the seaman or apprentice.

100.—(1) If any of the expenses attendant on the illness, hurt or injury of a seaman or apprentice which are to be paid under this Chapter by the owner or master of the ship to which such seaman or apprentice belongs are paid by any authority on behalf of the Government of the Federation, or if any other expenses in respect of the illness, hurt or injury of any seaman or apprentice belonging to any Nigerian ship whose wages are not accounted for under this Part to that authority, are so paid, those expenses shall be repaid to that authority by the owner or master of the ship.

Recovery of expenses from owner.

(2) If any expenses are not repaid as required by subsection (1), the amount thereof, with costs, shall be a charge upon the ship and shall be recoverable from the master, or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was the owner of the ship at the time of the loss, or, where a registered Nigerian ship has been transferred to some person not qualified to own such a ship, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, as a debt due to the Government of the Federation, either by ordinary process of law or in the court and in the manner in which wages may under this Part be recovered by seaman and apprentices.

(3) In any proceeding for such recovery, a certificate of the facts, signed by the aforesaid authority, together with such vouchers, if any, as the case requires, shall be sufficient proof that the expenses in respect of which the proceeding has been instituted were duly paid by that authority.

101.—The accommodation for seamen and apprentices in Nigerian ships shall be such as may be prescribed, and provision may be made in the same manner for the inspection of such accommodation and for fees to be paid in respect of such inspection.

Accommodation for seamen, etc.

102.—(1) Every foreign-going ship which proceeds from Nigeria, having one hundred persons or upwards on board, shall carry on board as part of her complement some duly qualified medical practitioner; and, if she does not, her owner shall, for any voyage of the ship made without a duly qualified medical practitioner, be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds.

Certain ships to carry medical practitioners.

(2) For the purposes of subsection (1), "duly qualified medical practitioner" means a medical practitioner authorised by law to practise as a legally qualified medical practitioner in some part of the Commonwealth or, in the case of a foreign ship, in the country to which the ship belongs.

103.—(1) If any ship carrying passengers is found on arrival in Nigeria to be in a filthy and insanitary condition, the master of that ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Penalty on Master for filthy condition of ship carrying passengers.

(2) The Port Health Officer may inspect any such ship on arrival in order to ascertain the sanitary condition thereof; and that officer shall, for that purpose, have all the powers of an inspector under this Act.

Medical
inspection of
seamen.

104.—The Port Health Officer shall, on application by the owner or master of any Commonwealth ship, and on payment by such owner or master of the prescribed fees, examine any seaman applying for employment in that ship, and shall give to the Superintendent a report under his hand stating whether the seaman is in a fit state for sea, and a copy of the report shall be given to the owner or master.

CHAPTER 17

FACILITIES FOR MAKING COMPLAINTS

Facilities
for making
complaint.

105.—(1) If a seaman or apprentice whilst on board a Nigerian ship, where such ship is within Nigeria, states to the master of the ship his desire to make a complaint to the Superintendent or a magistrate against the master or any of the crew, the master shall, as soon as the service of the ship will permit—

(a) if the ship is then at a port in Nigeria; or

(b) if the ship is not then at such a port after her first arrival at any such port,

allow the complainant to go ashore or send him ashore in proper custody, so that he may be enabled to make his complaint.

(2) If the master of a ship fails without reasonable cause to comply with this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

CHAPTER 18

PROTECTION OF SEAMEN FROM IMPOSITION

Assignment
or sale of
salvage
invalid.

106.—Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice belonging to a Nigerian ship made prior to the accruing thereof shall not bind the person making the same; and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

Penalty for
overcharges
by lodging-
house
keepers.

107.—If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than that during which the seaman or apprentice has actually resided or boarded therein, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

Penalty for
detaining
seamen's
effects.

108.—(1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice, and does not return the same or pay the value thereof, when required by the seaman or apprentice, subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

(2) Notwithstanding any limitation of the ordinary jurisdiction of any court by which an offence under subsection (1) is tried—

(a) the court may, besides inflicting a fine, make an order directing the amount of the money, or the value of the effects, subject to such deduction as aforesaid, if any, or the effects themselves, to be forthwith paid or delivered to the seaman or apprentice; and

(b) if the person to whom such order is addressed makes default in complying therewith he may, in the discretion of the court, be ordered to pay a sum (which shall, for the purposes of any Act or other written law relating to criminal procedure, be deemed to be a fine duly imposed thereunder) not exceeding one pound for every day during which he is in default, or to be imprisoned until he has remedied his default, but so that he shall not, for non-appliance with such order, be liable under this section to imprisonment for a period or periods amounting in the aggregate to more than two months, or to the payment of any sums exceeding in the aggregate of fifty pounds.

109.—If, within twenty-four hours after the arrival of a ship at a port in Nigeria, a person then being on board the ship solicits a seaman to become a lodger at the house of a person letting lodgings for hire, or takes out of the ship any effects of a seaman, except under the personal direction of the seaman and with the permission of the master, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

Penalty for solicitations by lodging-house keepers.

110.—Where a ship is about to arrive, is arriving or has arrived at any port in Nigeria, and any person, not being duly authorized by law for the purpose—

Penalty for being on board ship before seamen leave or in a mercantile marine office without permission.

(a) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement or are discharged, whichever last happens; or

(b) being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by the Superintendent; or

(c) enters any Mercantile Marine Office at the port without the permission of the Superintendent or, being in such office, remains there after being warned to leave by the Superintendent or by a police officer,—

that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or both; and the master of the ship or the Superintendent as the case may be may take him into custody, and deliver him up forthwith to a police officer to be taken before a court having jurisdiction in respect of the offence.

CHAPTER 19

PROVISIONS AS TO DISCIPLINE

111.—If a master, seaman or apprentice belonging to a Commonwealth ship, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness—

Misconduct endangering life or ship.

(a) does any act tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of a person belonging to, or on board, the ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to, or on board, the ship from immediate danger to life or limb,—

he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or both.

Desertion
and absence
without
leave.

112.—If a seaman lawfully engaged, or an apprentice, belonging to a Nigerian ship, or a Commonwealth ship other than a Nigerian ship when such ship is in Nigeria, commits any of the following offences, he shall on conviction be liable to be punished as follows—

(a) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned, and to satisfy any excess of wages paid by the master or owner of the ship to any substitute engaged in his place at a higher rate of wages than the rate at which wages have been stipulated to be paid to him; and he shall also be liable to imprisonment for a term not exceeding twelve weeks;

(b) if he neglects or refuses, without reasonable cause, to join his ship, or to proceed to sea in his ship, or is absent without leave at any time within the period of twenty-four 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 reason, from his ship or from his duty, he shall, if the offence does not amount to desertion, or is not treated as such by the master, be guilty of the offence of absence without leave, and be liable to forfeit out of his wages a sum not exceeding two days' pay, and, in addition, for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute; and he shall also be liable to imprisonment for a term not exceeding ten weeks.

Provisions as
to failure to
join ship and
desertion.

113.—(1) Where a seaman who has been lawfully engaged in Nigeria, or lawfully engaged elsewhere for service in a Nigerian ship, and has received under his agreement an advance note, after negotiating his advance note, wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three months or a fine not exceeding fifty pounds, or both; but nothing in this section shall take away or limit any remedy by suit or otherwise which any person would otherwise have in respect of the negotiation of the advance note, or which an owner or master would otherwise have for breach of contract.

(2) Where it is shown to the satisfaction of the Superintendent that a seaman lawfully engaged in Nigeria or lawfully engaged elsewhere for service in a Nigerian ship, has wilfully or through misconduct failed to join his ship, the Superintendent may direct that the seaman's certificate of discharge shall be withheld for such period as he may think fit; and, while a seaman's certificate of discharge is so withheld, the Superintendent and any other person having the custody of the necessary documents, may, notwithstanding anything in this or any other written law, refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

Conveyance
of deserter
on board
ship.

114.—(1) If, in Nigeria, a seaman or apprentice belonging to a Commonwealth ship is guilty of the offence of desertion or of absence without leave, or otherwise absents himself from his ship without leave, the master or any mate of the ship, or the owner, agent, or charterer thereof, may, with or without the assistance of any police officer, convey him on board his ship, and every police officer is hereby directed to give assistance if required:

Provided that, if the seaman or apprentice so requires, he shall first be taken before a magistrates' court, to be dealt with according to law.

(2) If it appears to the court before which the case is brought that the seaman or apprentice has been conveyed on board or taken before the court on improper or insufficient grounds, that court may, notwithstanding any limitation of its ordinary jurisdiction, inflict on the master, mate, owner, agent or charterer, as the case may be, a fine not exceeding fifty pounds, but the infliction of that fine shall be a bar to any action for false imprisonment in respect of the arrest.

115.—(1) Where a seaman or apprentice belonging to a Commonwealth ship is brought before a court in Nigeria on the ground of the offence of desertion, or of absence without leave, or of otherwise absenting himself without leave, the court, if the master or the owner or his agent so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or may deliver him to the master or any mate of the ship, or to the owner, agent or charterer thereof, to be by them so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards earn.

Power of court to order offender to be taken on board ship.

(2) If, in Nigeria, a seaman or apprentice as aforesaid intends to absent himself from his ship or his duty, he may give notice of his intention, either to the owner or to the master of the ship, not less than forty-eight hours before the time at which he ought to be on board his ship; and, in the event of that notice being given, the court shall not exercise any of the powers conferred by this section for causing the offender to be conveyed on board his ship.

116.—Where a seaman or apprentice belonging to a Commonwealth ship has been imprisoned in Nigeria for having been guilty of the offence of desertion, or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, except where such seaman or apprentice has given notice under subsection (2) of section 115, on the application of the master, owner, agent or charterer of the ship, notwithstanding that the period of imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner, agent or charterer thereof, to be by them so conveyed.

Seaman imprisoned for desertion may be sent on board before term of imprisonment completed.

117.—If a seaman lawfully engaged in, or an apprentice belonging to, a Commonwealth ship commits any of following offences (in this Act referred to as "offences against discipline"), he shall on conviction be liable to be punished as follows—

General offences against discipline.

(a) if he quits the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;

(b) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a term not exceeding four weeks, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay;

(c) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term not exceeding twelve weeks, and also, at the discretion of the court, to forfeit, for every twenty-four hours continuance of disobedience or neglect, either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute;

(d) if he assaults any officer of the ship, he shall be liable to imprisonment for a term not exceeding twelve weeks;

(e) if he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term not exceeding twelve weeks;

(f) if he wilfully damages his ship, or dishonestly misappropriates or converts to his own use, or commits criminal breach of trust in respect of, or wilfully damages, any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for a term not exceeding twelve weeks;

(g) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the owner or master of the ship, he shall be liable to pay to the owner or master a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

Summary remedies not to affect other remedies.

118.—Nothing in section 117, or in the sections relating to the offences of desertion or absence without leave, shall take away or limit any remedy, by suit or otherwise, which an owner or master would, but for those provisions, have for any breach of contract in respect of the matters constituting an offence under those sections, but an owner or master shall not be compensated more than once in respect of the same damage.

Penalty for false statement as to last ship or name.

119.—(1) If a seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or alleged last ship, or wilfully and fraudulently makes a false statement of his own name, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds.

(2) The fine may be deducted from any wages which the seaman may earn by virtue of his engagement as aforesaid, and shall, subject to any reimbursement of the loss and expenses, if any, occasioned by any desertion previous to the engagement, be paid into the Consolidated Revenue Fund.

Entry of offences in official log book.

120.—If, on or in respect of any Nigerian ship, any offence, within the meaning of this Chapter, of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed, for which the offender's agreement imposes a fine and it is intended to enforce the fine—

(a) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew;

(b) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit;

(c) a statement of a copy of the entry having been so furnished, or of the entry having been so read over, and, in either case, the reply, if any, made by the offender, shall likewise be entered and signed in manner aforesaid; and

(d) in any subsequent legal proceeding, the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

121.—(1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited under this Chapter for desertion from a Nigerian ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and that he left the ship before the completion of the voyage or engagement, and that an entry of his desertion has been duly made in the official log-book.

Facilities for proving desertion in proceedings for forfeiture of wages.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Chapter, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reason for leaving his ship.

122.—(1) Where any wages or effects are, under this Chapter, forfeited for desertion from a ship, those effects may be converted into money; and those wages and effects, or the money arising from the conversion of the effects, shall be applied towards reimbursing the expenses caused by the desertion to the owner or master of the ship, and subject to that reimbursement, shall be paid into the Consolidated Revenue Fund.

Application of forfeitures.

(2) Where wages are forfeited under this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the owner, charterer or master by whom the wages are payable.

123.—Any question concerning the forfeiture of, or deductions from, the wages of a seaman or apprentice under this Act may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, although by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Decision of questions of forfeiture and deductions in suits for wages.

124.—If a seaman contracts for wages by the voyage, by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month, or any other period hereinbefore mentioned in fixing the amount of such forfeiture, as the case may be, bears to the whole time spent in the voyage or run; and, if the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Ascertainment of amount of forfeiture out of wages.

Deductions of fines from wages and payment to Superintendent.

125.—(1) Every fine imposed on a seaman belonging to a Nigerian ship for any act of misconduct for which his agreement imposes a fine shall be deducted as follows—

(a) if the offender is discharged in Nigeria and the offence, and the entry in the log-book required by this Act, in respect of the offence, are proved to the satisfaction of the Superintendent before whom the offender is discharged, the master or owner shall deduct the fine from the wages of the offender and pay it to the Superintendent;

(b) if the offender is discharged abroad, and the offence and the entry referred to in paragraph (a) are proved to the satisfaction of the proper officer by whose sanction he is discharged, the fine shall be deducted as specified in that paragraph and shall be paid to the proper officer; and an entry of that deduction and payment shall be made in the official log-book of the ship and shall be signed by the proper officer.

(2) Every fine so paid to the Superintendent or the proper officer, as the case may be, shall be paid by him into the Consolidated Revenue Fund.

(3) If a master or owner of a ship fails, without reasonable cause, to pay any fine as required by this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding six times the amount of the fine not so paid.

(4) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, the seaman shall not be otherwise punishable under this Act.

Penalty for enticing to desert and harbouring deserters.

126.—(1) If a person, by any means whatever, persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in, or to desert from, his ship, or otherwise to absent himself from his duty, he shall be guilty of an offence and on conviction shall, in respect of each seaman or apprentice whom he persuades or attempts to persuade as aforesaid, be liable to a fine not exceeding twenty pounds.

(2) If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join, or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall be guilty of an offence and on conviction shall, in respect of every seaman or apprentice so harboured or secreted, be liable to a fine not exceeding fifty pounds.

Penalty on stowaways.

127.—(1) If a person secretes himself in any ship intending to go to sea in such ship without the consent either of the owner, agent or master, or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both.

CHAPTER 20

SEAMEN OF FOREIGN SHIPS

128.—(1) Where the Minister is satisfied that due facilities are or will be given by the Government of any foreign country for apprehending and recovering seamen and apprentices who desert or absent themselves without leave from Nigerian ships in that country, the Minister, may, by Order, state that those facilities are or will be given, and declare that the facilities specified in the Order will be given for apprehending and recovering seamen and apprentices of that country who desert or absent themselves without leave from the ships of that country in Nigeria.

Facilities for recovering deserters from foreign ships.

(2) Any Order made or deemed to have been made under this section, instead of stating that facilities are or will be given by the foreign country to which the Order refers, and specifying the facilities that will be given in respect of seamen and apprentices who desert or absent themselves without leave from the ships of that country in Nigeria, may set forth the text of any treaty or other international agreement to which Nigeria and that foreign country are parties, and which relates to the apprehension and recovery of seamen and apprentices who desert or absent themselves without leave from the ships of one party in the territory of the other party, or so much of any such treaty or other international agreement as relates thereto; and may declare that such facilities as are accorded by that treaty or other international agreement will be given for apprehending and recovering seamen and apprentices who desert or absent themselves without leave from the ships of that country in Nigeria.

(3) Any reference in this section or in an Order made or deemed to have been made under this section to the ships of any country shall be construed as a reference to ships registered in or belonging to that country.

129.—(1) If the master or agent of any foreign ship has reason to believe that any seaman or apprentice, has deserted or absented himself without leave from that ship in Nigeria, the master or agent shall report that fact at a police station.

Apprehension of seamen from foreign ships.

(2) If any seaman or apprentice to whom any Order made or deemed to have been made under section 128 applies, deserts or absents himself without leave from that ship in Nigeria, the master or agent of the ship may, subject to the provisions of any such Order, require any police officer to arrest that seaman or apprentice.

(3) The master or agent of a foreign ship, if so required by any police officer whom he has caused to arrest any seaman or apprentice or to whom he has reported that any seaman or apprentice has deserted or absented himself without leave, shall make on oath or affirmation a complaint before a magistrate stating that he has just cause to suspect, and does suspect, that that seaman or apprentice has deserted or absented himself without leave from his ship.

(4) Any magistrate may, on the complaint on oath or affirmation of the master or agent of the ship, and subject to the provisions of any order made or deemed to have been made under section 128 issue his warrant for the arrest of any such seaman or apprentice so complained against.

(5) Where any police officer—

(a) has reason to believe that any person is a seaman or apprentice concerning whom a complaint has been made under this section; or

(b) is, pursuant to subsection (2), required by the master or agent of a ship to arrest any person,—

he shall arrest that person with or without warrant, and, upon complaint being made by the master or agent of the ship where no complaint has been made at the time of the arrest, shall cause that person to be conveyed as soon as is practicable before a magistrate to answer to the complaint of the master or agent of the ship.

(6) If the master or agent of any foreign ship causes an arrest to be made under this section on improper or insufficient grounds, or if any person, for the purpose of causing an arrest to be made, falsely represents himself to be the master of a foreign ship, that master or person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(7) The expenses actually incurred by the Government of the Federation pursuant to the provisions of this Chapter in apprehending any seaman or apprentice, or in placing any seaman or apprentice on board the ship to which he belongs, or keeping any seaman or apprentice in confinement, shall in each instance be paid by the owner, agent or master of the ship, and the ship may be detained by the Superintendent or any officer of customs until those expenses have been paid.

Orders for
deserting
seamen to be
placed on
board.

130.—(1) Where complaint is made under this Chapter that a seaman or apprentice, to whom any Order made or deemed to have been made under section 128 applies, has deserted or absented himself without leave from any foreign ship in Nigeria, a magistrate, on proof of that desertion or absence without leave, may, and shall in any case where the terms of any such Order so require, direct that that seaman or apprentice be placed at any available opportunity on board the ship to which he belongs.

(2) Every seaman or apprentice so directed to be placed on board ship shall be detained in any convenient prison or place of security, and shall at any available opportunity be placed by any police officer on board the ship to which he belongs; but no such seaman or apprentice shall, by virtue only of any such direction, be detained in custody for a longer period than one month or after the departure of the ship to which he belongs for any port outside Nigeria.

(3) Every master of a foreign ship, and every other officer for the time being on duty in charge of any foreign ship, who—

(a) fails to receive on board any seaman or apprentice directed to be placed on board that ship pursuant to this section; or

(b) connives at, or is privy to, any seaman or apprentice so placed on board leaving or escaping from the ship,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 21

OFFICIAL LOG BOOKS

131.—(1) An official log book shall be kept in every Nigerian ship, in the appropriate form for that ship approved by the Minister.

Official log books to be kept and to be evidence.

(2) Such official log books, which may be different for different classes of ships, shall contain proper spaces for the entries required by this Act.

(3) The official log book may, at the discretion of the owner or master, be kept distinct from, or united with, the ordinary ship's log book, so that, in all cases, the spaces in the official log book shall be duly filled up.

(4) An entry required by this Act in an official log book shall be made as soon as possible after the occurrence to which it relates; and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and, if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(5) Every entry in the official log book shall be signed by the master and by the mate or some other member of the crew, and also—

(a) if it is an entry of illness, injury or death, by the surgeon or medical practitioner on board, if any; and

(b) if it is an entry of wages due to seaman or apprentice who dies, by the mate and by some member of the crew in addition to the master.

(6) Every entry made in an official log book in the manner provided by this Act shall be admissible in evidence.

132.—The master of a Nigerian ship shall enter or cause to be entered in the official log book the following matters—

Entries required in official log book.

(a) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry, and concerning the reply, if any, made to the charge, as is required by this Act;

(c) every offence for which punishment is inflicted on board, and punishment inflicted;

(d) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion of those particulars;

(e) every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted, if any;

(f) every marriage taking place on board, with the names and ages of the parties;

(g) the name of every seaman or apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

(h) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom ;

(i) every collision with any other ship, and the circumstances under which the same occurred ;

(j) every accident sustained or caused by the ship which has occasioned any loss of life, or any serious injury to any person, or any material damage to the ship affecting her seaworthiness or her efficiency in her hull, equipment or machinery, and every grounding of the ship ; and

(k) any other matter directed by this Act to be entered therein.

Offences in
respect of
official log
books.

133.—(1) If an official log book required by this Chapter to be kept is not kept in the manner required by this Chapter, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master of the ship shall, in respect of each such failure to keep an official log book or to make an entry as aforesaid, be guilty of an offence and, except as is otherwise expressly provided in this Act, shall on conviction be liable to a fine not exceeding ten pounds.

(2) If any person makes, or procures to be made, or assists in making, any entry in an official log book as aforesaid in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

(3) If any person wilfully destroys, mutilates or renders illegible any entry in an official log book as aforesaid, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in, or omission from, any such official log book, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or to both.

Delivery of
official log
books to
Superinten-
dent.

134.—(1) The master of every foreign-going Nigerian ship other than a ship whose crew is engaged on a running agreement, shall, within forty-eight hours after the ship's arrival at her final port of destination in Nigeria or upon the discharge of the crew, whichever first happens, deliver or transmit the official log book of the voyage to the Superintendent.

(2) The owner or master of every Nigerian ship, other than a ship to which sub-section (1) applies shall, upon the discharge of the crew, deliver the official log book to the Superintendent before whom the crew is discharged.

(3) Upon the delivery or transmission of an official log book to the Superintendent, under the provisions of this section, the Superintendent shall give to the owner or master of the ship a certificate of such delivery or transmission, and may detain any ship to which this section applies until the condition precedent to the giving of the certificate exists.

(4) If the owner or master of a ship fails, without reasonable cause, to deliver or transmit any official log book as required by this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

135.—(1) Where, by reason of transfer of ownership or change of employment of a Nigerian ship, the official log book ceases to be required in respect of the ship or to be required at the same date, the master or owner of the ship shall, if the ship is then within Nigeria, within one month, and if she is elsewhere, within six months after such cessation deliver or transmit to the Superintendent the official log book duly made out to the time of the cessation.

Official log books to be sent to Superintendent on transfer or loss of ship.

(2) If a Nigerian ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Superintendent the official log book duly made out to the time of the loss or abandonment.

(3) If the owner or master of a ship fails, without reasonable cause, to comply with any requirement of this section, he shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding twenty pounds.

CHAPTER 22

REGISTRATION AND RETURNS

136.—The Minister shall, by means of the documents transmitted to him in pursuance of this Act, and by any other means in his power, keep a register of all persons who serve in Nigerian ships.

Register of Seamen.

137.—(1) The master of every Commonwealth ship, shall, as soon as may be after the occurrence of the birth of a child or the death of a person happening on board his ship, record in his official log book or otherwise the fact of the birth or death, and such particulars as may be prescribed concerning the birth or death, or such of them as may be known to him.

Returns of births and deaths in Nigerian ships.

(2) The master of every Commonwealth ship shall, upon her arrival at a port in Nigeria, deliver or transmit to the Superintendent, in such form as may be prescribed, a return of the facts recorded by him in respect of the birth of a child or the death of a person on board such ship.

(3) The Superintendent shall send a certified copy of the returns relating to such births and deaths to the Principal Registrar of Births and Deaths who shall cause the same to be filed.

(4) If the master of any ship fails to comply with any requirement of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds.

138.—The Superintendent shall take charge of all documents which are delivered or transmitted to or retained by him under this Act, and shall keep them for such time as may be necessary for the purpose of settling any business arising at his port, or for any other proper purpose; and the Superintendent shall if required produce them for any of those purposes, and thereafter shall transmit the documents to the Minister who shall record and preserve them. The documents shall be admissible in evidence and shall, on payment of the prescribed fee or without payment if the Minister so directs, be open to inspection by any person.

Transmission of documents to Minister.

Documents
to be handed
over to
successor on
change of
master.

139.—(1) If, during the progress of a voyage of a Nigerian ship, the master is removed, superseded or for any other reason quits the ship; and, is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and, if he fails, without reasonable cause, so to do, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(2) The successor to every master shall, immediately on assuming the command of a ship, enter in the official log-book a list of the documents so delivered to him.

CHAPTER 23

MISCELLANEOUS

Minister may
dispense
with transac-
tions before
Superintend-
ent.

140.—The Minister may from time to time dispense with the transaction before the Superintendent of any matters required by this Part to be so transacted, and thereupon those matters, if otherwise transacted, shall be as valid as if they were transacted before the Superintendent.

Deposit of
documents at
overseas
port.

141.—(1) Whenever a Nigerian ship, except a ship whose business for the time being is to carry passengers, whether cabin or deck passengers, arrives at a port in a country outside Nigeria at which there is a proper officer, and remains thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver to the proper officer the agreement with the crew, and also all indentures and assignments of apprenticeships, or such of those documents as the ship is provided with.

(2) The proper officer shall keep the documents during the ship's stay in the port, and, in cases where any endorsements upon the agreement are required by this Act, shall make the same, and shall return the documents to the master within a reasonable time before his departure, with a certificate endorsed on the agreement stating the time when the documents were respectively delivered and returned.

(3) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, the proper officer shall make an endorsement to that effect on the agreement, and forthwith transmit to the Minister a copy of the endorsement, with the fullest information he can collect regarding the neglect or transgression.

(4) If the master of a ship fails, without reasonable cause, to deliver any document in pursuance of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) In any prosecution for an offence under this section, if the master fails to produce the certificate issued under subsection (2), it shall be presumed, until the contrary is proved, that he failed to deliver the document concerned, in pursuance of this section.

Conflict of
laws.

142.—Where, in any matter relating to a ship or to a person belonging to a ship, there appears to be a conflict of laws, then, if there is in this Part any provision on the subject which is hereby made to extend to that ship, the case shall be governed by that provision; but, if there is no such provision, the case shall be governed by the law of the country in which the ship is registered or to which she belongs.

143.—This Part shall apply in the case of any unregistered ship which is by Part IX required to be registered, either in Nigeria or in some other Commonwealth country, as it applies in the case of Nigerian ships.

Application to unregistered ships.

PART IV.—CONSTRUCTION, EQUIPMENT AND SURVEY

CHAPTER 24

CONSTRUCTION OF SHIPS

144.—The Minister may make rules (in this Act call “construction rules”) prescribing requirements as to the hull, equipments and machinery of any Nigerian ship or any class of coastal or inland water ship; and unless any of those classes of ships are otherwise exempt under this Act from the requirements of annual survey, they shall comply with such of the requirements as are applicable. The power to make construction rules shall include the power to make such further rules in relation thereto as appear to the Minister to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipments and machinery of passenger ships shall comply with, except so far as those provisions are implemented by the rules for life-saving appliances, the radio rules, the rules for direction finders or the collision rules.

Construction rules.

145.—(1) The following provisions shall apply with respect to every ship over twenty-five tons gross tonnage built in Nigeria—

Ships built in Nigeria.

(a) plans and specifications in duplicate shall be submitted by the builder to the Minister, and the building of the ship shall not be commenced until the Minister has approved of the plans and specifications;

(b) if a ship is built without compliance with this section, the Minister may order her to be detained either absolutely or until the performance of such conditions with respect to alterations as he thinks fit;

(c) there shall be payable for the examination of the plans and specifications of a ship under this section such fees as the Minister may from time to time direct.

(2) Every person who commits a breach of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 25

SURVEY OF SHIPS

146.—(1) There shall be appointed such number of qualified persons as surveyors of ships, as may be necessary for the purposes of this Act.

Surveyors of ships

(2) The Minister may from time to time recognize any qualified person as a Surveyor of Ships for the purposes of this Act, either generally, or for a specified purpose, or for a specified occasion.

(3) Every surveyor of ships and every radio surveyor—

(a) shall have and perform the powers, functions and duties prescribed by this Act and such other powers, functions and duties as may be necessary to carry into effect the provisions of this Act; and

(b) without prejudice to the generality of paragraph (a)—

(i) may, in the execution of his duties, at all reasonable times go on board any Nigerian ship, wherever she may be, and any other ship while she is in Nigeria, and may, without unnecessarily detaining or delaying her from proceeding on any voyage or excursion, survey or inspect the ship, or any part thereof, or any of the machinery boats and equipments, cargo and other property or articles on board the ship, and any certificates or other documents which relate to the ship, or to any officer thereof, and to which this Act applies; and

(ii) if in consequence of any accident to any such ship or for any other reason he considers it necessary to do so, may require the ship to be taken into dock for the purpose of surveying or inspecting her hull.

(4) Any person who hinders any surveyor from going on board a ship, or otherwise impedes him in the execution of his duties, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) The Minister may make rules as to the powers, functions and duties of surveyors.

Ships to be surveyed annually.

147.—(1) Except where this Act otherwise provides the owner of every Nigerian ship and of every coastal trade and inland waters ship, shall cause the ship to be surveyed in the manner provided in this Part at least once in each year, or, if the ship is during the whole of the last month of any annual period absent from Nigeria, within one month from the date on which the ship next returns to a Nigerian port.

(2) Every owner who fails to comply with the requirements of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Ships not to proceed to sea without certificate of survey.

148.—(1) Except where this Act otherwise provides, no ship to which this section applies shall ply or proceed to sea or on any voyage or excursion unless there is in force in respect of that ship a valid certificate of survey under this Part, and applicable to the voyage or excursion on which the ship is about to proceed.

(2) This section shall apply to—

(a) Nigerian ships;

(b) other Coastal trade and inland waters ships; and

(c) other passenger ships, while they are within any port in Nigeria.

(3) A ship to which this section applies attempting to ply or go to sea may be detained until such certificate as aforesaid is produced.

(4) If a ship to which this section applies plies or proceeds to sea, or on any voyage or excursion, in contravention of this section, the master and owner shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred pounds.

Mode of survey and declaration of survey.

149.—(1) Where, under this Part or under Part V, any ship is required to be surveyed, or where, for the purpose of compliance with any provision of this Act, there is required to be issued by the Minister in respect of any ship any certificate under this Part or any load line certificate or certificate under this Act, or where, for any such purpose, any load line certificate is required to be renewed, the owner of that ship shall cause the ship to be surveyed by a surveyor of ships, and, if the ship is a sea-going ship which is required to be provided

with a radio installation, the owner shall, in any case where the provisions of this Part or of any subsidiary legislation made or deemed to have been made hereunder so require, cause the ship also to be surveyed by a radio surveyor :

Provided that—

(a) where a ship is required to be surveyed to a limited extent only or only for the purpose of determining that the ship complies with any of the requirements for the issue of a particular certificate, the owner may cause the ship to be partially surveyed ; and, in any such case, the ship shall be surveyed only to the extent necessary to determine that she complies with those requirements ; and

(b) where the ship is a Nigerian ship which is surveyed on the continuous survey principle and any part of the hull, machinery or equipments of the ship is surveyed by a person outside Nigeria having qualifications and responsibilities similar to those of a surveyor of ships under this Act and approved by the Minister, the report of such an officer as to such matters as the report deals with may, at the request of the owner of the ship, be accepted by a surveyor of ships under this Act for the purpose of making a declaration of survey in the same manner as if a surveyor of ships under this Act had made the report.

(2) The surveyor, if satisfied that he can with propriety do so, shall, within seven days of making the survey, deliver to the owner or his agent a declaration of survey in a form approved by the Minister ; and the surveyor, if not so satisfied, shall, within the same period, notify the owner or his agent of his refusal to give a declaration of survey, and of the reasons therefor.

(3) Subject to the provisions of this section as to partial surveys, the declaration of a surveyor shall state—

(a) the number of passengers which the ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins ;

(b) the number of persons comprising the crew, including the master, for whom accommodation is provided in accordance with this Act ; and, if the case requires, state any conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances to which those numbers are subject ;

(c) such other matters as the Minister may direct.

(4) If, in the judgment of any surveyor, a ship is fit to ply on international voyages only while engaged in a special passenger trade, his declaration of survey shall state that fact.

(5) If, in the judgment of any surveyor, a ship is fit to ply or proceed within certain limits only, his declaration of survey shall state that fact.

(6) If, in the judgment of any surveyor, a ship is fit to ply within certain limits subject to compliance with certain conditions, the surveyor shall specify those conditions in his declaration of survey ; and, if those conditions should, in the judgment of the surveyor, be varied according to different intended uses of the ship, the surveyor shall, in his declaration of survey, specify the conditions appropriate in his judgment to each such use.

(7) If, under subsection (1), a ship is partially surveyed, the surveyor shall state in his declaration of survey the extent to which he has surveyed the ship.

(8) Subject to the provisions of subsections (1) to (7) inclusive and to the other provisions of this Act, the declaration of a surveyor shall contain such statements of particulars as, having regard to the applicable requirements of this Act, the Minister may from time to time or in a particular case direct.

(9) The owner of a ship surveyed, or his agent, shall, within seven days after the receipt by him of a declaration of survey, transmit it to the Minister or to such person as the Minister may direct.

(10) If an owner or his agent fails, without reasonable cause, so to transmit a declaration of survey, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one pound for every day during which the transmission is delayed.

Owner may
appeal if
surveyor
refuses
declaration.

150.—(1) Subject to the provisions of this section, if the owner of a ship feels aggrieved by the declaration of survey of a surveyor, or by the refusal of the surveyor to give such declaration, he may appeal in the prescribed manner to the Minister, and the Minister may convene a board of survey, or as the case may require refer the appeal to a scientific referee under this Act at the port at or nearest to the place where the ship is for the time being. The board of survey or the scientific referee as the case may be, shall make a report to the Minister and the Minister if satisfied that the requirements of the report and of the foregoing provisions of this Chapter have been complied with, may issue a certificate of survey.

(2) Where a surveyor making a survey for the purposes of a declaration of survey is required by the owner to make the survey in the presence of the owner or of some person appointed by the owner, and the surveyor and the owner or person appointed by the owner agree, no appeal shall lie under this section to the Minister.

Surveyors
to make
returns.

151.—(1) Every surveyor appointed under this Act shall from time to time make such returns to the Minister as he may require with respect to the build, dimensions, draught, position of the load lines or other markings, tonnage, rate of sailing, room for fuel and the nature and particulars of machinery and equipments of the ships surveyed by him pursuant to this Part or to Part V.

(2) Every owner, master and engineer of any such ship shall, on demand, give to any such surveyor all the information and assistance within his power required for the purpose of those returns.

(3) Any such owner, master or engineer who, on being applied to for that purpose, wilfully fails to give such information or assistance shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Recognition
of certi-
ficates of
survey
granted in
other
countries.

152.—(1) Where—

(a) a Commonwealth ship, not being a Nigerian ship or a Safety Convention passenger ship, has a certificate of survey granted by or under the authority of the Government of the Commonwealth country in which she is registered or to which she belongs; or

(b) a foreign ship, not being a Safety Convention passenger ship, has a foreign certificate of survey attested by a proper officer at a port in a foreign country, and the Minister is, by the production of that certificate, satisfied that the ship has been officially surveyed at that port; or

(c) a home trade cargo ship, not being a Nigerian ship, has a certificate of survey issued after a survey at a port in a Commonwealth country other than Nigeria, made by a surveyor exclusively employed by any corporation or association or society for the survey and registry of ships approved by the Minister for the purposes of this subsection,— and, in any such case, the Minister is satisfied that the certificate remains in force and that, as to the matters covered by the survey made for the purposes of the certificate, it appears to meet substantially the requirements of this Act, then, subject to compliance by the owner with any conditions which the Minister may specify, the Minister may direct that, for the purposes of this Act, the certificate shall be deemed to be a certificate of survey issued under this Act, and the certificate shall have effect accordingly :

Provided that the Minister may, by Order, declare that the provisions of this subsection shall not apply in the case of foreign ships whose certificates of survey comply with the requirements of paragraph (b), if it appears to the Minister that corresponding advantages are not extended to Nigerian ships at the port at which those foreign ships were surveyed.

(2) Without limiting the discretion of the Minister to require compliance with any conditions pursuant to subsection (1), those conditions may provide for all or any of the following matters—

(a) the survey annually of the hull, machinery and equipments, or any part thereof, of the ship by a surveyor of ships under this Act, and compliance with any requirements of the surveyor ;

(b) the survey annually of the hull, machinery or equipments, or any part thereof, of the ship by an officer exclusively employed by the Government of a Commonwealth country other than Nigeria and having qualifications and responsibilities similar to those of a surveyor of ships under this Act, and compliance with any requirements of such an officer ;

(c) the survey by a surveyor of ships under this Act in respect of any requirement of this Act or of any subsidiary legislation made or deemed to have been made hereunder in respect of any matter or matters which, in the judgment of the surveyor of ships, have not or may not have been surveyed in the manner that would have been required had the ship been surveyed by a surveyor of ships under this Act.

(3) Where the Minister directs that a certificate of survey to which the provisions of subsections (1) and (2) apply shall be deemed to be a certificate of survey issued under this Act except as may be required by the Minister pursuant to those subsections, the ship in respect of which that certificate was issued shall, while the certificate remains in force, be exempt from survey under section 147 :

Provided that the period of that exemption shall in no case exceed one year from the date of the survey in respect of which that certificate was granted.

(4) Where any ship, having been issued with a certificate of survey to which, if in force, subsection (1) would apply, calls at a port in Nigeria before the termination of her voyage, and the term of that certificate has expired during the course of that voyage, the Minister may,

upon the report of a surveyor that he has satisfied himself as to her seaworthiness, grant a permit for that ship to clear from Nigeria in continuation of her voyage.

(5) Where a permit under subsection (4) has been granted in respect of any ship, that ship shall, for the purpose of continuing her voyage, be exempt from section 148, and section 147 shall apply to that ship as if she had not made that call at a port in Nigeria.

CHAPTER 26

LIFESAVING APPLIANCES

Rules for
lifesaving
appliances.

153.—(1) The Minister may make rules (in this Act called "rules for lifesaving appliances") with respect to all or any of the following matters—

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

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

(c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other lifesaving appliances into the water ;

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

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

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

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

(h) the manning of the lifeboats, and the qualifications and certificates of lifeboatmen ;

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

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

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

(l) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire ;

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

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

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

(p) the examination at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.

(2) This section shall apply to—

(a) Nigerian ships ; and

(b) other ships while they are within any port in Nigeria.

(3) The rules for lifesaving appliances shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the matters mentioned in this section.

154.—The owner and the master of every ship to which section 153 applies shall see that his ship is provided, in accordance with the rules for lifesaving 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.

Ships to be provided with life-saving appliances.

155.—If—

Breach of rules.

(a) a ship is required by the rules for lifesaving appliances to be provided with such appliances, and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship ; or

(b) any of the appliances so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master ; or

(c) the master fails to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion ; or

(d) those appliances are not kept so as to be at all times fit and ready for use ; or

(e) any provision of the rules for lifesaving appliances applicable to the ship is contravened or not complied with,—

then, the owner and the master of the ship shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds.

156.—(1) A surveyor of ships may inspect any ship for the purpose of seeing that she is properly provided with lifesaving appliances in conformity with this Act, and for the purpose of that inspection shall have all the powers of an inspector under this Act.

Inspection of ships for purposes of rules.

(2) If the surveyor finds that the rules for lifesaving appliances or the provisions of section 154 have not been complied with, he shall give to the master or owner notice in writing stating in what respect there has been failure to comply and what, in his opinion, is requisite to remedy the same.

(3) Every notice so given shall be communicated in the manner directed by the Minister to the Collector of Customs at any port at which the ship may seek to obtain a clearance, and a clearance shall not be granted to the ship, which shall be detained by the Collector of Customs, until a certificate under the hand of a surveyor of ships is produced to the effect that the matter has been rectified.

CHAPTER 27

BOAT DRILL AND FIRE DRILL

Boat drill
and fire
drill.

157.—(1) The master of every Nigerian ship shall—

(a) cause his crew to be properly exercised in boat drill and fire drill at such times and in such manner as may from time to time be prescribed by the rules for lifesaving appliances;

(b) cause an entry to be made in the official log book of every occasion on which boat drill or fire drill is practised on board the ship or on which the appliances and equipment required by the rules for lifesaving appliances to be carried are examined to see whether they are fit and ready for use, and of the result of any such examination; and if—

(i) in the case of a passenger ship, boat drill or fire drill is not practised on board the ship in any week; or

(ii) in the case of any other ship, boat drill or fire drill is not practised on board the ship in any month; or

(iii) in the case of any ship, such appliances and equipment are not examined in any such period as is prescribed by those rules,—
the master shall cause a statement to be entered in the official log book of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period;

(c) permit any Superintendent or surveyor, or any Collector or other officer of customs, to be present at any drill, and to inspect any entry made in the official log book in pursuance of this section; and

(d) cause a boat drill or fire drill, or both, to be carried out in the presence of a surveyor at such times while the ship is in port as the surveyor may require.

(2) Every master who fails to comply with any of the provisions of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 28

ADJUSTMENT OF COMPASSES

Ships to
have
compasses
adjusted.

158.—(1) The compasses of every sea-going ship shall be properly adjusted to the satisfaction of a surveyor of ships whenever necessary, and, in addition, at such periodic intervals as may be prescribed by rules made or deemed to have been made under this section.

(2) The Minister may make rules providing for the licensing of properly qualified persons to be adjusters of compasses, prescribing the examination to be passed by applicants for such licences and fixing the fees to be paid for the adjustment of compasses, and providing also for the adjustment of compasses and the transmission of deviation tables, the keeping and inspection of compass error register books, the granting of appropriate certificates, the granting of exemptions for specified classes of ships and the recognition of certificates granted in other countries.

(3) If any ship goes to sea from any port in Nigeria and any requirement of this section is not complied with, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 29

RADIO RULES AND RULES FOR DIRECTION FINDERS

159.—(1) The Minister may make rules (in this Act called "radio rules") requiring ships to which this section applies to be provided with a radio installation, other than a radio navigational aid, of such a nature as may be prescribed by the rules, and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed; and the rules may contain provisions for preventing, so far as practicable, electrical interference with the radio installation by other apparatus on board.

Radio rules.

(2) This section shall apply to—

(a) sea-going Nigerian ships;

(b) other sea-going ships while they are within any port in Nigeria.

(3) The radio rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony.

(4) The radio installation required under the radio rules to be provided for a passenger ship, or for any other ship of sixteen hundred tons gross tonnage or upwards, shall be a radiotelegraph installation; and that required to be provided for a ship of less than sixteen hundred tons gross tonnage, other than a passenger ship, shall be either a radiotelephone installation or a radiotelegraph installation, at the option of the owner.

(5) Without prejudice to the generality of subsections (1) to (4) inclusive, the radio rules may—

(a) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;

(b) apply any of the provisions of sections 134, 135 and 138 to any radio log-book required to be kept under the rules; and

(c) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operation of the radio installation and the maintenance of the radio service, as may be specified in the rules.

(6) If the master of a ship contravenes any rules made in pursuance of paragraph (c) of subsection (5) or if any radio officer or operator contravenes any rules made in pursuance of paragraph (a) thereof, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds; and, if the radio rules are contravened in any other respect in relation to any ship, the owner, if in fault, and the master, if in fault, shall be guilty of an offence, and any owner or master who is so guilty on conviction shall be liable to a fine not exceeding five hundred pounds.

(7) A radio surveyor may inspect any ship for the purpose of seeing that she is properly provided with a radio installation and radio officers or operators in conformity with the radio rules, and for that purpose shall have all the powers of an inspector under this Act; and, if he finds that the ship is not provided with a radio installation or radio officers or operators in conformity with the radio rules, he shall give to the owner or master notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the deficiency.

(8) Every notice given under subsection (7) shall be communicated in the manner directed by the Minister to the Collector of Customs at any port at which the ship may seek to obtain a clearance, and the ship shall be detained by the Collector of Customs until a certificate under the hand of a radio surveyor is produced to the effect that the ship is properly provided with a radio installation and radio officers or operators in conformity with the radio rules.

Rules for
direction
finders.

160.—(1) The Minister may make rules (in this Act called "rules for direction finders") requiring ships to which this section applies, to be provided with a direction finder of such a nature as may be prescribed by the rules.

(2) This section shall apply to—

(a) Nigerian ships; and

(b) other ships while they are within any port in Nigeria, being ships of sixteen hundred tons gross tonnage or upwards.

(3) The rules for direction finders shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to direction finders.

(4) Without prejudice to the generality of subsections (1) to (3) inclusive, the rules for direction finders may provide for the position of the direction finder in the ship, for the communication between the direction finder and the bridge, for testing the direction finder at intervals as occasion may require and for recording the result of the tests.

(5) If any of those rules is not complied with in relation to any ship, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Further
provisions
as to radio
navigational
aids.

161.—(1) The Minister may make rules prescribing—

(a) the requirements that radio navigational aids, other than direction finders, shall comply with if they are carried on board Nigerian ships, including requirements relating to their position and method of fitting; and

(b) the requirements that apparatus designed for the purpose of transmitting or reflecting signals to or from radio navigational aids shall comply with, being apparatus in Nigeria, or off the shores of Nigeria and maintained from Nigeria.

(2) If any Nigerian ship proceeds, or attempts to proceed, to sea carrying radio navigational aids not complying with the rules made or deemed to have been made pursuant to subsection (1), the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) If any person establishes or operates any such apparatus as is mentioned in paragraph (b) of subsection (1), being apparatus that does not comply with the rules made or deemed to have been made pursuant to that subsection, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 30 RADIO SURVEYORS

162.—Subject to the provisions of any rules made or deemed to have been made pursuant to section 146, there shall be appointed such number of qualified persons to be radio surveyors, as may be necessary, and the Minister may recognize any qualified person as a radio surveyor either generally or for a specified purpose or for a specified occasion.

Appointment
of radio
surveyors.

CHAPTER 31 CERTIFICATES

163.—(1) On the receipt of a declaration of survey, the Minister shall, if satisfied that this Part has been complied with, issue in duplicate a certificate of survey stating such compliance, and stating, according to the declaration—

Issue of
certificates
of survey.

(a) the limits, if any, beyond which the ship is not fit to ply or proceed ;

(b) the number of persons, including the master, comprising the crew of the ship for whom accommodation is provided ;

(c) the number of passengers, if any, that the ship is fit to carry, distinguishing, if necessary, the number to be carried in each part of the ship, and any conditions and variations to which the number is subject ; and

(d) such other particulars as may be prescribed.

(2) Every certificate of survey issued under this section shall bear as its date of issue a day not later than fourteen days after the day on which the Minister receives the declaration of survey relating to the ship in respect of which the certificate is issued.

164.—(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian passenger ship, is satisfied that the ship complies with the construction rules, rules for lifesaving appliances, radio rules and rules for direction finders applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog signals required by the collision rules, he shall, on the application of the owner, issue in respect of the ship a certificate, in this Act referred to as a "general safety certificate", showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid :

Issue for
passenger
ships of
safety
certificates
and
exemption
certificates.

Provided that, if the voyages on which the ship is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate in this Act referred to as a "short voyage safety certificate", shall show that the ship complied with the requirements of the Safety Convention applicable to her as a ship plying on short international voyages.

(2) If the Minister, on receipt of a declaration of survey in respect of any such passenger ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or by the rules in question, from any of the requirements of the construction rules, rules for lifesaving appliances, radio rules or rules for direction finders applicable to the ship and to such international voyages as she is to be engaged on, whether short voyages or otherwise, that she complies with the rest of those requirements, and that she is properly provided with the lights, shapes and means of making fog signals required by the collision rules, 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 from which the ship is exempt, and that the exemption is conditional on the ship's plying only on the voyages and being engaged only in the trades 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.

(3) Any certificate issued under paragraph (b) of subsection (2) is in this Act referred to as a "qualified safety certificate" or a "qualified short voyage safety certificate", as the case may be.

Issue for
cargo ships
of safety
equipment
certificates
and
exemption
certificates.

165.—(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship complies with the rules for lifesaving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog signals required by the collision rules, 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. Any certificate issued under this subsection is in this Act referred to as a "safety equipment certificate".

(2) If the Minister, on receipt of a declaration 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 this Act or by the rules for lifesaving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights, shapes and means of making fog signals required by the collision rules, 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 the rules for lifesaving 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 the other conditions, if any, specified in the certificate; and

(b) a certificate showing that the ship complies with the rest of those requirements.

(3) Any certificate issued under paragraph (b) of subsection (2) is in this Act referred to as a "qualified safety equipment certificate".

166.—(1) If the Minister, on receipt of a declaration of survey in respect of a Nigerian cargo ship, is satisfied that the ship complies with the radio rules and rules for direction finders applicable to the ship and to such international voyages as she is to be engaged on, 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 radiotelegraphy, radiotelephony and direction finders as are applicable as aforesaid. Any certificate issued under this subsection is in this Act referred to as a "radio certificate".

Issue for cargo ships of radio certificates and exemption certificates.

(2) If the Minister, on receipt of a declaration 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 this Act or by the rules in question, from any of the requirements of the radio rules or rules for direction finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of the requirements of the radio rules and rules for 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 radiotelegraphy, radiotelephony 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 voyages 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.

(3) Any certificate issued under paragraph (b) of subsection (2) is in this Act referred to as a "qualified radio certificate".

(4) Where any Nigerian ship is wholly exempt from the requirements of the radio rules and the rules for direction finders, the Minister shall, on the application of the owner, issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction finders, and specifying the voyages on which, and conditions, if any, on which, the ship is so exempt. Any certificate issued under this subsection is in this Act referred to as a "radio exemption certificate".

167.—Where a ship complies with all the requirements of the construction rules, rules for lifesaving appliances, radio rules or rules for direction finders applicable to the ship and to the voyages on which she is to be engaged so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Minister may issue in respect of the ship a general safety certificate, short voyage safety certificate, safety equipment certificate or radio certificate, as the case may be, notwithstanding that she is exempt from, or for some other reason does not comply with, any requirements of those rules that are not applicable requirements of the Safety Convention.

Issue of general safety certificates, etc., on partial compliance with rules.

168.—(1) The Minister shall cause every certificate issued under this Part to be transmitted to the Superintendent or a Surveyor of Ships at the port mentioned by the owner for the purpose, or at the port where the owner or agent of the ship resides, or where the ship has been surveyed or is at the time lying.

Transmission of certificates.

(2) The Minister shall cause notice of the transmission to be given to the owner, agent or master of the ship and the officer to whom the certificate has been transmitted shall, on the owner, agent or master applying and paying the proper fee and other sums, if any, mentioned in this Act as payable in that behalf, deliver the certificate to him.

(3) In proving the issue of a certificate, it shall be sufficient to show that it was duly received by the above-mentioned officer, and that due notice of the transmission was given to the owner, agent or master of the ship.

(4) In any case where there is not time for a certificate of survey to be delivered to the owner, agent or master as aforesaid before the ship sails from the port of survey, the surveyor may, on the direction of the Minister, grant an interim certificate in such form as may be approved by the Minister.

(5) Every such interim certificate shall have effect as if it were a certificate of survey issued under the provisions of this Part, and shall be in force for the period specified therein not exceeding two months from the date thereof.

Modification
of provisions
for
exemption
of certain
ships.

169.—The provisions of subsection (1) of section 4 and any Order made or deemed to have been made thereunder shall not apply to Safety Convention ships plying on international voyages in respect of the exemption of those ships from any of the provisions of this Part except section 158.

Notice of
alterations
and
additional
surveys.

170.—(1) The owner or master of a ship in respect of which any certificate issued under this Part is in force shall, as soon as possible after any alteration is made in the ship's name, ownership, hull, equipment or machinery affecting the efficiency thereof or the seaworthiness of the ship, or the terms of the certificate give written notice to the Minister containing full particulars of the alteration.

(2) If notice of any alteration is not given as required by subsection (1), the owner, if in fault, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) The Minister may exercise the powers conferred by subsection (4) in any case where he has reason to believe that—

(a) any certificate issued in respect of any ship under this Part was obtained fraudulently or on wrong information; or

(b) since the making of the last declaration of survey, any such alteration as is mentioned in subsection (1) has been made to any ship; or

(c) since the making of the last declaration of survey, the hull, equipment or machinery of any ship have sustained any injury or are otherwise insufficient.

(4) In any such case, the Minister may—

(a) forthwith cancel any certificate issued in respect of that ship under this Part; or

(b) require the owner to have the hull, equipment and machinery of that ship again surveyed to such extent as the Minister thinks fit; and, if that requirement is not complied with, may cancel any certificate issued in respect of that ship under this Part.

(5) Whenever the Minister cancels any such certificate, he shall notify the owner, agent or master of the ship of that cancellation and of the reasons therefor.

(6) In any such case, the Minister, if satisfied that the ship complies with the requirements of this Part as to survey, and that the justice of the case so requires, may re-issue any certificate cancelled, or may issue a new certificate in its place, without requiring that the ship be resurveyed or that a further declaration of survey be transmitted.

(7) For the purpose of this section, "alteration", in relation to anything, includes the renewal of any part of it.

171.—(1) The owner or master of every ship shall, forthwith on the receipt by him or his agent of a certificate under this Part, cause it to be put up in some conspicuous place on board the ship, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force and the ship is in use; and in default the owner, or the master as the case may be, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Certificate
to be
posted on
board.

(2) If a ship plies or goes to sea, or on any voyage or excursion, with or without passengers on board, and this section is not complied with, the owner and the master shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

172.—(1) No Nigerian ship shall proceed to sea on an international voyage from a port in Nigeria unless there is in force in respect of the ship—

Prohibition
on proceed-
ing to sea
without
appropriate
certificates.

(a) if she is a passenger ship, a safety certificate which, subject to the provisions of this section relating to short voyage safety certificates, is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged; or

(b) if she is a cargo ship, both—

(i) a safety equipment certificate or a qualified safety equipment certificate; and

(ii) a radio certificate, a qualified radio certificate or a radio exemption certificate:

Provided that this subsection shall not prohibit a cargo 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 she 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) If any ship proceeds, or attempts to proceed, to sea in contravention of this section—

(a) in the case of a passenger ship, the owner, and the master, shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds, and to a further fine not exceeding ten pounds for every passenger carried on board the ship; and

(b) in the case of a cargo ship, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) The master of every Nigerian ship shall produce to the Collector of Customs from whom a clearance for the ship is demanded for an international voyage the certificate or certificates required by subsections (1), (2) and (3) to be in force when the ship proceeds to sea; and a clearance shall not be granted, and the ship may be detained, until the certificate or certificates are so produced.

(5) Where the Minister permits any passenger ship in respect of which there is in force a short voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from a port in Nigeria not exceeding twelve hundred nautical miles in length between the last port of call in Nigeria 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 ship is about to proceed, notwithstanding that the voyage exceeds six hundred nautical miles between those ports.

(6) Where an exemption certificate, including a radio exemption certificate, issued under this Part in respect of any Nigerian ship specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Modification
of Safety
Convention
certificates
in respect
of life-
saving
appliances.

173.—(1) If, on any international voyage, a Nigerian passenger ship in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the lifesaving appliances on the ship provide, the Minister may, at the request of the master of the ship, issue a memorandum stating the total number of persons carried on the ship on that voyage, and the consequent modification which may be made for the purpose of that voyage in the particulars with respect to lifesaving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

(2) The master of the ship in respect of which any such memorandum has been issued shall return the memorandum to the Minister at the end of the voyage to which it relates, and, if it is not so returned, the master shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Duration of
certificates.

174.—(1) A certificate of survey, a safety certificate, a radio certificate or a radio exemption certificate shall be in force for one year, and a safety equipment certificate shall be in force for two years, from the date of its issue or for such shorter period as may be specified in the certificate:

Provided that no such certificate shall remain in force after notice is given by the Minister to the owner, agent or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(2) An exemption certificate, other than a radio exemption certificate, shall be in force for the same period as the corresponding qualified certificate.

Expired
and
cancelled
certificates to
be given up.

175.—(1) A certificate issued under this Part that has expired or has been cancelled shall be delivered by the owner, agent or master of the ship to the Minister or a person nominated by him.

(2) Where, under this Act, two or more certificates are combined in one document, and one of those certificates has expired or been cancelled and the other certificate or certificates remain in force, the document shall be delivered by the owner, agent or master of the ship to the Minister or his nominee for the purpose of endorsement; and any document so delivered shall, when endorsed, be returned to the master, owner or agent in the manner provided for the transmission of certificates by section 168.

(3) If any master or owner or his agent fails, without reasonable cause, to comply with the provisions of this section he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) If any certificate or document required to be so delivered is not delivered, the Minister may cause the ship to be detained until the certificate is delivered.

176.—(1) The Minister may, in his discretion, if he is satisfied that the condition of the hull, machinery and equipment of the ship is such as to justify him in doing so, grant an extension of any certificate issued under this Part—

Extension
of
certificates.

(a) in the case of any certificate of survey issued under section 163; and

(b) in the case of a Safety Convention certificate issued in respect of a Nigerian ship,

for a period not exceeding one month from the date when the certificate would, but for the extension, expire.

(2) If any Nigerian ship in respect of which any safety certificate, or any safety equipment certificate or radio certificate, whether qualified or not, or any radio exemption certificate has been issued under this Part is absent from Nigeria on the date when that certificate is due to expire, the Minister or any person authorized by him in that behalf may grant an extension of that certificate for a period not exceeding five months from that date.

(3) Any extension of a certificate under the provisions of this section may be granted, notwithstanding that the certificate has expired, so long as application for the extension is received before the date the certificate would expire. On any such extension being granted, the certificate shall be deemed always to have been in force; but nothing in this subsection shall be deemed to authorise the granting of any extension beyond the period specified in subsections (1) and (2).

177.—(1) Every Safety Convention certificate shall be in such form as may be approved by the Minister, and the construction rules, the rules for lifesaving appliances, the radio rules and the rules for direction finders, shall make such provision with respect to Safety Convention certificates as appears to the Minister to be necessary, having regard to Rule 14 of Chapter 1 of the Rules annexed to the Safety Convention.

Safety
Convention
certificates
and
admissibility
in
evidence.

(2) Any safety certificate, or any radio certificate, whether qualified or not, or any radio exemption certificate, issued under this Part in respect of any ship may be combined in one document with any certificate of survey issued under this Part in respect of that ship.

(3) Any certificate issued by the Minister under this Part, and any document in which two or more such certificates are under the provisions of subsections (1) and (2) combined, may be signed on behalf of the Minister by any person authorized by him for the purpose; and any such certificate or document purporting to be so signed shall be admissible in evidence.

Issue of certificates by one Government at request of another.

178.—(1) The Minister may request the Government of a country to which the Safety Convention applies to issue in respect of a Nigerian ship any Safety Convention certificate the issue of which is authorized under this Part; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister and not by the Government of that country.

(2) The Minister may, at the request of the Government of a country to which the Safety Convention applies, issue in respect of a ship registered in or belonging to that country any Safety Convention certificate, the issue of which in respect of Nigerian ships is authorized under the preceding provisions of this Part, if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request, and containing a statement that it has been so issued, shall have effect for the purposes of this Act as if it had been issued by that Government and not by the Minister.

Forgery of certificates.

179.—Every person who—

(a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey or certificate under this Part; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered, any such declaration or certificate, or anything contained in or any signature to any such declaration or certificate,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or to both.

CHAPTER 32

SAFETY CONVENTION SHIPS OF OTHER COUNTRIES

Certificates of Convention ships of other countries.

180.—(1) The Minister may by Order provide that certificates issued in accordance with the Safety Convention by the Government of any country other than Nigeria in respect of Safety Convention ships, not being Nigerian ships, or having effect under subsection (2) of section 178 as if so issued, shall be accepted as having the same force as corresponding certificates issued by the Minister under this Act. Any certificate required by such an Order to be so treated is in this Act referred to as an "accepted Safety Convention certificate".

(2) A surveyor for the purpose of verifying—

(a) that there is in force in respect of a Safety Convention ship, not being a Nigerian ship, an accepted Safety Convention certificate; or

(b) that the condition of the hull, equipment and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate; or

(c) except where such a certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or

(d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with, shall have all the powers of an inspector under this Act.

(3) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger ship, not being a Nigerian ship, a memorandum which—

(a) has been issued by or under the authority of the Government of the country in which the ship is registered or to which she belongs; and

(b) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to lifesaving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

181.—(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship, not being a Nigerian ship—

(a) the ship shall not be required to be surveyed under this Act by a surveyor except for the purpose of determining the number of passengers, if any, that she is fit to carry; and

(b) on receipt of any declaration of survey for the purpose aforesaid, the Minister shall issue a certificate under section 163 containing only a statement of the particulars set out in paragraph (c) of subsection (1) of that section; and a certificate so issued shall have effect as a certificate of survey.

(2) Where there is produced in respect of any such ship as aforesaid an accepted Safety Convention certificate, and also a certificate issued by or under the authority of the Government of the country in which the ship is registered or to which she belongs showing the number of passengers that the ship is fit to carry, and the Minister is satisfied that that number has been determined substantially in the same manner as in the case of a Nigerian ship, he may, if he thinks fit, dispense with any survey of the ship for the purpose of determining the number of passengers that she is fit to carry, and direct that the last mentioned certificate shall have effect as a certificate of survey.

182.—Where a Safety Convention cargo ship, not being a Nigerian ship, is surveyed in Nigeria in the manner prescribed in this Part, and there has been produced in respect of that ship an accepted Safety Convention certificate by virtue of the production of which that ship is, under section 183, exempted from the rules for lifesaving appliances, or, as the case may be, from the radio rules and rules for direction finders, the surveyor shall state in his declaration of survey that that ship is so exempted and the reasons therefor; and, if the Minister upon receipt of a declaration of survey, issues a certificate of survey in respect of any such ship, he shall state in that certificate the rules from which that ship is so exempted and the reasons therefor.

Modified
survey of
passenger
ships
holding
Convention
certificates.

Modified
survey of
cargo ships
holding
Convention
certificates.

Miscellaneous privileges of ships holding Convention certificates.

183.—Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not being a Nigerian ship, and the certificate shows,—

(a) that the ship is properly provided with the lights, shapes and means of making signals required by the collision rules ; or

(b) that the ship complies with the requirements of the Safety Convention as to lifesaving and fire extinguishing appliances or if exempt from some of those requirements the ship complies with the rest ; or

(c) that the ship complies with or is exempt from the requirements of the Safety Convention relation to radiotelegraphy, radiotelephony and direction finders, or if exempt from some only of those requirements the ship complies with the rest,—

the ship shall, to the extent to which the certificate is applicable, be exempt from inspection for the purposes of enforcing the collision rules or from the provisions of the rules for lifesaving appliances or of the radio rules and rules for direction finders as the case may be.

Further provisions as to the production of Convention certificates.

184.—(1) The master of every Safety Convention ship, not being a Nigerian ship, shall produce to the Collector of Customs from whom a clearance for the ship is demanded in respect of an international voyage from a port in Nigeria accepted Safety Convention certificates that are the equivalent of the Safety Convention certificates issued by the Minister under this Part that would be required to be in force in respect of the ship if she were a Nigerian ship ; and a clearance shall not be granted, and the ship may be detained until those certificates are so produced.

(2) The production of an accepted Safety Convention certificate being the equivalent of—

(a) a qualified certificate ; or

(b) an exemption certificate, other than a radio exemption certificate—

shall not avail for the purposes of either sections 182 or 183 unless there is also produced the corresponding exemption certificate or qualified certificate, as the case may be.

CHAPTER 33

MISCELLANEOUS PROVISIONS FOR FURTHERING SAFETY OF LIFE AT SEA

Information about ship's stability.

185.—(1) There shall be carried on board every sea-going Nigerian ship whose keel is laid after the coming into force of this Chapter such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) That information shall be in such a form as may be approved by the Minister, who may approve the provision of the information in the form of a diagram or drawing only, and shall be based on the determination of the ship's stability by means of an inclining test of the ship.

(3) When any information under this section is provided for any ship, the owner shall send a copy thereof to the Minister:

Provided that the owner shall not be required to send a copy of any information to the Minister if a previous copy of the same information has been sent to the Minister.

(4) If any such ship proceeds, or attempts to proceed, to sea without such information as aforesaid on board, the owner, and the master, shall be guilty of an offence and if the owner of any ship contravenes subsection (3), he shall be guilty of an offence; and any owner or master who is so guilty shall on conviction be liable to a fine not exceeding one hundred pounds.

(5) For the avoidance of doubt, it is hereby declared that the information under this section shall be deemed to be a document relating to the navigation of the ship to be handed over to a successor on change of master.

186.—(1) The Minister may make rules in relation to Nigerian ships for all or any of the following matters—

(a) for closing and keeping closed the openings in ships' hulls and in watertight bulkheads;

(b) for securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid;

(c) for operating the mechanisms of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof;

(d) for requiring entry to be made in the official log book or other record to be kept of any of the matters aforesaid.

(2) If any of the rules made or deemed to have been made under subsection (1) is not complied with in relation to any such ship as aforesaid, the master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

187.—(1) Where—

(a) a passenger ship registered in Nigeria has been marked with subdivision load lines (that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which she is subdivided and to the space for the time being allotted to passengers); and

(b) the appropriate subdivision load line (that is to say, the subdivision load line appropriate to the space for the time being allotted to passengers on the ship) is lower than the load line indicating the maximum depth to which the ship is for the time being entitled under Part V to be loaded,—

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

(2) If any such ship is loaded in contravention of this section, the owner, and the master, shall be guilty of an offence; and on conviction shall be liable to a fine not exceeding one hundred pounds and to

Watertight bulkheads and openings in hull,

Submersion of subdivision load lines.

such additional fine, not exceeding the amount specified in subsection (3), as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(3) The above-mentioned additional fine shall not exceed one hundred pounds for every inch or fraction of an inch by which the appropriate subdivision load line on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had had no list.

(4) Without prejudice to any proceedings under the provisions of subsections (1), (2) and (3), any such ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

(5) The provisions of subsections (1) to (4) inclusive shall apply to passenger ships, not being Nigerian ships, while they are within any port in Nigeria, as they apply to Nigerian passenger ships.

Signalling
lamps.

188.—(1) Every Nigerian ship of over one hundred and fifty tons gross tonnage, when engaged on an international voyage, shall have on board an efficient daylight signalling lamp.

(2) If subsection (1) is not complied with in the case of any ship the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Method of
giving helm
orders.

189.—(1) No person in any Nigerian ship shall, when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right", or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Carrying
passengers
in excess
of specified
numbers.

190.—(1) Subject to the provisions of subsection (2), the master or owner of any ship to which this section applies shall not receive or permit to be on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the ship's certificate of survey, whether or not that certificate is a certificate issued under this Part.

(2) Notwithstanding anything in subsection (1) or in any rules made or deemed to have been made under Chapter 52 where, for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives, more persons have been carried on board a ship than are permitted under this Act apart from this section, the carriage of that excess of persons shall not be an offence under this Act if the permission of the Minister to carry that excess of persons has been obtained, or if it is shown that, having regard to the circumstances of the case, there was no reasonable opportunity to obtain the permission of the Minister.

(3) Every owner or master who receives or permits to be on board or carries passengers in contravention of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one

hundred pounds and to a further fine not exceeding double the amount of the fares of all the passengers so received or permitted to be on board or carried, reckoned at the highest rate of fare payable by any passenger on board.

(4) If a ship carrying passengers 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 ship's certificate of survey, the owner or master shall, for the purposes of this section, be deemed to have received those passengers on board at that place.

(5) This section shall apply to Nigerian ships, whether in Nigeria or elsewhere, and to other ships while in Nigeria.

191.—(1) Unless otherwise exempted under this Chapter,—

Accommodation and shelter for passengers.

(a) the owner or master of any ship to which this section applies shall not, except on daylight excursions or with the written permission of the Minister, carry any passenger, other than a deck passenger, who is not provided with a berth; and

(b) any passenger other than a deck passenger, on any such ship who is not provided with a berth, except on daylight excursions or with the written permission of the Minister may, within one month, sue and recover from the owner or charterer of the ship the full amount of the passage money paid by him.

(2) Subsection (1) shall not apply in any case where the ship's certificate of survey allows the ship to carry on any voyage or excursion, (other than a daylight excursion) that does not in the ordinary course exceed five hours a greater number of passengers than the number accommodated in fixed berths; and for the purposes of subsection (1) and of this subsection "daylight excursion" means any voyage or excursion which is commenced not earlier than one hour before sunrise and is completed or is scheduled to be completed, not later than one hour after sunset on the same day as that on which it commenced.

(3) Every owner or master, who receives or permits to be on board or carries passengers in contravention of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, and to a further fine not exceeding double the amount of the fares of all the passengers so received or permitted to be on board or carried, reckoned at the highest rate of fares payable by any passenger on board.

(4) Every ship to which this section applies, shall be provided with such shelter for the protection of deck passengers, if any, as the Minister requires, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship and the circumstances of the case. Where there is failure to comply with the requirements of this subsection, the owner and the master shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) This section shall apply to Nigerian ships, whether in Nigeria or elsewhere, and to other coastal trade and inland waters ships.

Provisions
as to
safety valve.

192.—(1) Every steamship shall be provided with a safety valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of, and pressure on, the ordinary valve; and each valve shall be provided with proper lifting gear.

(2) No person shall increase the weight on the safety valve of any ship beyond the limits fixed by the surveyor, and if he does so he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) If any ship plies or goes to sea, or on any voyage or excursion, from a port in Nigeria without being equipped as required by this section, then for each matter in which default is made the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 34

MISCELLANEOUS PROVISIONS

Safety rules
for
miscella-
neous
vessels.

193.—(1) The Minister may make rules for ensuring the safety of vessels in Nigeria, not being Safety Convention ships, in respect of which the Minister is satisfied that other adequate provision does not exist.

(2) Different rules may be made pursuant to this section in respect of different classes of vessels, or in respect of the same class of vessels in different circumstances.

(3) Without prejudice to the generality of the provisions of subsections (1) and (2), rules made pursuant to this section may—

(a) prescribe the requirements that the hull, equipments and machinery of any such vessels shall comply with;

(b) provide for the inspection and licensing of any such vessels;

(c) prohibit or prevent the overloading or overcrowding with passengers of any vessels to which rules made or deemed to have been made under this Act and for such purpose do not apply;

(d) require any such vessels to which the rules for lifesaving appliances do not apply to have on board such equipments as may be prescribed; and

(e) prescribe the requirements for the manning and working of any such vessels to which subsection (1) of section 10 does not apply.

Exemption
of certain
ships from
certain
provisions
of this
Part.

194.—(1) Nothing in this Part—

(a) prohibiting or preventing a ship from proceeding to sea unless there are in force in respect of the ship, or are produced, the appropriate Safety Convention certificates issued under this Part or the appropriate accepted Safety Convention certificates; or

(b) conferring powers on a surveyor for the purpose of verifying the existence, validity or correctness of any Safety Convention certificate, or that the conditions on which any such certificate was issued are complied with; or

(c) requiring information about a ship's stability to be carried on board; or

(d) imposing a penalty for the contravention of any rules relating to openings in ships' hulls and watertight bulkheads,—

shall, unless, in the case of information about a ship's stability, the Minister otherwise orders, apply to any troopship, pleasure yacht or fishing boat, or to any ship of less than one hundred tons gross tonnage other than a passenger ship, or to any ship not propelled by mechanical means.

(2) Notwithstanding that any provision of this Part is expressed to apply to ships not registered in Nigeria while they are within any port in Nigeria, that provision shall not apply to a ship that would not be within any such port but for stress of weather or any other circumstance that neither the master, nor the owner, nor the charterer, if any, of the ship could have prevented or forestalled.

195.—(1) The provisions of this Act as to annual survey of ships shall not apply to any ship within this section, unless affected by safety rules for vessels in Nigeria made or deemed to be made under this Chapter, or the Minister otherwise directs in respect of a particular ship within this section; and nothing in this Part prohibiting a ship from plying or proceeding to sea or on any voyage or excursion without a current certificate of survey in respect of that ship, shall apply to any ship within this section. If the owner fails to comply with any direction of the Minister under this subsection, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Survey of small fishing boats, and other craft.

(2) Any of the following shall be ships within this section, that is to say,—

- (a) fishing boats not exceeding fifteen tons;
- (b) pleasure yachts not exceeding fifty tons; and
- (c) ships not exceeding sixteen feet in overall length, not being ships propelled by mechanical power which are ferries and carry passengers for hire or reward.

(3) Nothing in this Part prohibiting a ship from plying or proceeding to sea or on any voyage or excursion unless there is in force in respect of that ship or is produced a certificate of survey issued under Chapter 31 of this Act, shall apply to any ship within this section.

196.—(1) For the purposes of this section and the provisions of this Act as to survey, any fishing boat shall, except as provided in subsections (2) and (3)—

(a) be deemed a passenger ship on any occasion when the fishing boat carries more than four passengers or carries any passenger for hire or reward; and

(b) be deemed a cargo ship on any occasion when the fishing boat carries any cargo other than the fish caught by the crew of the fishing boat.

Fishing boats in certain circumstances deemed to be passenger or cargo ships.

(2) No fishing boat shall be deemed to be a passenger ship by reason only of the carriage of any person rescued from the sea, or any registered medical practitioner or registered nurse travelling in the course of their professions, or any person necessarily travelling to obtain urgent medical attention, or any police officer or officer of the Ministry travelling on official duties.

(3) The Minister may, from time to time and subject to such conditions as he thinks fit, issue a permit to the owner or master of any fishing boat to carry more than four passengers or to carry any passenger or cargo for hire :

Provided that no such permit shall continue in force for more than twelve months from the date thereof, and any such permit may at any time be cancelled by notice in writing from any surveyor of ships to the owner of the fishing boat.

(4) Except as provided in subsections (2) and (3), nothing in this section shall operate to make lawful the carriage of passengers in any fishing boat in any circumstances where, but for the provisions of this section, such carriage of passengers would be unlawful.

(5) Where any fishing boat is used for the carriage of passengers or cargo contrary to the provisions of this section, the owner and the master of the boat shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Water and provisions for passengers.

197.—The master of every coastal trade and inland waters ship shall issue to every passenger a sufficient quantity of water and wholesome provisions, unless the passenger has agreed to provide himself with such water or provisions ; and if, in the case of any such ship, there is failure to comply with this section, the owner or charterer, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Pilot ladders.

198.—(1) Every Nigerian ship engaged on a voyage in which a pilot is likely to be embarked shall carry a pilot ladder, which shall comply with the rules for lifesaving appliances made pursuant to this Part.

(2) If subsection (1) is not complied with in the case of any ship, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Countries to which Safety Convention applies.

199. Where the Minister is satisfied—

(a) that the Government of any country has accepted, or denounced, the Safety Convention ; or

(b) that the Safety Convention extends, or has ceased to extend, to any territory,—

he may, by Order, make a declaration to that effect.

PART V.—LOAD LINES AND LOADING

CHAPTER 35

DRAUGHT OF WATER, AND LOAD LINE

Ship's draught and freeboard to be recorded and particulars entered in log.

200.—(1) The Minister may, in any case or class of cases in which he thinks it expedient to do so, direct any person appointed by him for the purpose to record, in such manner and with such particulars as he directs, the draught of water of any sea-going ship or any ship that plies or proceeds in tidal water, as shown on the scale of feet on her stem and stern post, and the extent of her freeboard in feet and inches, before proceeding to sea or in any voyage or excursion ; and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Minister.

(2) Any such record or copy shall be admissible in evidence.

(3) The master of every sea-going Commonwealth ship, not being a load line ship, shall, before proceeding to sea, record her draught of water and the extent of her freeboard in the official log-book, and shall produce the record to the Superintendent or any Collector of Customs whenever required by him; and, if he fails without reasonable cause to produce the record he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) The master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record; and, if any master fails to do so, or impedes, or suffers any one under his control to impede, any person so appointed in the execution of his duty, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

201.—The Minister may make rules—

(a) prescribing the maximum depths to which ships are entitled to be loaded in various circumstances, and the requirements for the marking of such ships; and

(b) prescribing the fittings, appliances and equipments with which ships shall be provided, and the requirements that the hull, superstructures and equipments of ships shall comply with,—

for the purpose of ensuring their seaworthiness and safety; and the rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Load Line Convention.

Load line
rules.

202.—(1) The Minister may make rules providing that coastal trade and inland waters ships of less than one hundred and fifty tons gross tonnage, or any class or description of such ships, shall not be load line ships.

(2) Different rules may be made pursuant to subsection (1) in respect of different classes of ships or in respect of the same class of ships in different circumstances, and any such rules may apply in respect of any class of ships either unconditionally or subject to such conditions as the rules may prescribe.

(3) The Minister may, either unconditionally or subject to such conditions as he thinks fit to impose, issue a certificate in respect of—

(a) any ship plying on international voyages between near neighbouring ports of two or more countries, if the Minister and the Governments of those countries in which the ports are situated are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load line ships;

(b) any ship plying on any other voyage between near neighbouring ports, if the Minister is satisfied as aforesaid; and

(c) any coastal trade or inland waters ship of less than one hundred and fifty tons gross tonnage,

certifying that that ship is not a load line ship.

Exemption
from load
line rules
and issue of
exemption
certificates.

(4) Any certificate issued under subsection (3)—

(a) shall be in a form approved by the Minister ;

(b) shall state the voyages to which it applies and the conditions, if any, subject to which it is applicable ;

(c) may be signed on behalf of the Minister by any person authorized by the Minister for that purpose ; and a certificate purporting to be so signed shall be admissible in evidence ;

(d) shall be transmitted by the Minister in the manner provided in section 168 in the case of a certificate issued under Part IV ; and the provisions of that section shall, with the necessary modifications, apply with respect to that certificate as if it were a certificate issued under Part IV ;

(e) may at any time be cancelled by the Minister, and, unless so cancelled, shall remain in force as long as the ship in respect of which the certificate is issued complies with the requirements for the issue of such a certificate and with the conditions, if any, stated in the certificate, and no longer ; and

(f) shall, upon its expiration or cancellation, and upon demand being made by the Minister, be delivered by the owner, agent or master of the ship to the Minister or a person nominated by him.

(5) The owner and the master of every ship to which rules made or deemed to have been made pursuant to subsection (1) apply, or in respect of which a certificate under subsection (3) has been issued, shall observe and perform the conditions, if any, prescribed by those rules or, as the case may be, stated in that certificate.

(6) If, in respect of any ship, there is failure to comply with subsection (5), the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or to both.

(7) If any owner, agent or master fails to comply with subsection (4), he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Marking of
deck line
and load
lines.

203.—(1) No Nigerian load line ship, being a ship constructed after the coming into force of this Chapter, shall proceed to sea unless—

(a) the ship has been surveyed in accordance with the load line rules and, subject to the provisions of those rules, in the manner provided in Part IV ;

(b) the ship complies with the conditions of assignment ;

(c) the ship is marked on each side with a deck line and load lines ;

(d) the deck line and load lines are of the description required by the load line rules, the deck line is in the position required by those rules and the load lines are of the number required by such of those rules as are applicable to the ship ; and

(e) the load lines are in the position required by such of the load line rules as are applicable to the ship.

(2) No Nigerian load line ship, being a ship constructed before the coming into force of this Chapter, shall proceed to sea unless—

(a) the ship has been surveyed and marked in accordance with paragraphs (a), (c) and (d) of subsection (1) ;

(b) the ship complies with the conditions of assignment in principle and, also, so far in detail as, in the opinion of the Minister, is reasonable and practicable, having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings, and appliances existing in the ship at the coming into force of this Part; and

(c) her load lines are in the position required by such of the load line rules as are applicable to the ship.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner, and the master, shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been so surveyed and marked; and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe and may be detained under this Act.

204.—(1) Where a Nigerian load line ship has been surveyed and marked in accordance with the provisions of section 203, and complies with the conditions of assignment to the extent required in her case by those provisions, the Minister shall, on receipt of the declaration of survey, issue in respect of that ship—

Issue of
load line
certificates.

(a) if she is an international load line ship, a load line certificate, in this Act referred to as a "Load Line Convention certificate"; or

(b) if she is a local load line ship, a load line certificate, in this Act referred to as a "Nigerian load line certificate".

(2) Every certificate shall when issued be in such form and manner as may be prescribed by the load line rules, and those rules shall make such provision with respect to Load Line Convention certificates as appears to the Minister to be necessary, having regard to the provisions of Rules IV and LXVIII of the Load Line Convention, for the purpose of giving effect to the provisions of Article 13 of that Convention.

(3) The load line rules shall make such provision with respect to Load Line Convention certificates as appears to the Minister to be necessary, having regard to the provisions of the Rules of the Load Line Convention that prescribe the maximum load lines and maximum timber load lines in different circumstances and different seasons for the purposes of that Convention.

(4) Any load line certificate issued by the Minister may be signed on behalf of the Minister by any person authorized by him for the purpose, and a certificate purporting to be so signed shall be admissible in evidence.

(5) Any load line certificate issued under this Part shall be transmitted by the Minister in the manner provided in the case of certificates issued under Part IV, as if it were a certificate issued under that Part.

205.—Where a load line certificate issued under this Chapter and for the time being in force is produced in respect of a ship, the ship shall for the purpose of the foregoing provisions of this Chapter be deemed to have been surveyed as required by those provisions; and

Effect of
load line
certificates.

if the deck line and load lines on the ship are of the number and description required by the load line rules and the position of the deck line and load lines correspond with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

Issue of
Load Line
Convention
certificate
by one
Government
at request
of another.

206.—(1) The Minister may request the Government of a country to which the Load Line Convention applies to issue a Load Line Convention certificate in respect of a Nigerian Load Line Convention ship, and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Minister in respect of a Nigerian load line ship under this Chapter.

(2) The Minister may, at the request of the Government of a country to which the Load Line Convention applies, issue a Load Line Convention certificate in respect of an international load line ship registered in that country, if he is satisfied, in like manner as in the case of a Nigerian ship, that the certificate can properly be issued; and, where a certificate has been issued at such a request, it shall contain a statement that it has been so issued, and shall have effect for the purposes of this Act as if it had been issued by that Government and not by the Minister.

Duration
and
renewal of
certificates.

207.—(1) A load line certificate issued under this Part shall, unless it is renewed in accordance with the provisions of subsection (2), expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein, or upon the giving of notice by the Minister to the owner, agent or master of the ship that it has been cancelled.

(2) Any such load line certificate may, after a survey not less effective than the survey required by the load line rules before the issue of the certificate, be renewed from time to time by the Minister for such period, not exceeding five years on any occasion, as the Minister thinks fit.

Cancellation
of
certificates,
and
delivery of
cancelled
or expired
certificates.

208.—(1) The owner or master of a ship in respect of which a load line certificate issued under this Part is in force shall, as soon as possible after any structural alteration which affects the position of the load lines is made in the hull or superstructures of the ship, give written notice to the Minister containing full particulars of the alteration.

(2) If notice of any alteration is not given as required by subsection (1), the owner, and the master, shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) The Minister may exercise with respect to any such ship the powers specified in subsection (4) where he has reason to believe that—

(a) a load line certificate issued in respect of any ship under this Part was obtained fraudulently or on wrong information; or

(b) since the making of the last declaration of survey, any such alteration as is mentioned in subsection (1) has been made to any load line ship; or

(c) the fittings and appliances for the protection of openings, guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on any load line ship in as effective condition as that in which they were when that ship was last surveyed; or

(d) the markings of the deck line and load lines on any load line ship have not been properly maintained.

(4) In any such case, the Minister may—

(a) forthwith cancel the load line certificate issued in respect of that ship under this Part and the certificate of survey issued in respect of that ship under Part IV; or

(b) require the owner to have the hull, superstructures, equipments and markings of that ship again surveyed to such extent as the Minister thinks fit; and, if that requirement is not complied with, may cancel the load line certificate issued in respect of that ship under this Part and the certificate of survey issued in respect of that ship under Part IV.

(5) Whenever the Minister cancels any such certificate, he shall notify the owner, agent or master of the ship of that cancellation and of the reasons therefor.

(6) In any such case, the Minister, if satisfied that the ship complies with the requirements of this Part, and that the justice of the case so requires, may re-issue any certificate cancelled or may issue a new certificate in its place, without requiring that the ship be resurveyed or that a further declaration of survey be transmitted.

(7) The owner of every ship in respect of which a load line certificate has been issued under this Part shall, so long as that certificate remains in force, cause the ship to be surveyed in accordance with the load line rules and, subject to the provisions of those rules, in the manner prescribed in Part IV, once at least in each year after the issue of the certificate, for the purpose of seeing whether the certificate should, having regard to the provisions of subsection (3), remain in force; and, if the ship is not so surveyed, the Minister shall cancel the certificate:

Provided that the Minister may, in any particular case, extend the period of one year for such period as he thinks fit.

(8) A load line certificate issued under this Part that has expired or been cancelled shall, on demand, be delivered by the owner, agent or master of the ship to the Minister or a person nominated by him.

(9) Where, under section 207, a load line certificate has been renewed, that certificate shall, on demand, be delivered by the owner, agent or master of the ship to the Minister or his nominee for the purpose of endorsement; and any certificate so delivered shall, when endorsed, be returned to the owner, agent or master of the ship in the manner provided for transmission of a certificate by section 168.

(10) If any owner, agent or master of a ship fails, without reasonable cause, to comply with any such demand, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(11) If any certificate required to be so delivered is not delivered, the Minister or his nominee may cause the ship to be detained until the certificate is delivered.

209.—(1) Neither the owner nor the master of a Nigerian load line ship shall cause or permit her to proceed to sea unless there is on board and in force in respect of that ship—

(a) if she is an international load line ship, a Load Line Convention certificate; or

Ships not to be taken to sea without load line certificate.

(b) if she is not an international load line ship, a Nigerian load line certificate.

(2) The master of every Nigerian load line ship shall produce to the Collector of Customs from whom a clearance for the ship is demanded the certificate which is required by subsection (1) to be in force when the ship proceeds to sea; and a clearance shall not be granted, and the ship may be detained until the certificate is so produced.

(3) Where any ship proceeds or attempts to proceed to sea in contravention of this section, the owner, and the master, shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding one hundred pounds.

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

210.—(1) Where a load line certificate has been issued under the foregoing provisions of this Part in respect of a Nigerian load line ship,—

(a) the owner of the ship shall forthwith, on the receipt of the certificate, cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use; and

(b) the master of the ship, before making any other entry in any official log book, shall enter therein the particulars as to the position of the deck line and load lines specified in the certificate.

(2) Before any Nigerian load line ship leaves any port for the purpose of proceeding to sea, the master thereof shall—

(a) enter in the official log book the particulars prescribed by the rules made or deemed to have been made pursuant to this section relating to the depth to which the ship is for the time being loaded; and

(b) cause a notice in the form prescribed by those rules, and containing such of those particulars as may be prescribed by those rules, to be displayed in some conspicuous place on board the ship and to be kept so displayed and legible until the ship arrives at some other port.

(3) The Minister may make rules relating to the depth of loading of load line ships; and, without prejudice to the generality of the foregoing provisions of this subsection, the rules may prescribe the particulars which are required by this section to be entered in the official log book or, as the case may be, to be displayed on board any ship, and may prescribe the form of the notice to be displayed on any such ship.

(4) If the owner or master of any Nigerian load line ship fails to comply with the provisions of this section or of any rules made or deemed to have been made pursuant to this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Particulars as to load line to be inserted in articles of agreement.

211.—(1) Before articles of agreement with the crew of any Nigerian load line ship in respect of which a load line certificate is in force are signed by any member of the crew, the master of the ship shall insert in the articles of agreement the particulars as to the position of the deck line and load lines specified in the certificate, and if he fails so to do he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(2) In the case of a Nigerian load line ship, a Superintendent shall not engage the crew until—

(a) there is produced to him a load line certificate for the time being in force in respect of the ship; and

(b) he is satisfied that the particulars required by this section have been inserted in the articles of agreement with the crew.

212.—(1) The owner and the master of a Nigerian load line ship shall maintain the marking of her load lines and deck lines in the position specified in the load line certificate in force in respect of that ship, or in the position authorized by a person entitled under the load line rules to authorize the alteration of the position of those load lines or deck lines.

Marking of
load lines
and deck
lines to be
maintained.

(2) No person shall conceal, remove, alter, deface or obliterate, or suffer any person under his control to conceal, remove, alter, deface or obliterate, any mark placed on any ship in accordance with the provisions of this Part, except with the authority of a person entitled under the load line rules to authorize the alteration of the mark, or except for the purpose of escaping capture by an enemy.

(3) Every person who commits a breach of, or fails to comply with, any provision of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

213.—(1) A Nigerian load line ship shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship (that is to say, the load line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded).

Submersion
of load line.

(2) Any surveyor of ships who finds upon inspection that a ship is loaded in contravention of subsection (1) shall give notice in writing to that effect to the master, pointing out the extent of the overloading and requiring the matter to be rectified.

(3) A copy of every notice so given shall be transmitted by the surveyor to the Collector of Customs at any port at which a clearance for that ship may be requested, and a clearance shall not be granted, and, without prejudice to any other proceedings under this section, the ship shall be detained until a certificate under the hand of a surveyor is produced stating that the matter has been rectified.

(4) If any such ship is loaded in contravention of this section, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds, and to such additional fine, not exceeding the amount specified in subsection (5), as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(5) Such additional fine shall not exceed three hundred pounds for every inch or fraction of an inch by which the appropriate load line on each side of the ship was submerged, or would have been submerged, if the ship had been in salt water and had had no list.

(6) In any proceedings against an owner or master in respect of a contravention of this section, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master, nor the owner, nor the charterer, if any, could have prevented or forestalled.

Additional penalty for taking or sending ship to sea with load line submerged.

214.—If the master of a ship takes the ship to sea when she is loaded in contravention of section 213, or if any other person sends, or is party to sending, any such ship to sea loaded as aforesaid having reason to believe that she is so loaded, he shall, in addition to any penalty to which he may be liable under section 213, be liable on conviction to imprisonment for a term not exceeding two years.

Surveyor may inspect ships with respect to load line.

215.—A surveyor of ships may inspect any Nigerian load line ship, or any ship which is required under this Act to be marked with submersion lines, for the purpose of seeing that the provisions of this Part have been complied with in the case of the ship, and, for the purpose of that inspection, shall have all the powers of an inspector under this Act.

CHAPTER 36

SPECIAL PROVISIONS AS TO LOAD LINE CONVENTION SHIPS OTHER THAN NIGERIAN SHIPS

Validity in Nigeria of Load Line Certificates issued elsewhere.

216.—The Minister may by Order provide that certificates issued in accordance with the Load Line Convention by the Government of any country other than Nigeria in respect of Load Line Convention ships, not being Nigerian ships, or having effect under subsection (2) of section 206, shall be accepted as having the same force as corresponding certificates issued by the Minister under this Act.

Inspection and control of Convention ships of other countries.

217.—(1) A surveyor of ships may go on board any Load Line Convention ship, not being a Nigerian ship, when within any port in Nigeria, for the purpose of demanding the production of any load line certificate for the time being in force in respect of that ship.

(2) If a valid Load Line Convention certificate is produced to the surveyor of ships on any such demand, the surveyor's powers of inspecting the ship with respect to load lines shall be limited to seeing—

(a) that the ship is not loaded beyond the limits allowed by the certificate ;

(b) that the position of the load lines on the ship corresponds with the position specified in the certificate ;

(c) that no material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines ; and

(d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective condition as they were in when the certificate was issued,—

and, for the purpose of any such inspection, the surveyor shall have all the powers of an inspector under this Act.

(3) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and proceedings may be taken against the owner or master thereof under the provisions hereafter contained in this Part relating to the submersion of load lines on ships, not being Nigerian ships.

(4) If it is found on any such inspection that the load lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(5) If it is found on any such inspection that the ship has been so materially altered in respect of the matters referred to in paragraphs (c) and (d) of subsection (2) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe and may be detained under this Act :

Provided that, where the ship has been detained, the Minister shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

(6) If a valid Load Line Convention certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part have been complied with, as if the ship were a Nigerian ship.

(7) For the purposes of this section, a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load line on each side of the ship (that is to say, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention to be loaded).

218.—The master of every Load Line Convention ship, not being a Nigerian ship, shall produce to the Collector of Customs from whom a clearance for the ship from any port in Nigeria is demanded—

(a) in the case where clearance is demanded in respect of an international voyage, a valid Load Line Convention certificate ; and

(b) in the case where clearance is demanded in respect of any other voyage, either a valid Load Line Convention certificate or a Nigerian load line certificate for the time being in force in respect of the ship,—

and a clearance shall not be granted, and the ship may be detained until the certificate required by this section is so produced.

219.—The provisions of subsection (1) of section 4 and any Order made or deemed to have been made thereunder shall not apply to Load Line Convention ships plying on international voyages in respect of the exemption of those ships from any of the provisions of this Part.

220.—The provisions of section 203 shall apply to load line ships, not being Nigerian ships, proceeding or attempting to proceed to sea from ports in Nigeria, as they apply to Nigerian load line ships, subject to the following modifications—

(a) that section shall not apply to a Load Line Convention ship, not being a Nigerian ship, if a valid Load Line Convention certificate is produced in respect of the ship ;

(b) subject to the provisions of paragraph (a), a foreign ship which does not comply with the conditions of assignment to the extent required in her case by section 203 shall be deemed to be unsafe and may be detained under this Act.

Certificates of Convention ships to be produced to Customs.

Modification of provisions for exemption of certain ships.

Survey, marking and conditions of assignment in case of ships of other countries.

Submersion
of load line
on ships of
other
countries.

221.—The provisions of Chapter 35 as to submersion of load line of a Nigerian ship shall apply to load line ships, not being Nigerian ships, while they are within any port in Nigeria, as they apply to Nigerian load line ships, subject to the following modifications—

(a) no Load Line Convention ship shall be detained, and no proceedings shall be taken against the owner or master thereof, under that Chapter, except after an inspection by a surveyor as provided by this Act ;

(b) the expression "the appropriate load line", in relation to any ship, not being a Nigerian ship, means—

(i) in the case of a Load Line Convention ship in respect of which there is produced on such an inspection as aforesaid a valid Load Line Convention certificate, the load line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the Load Line Convention to be loaded ; and

(ii) in any other case, the load line which corresponds with the load line indicating the maximum depth to which the ship is for the time being entitled under the load line rules to be loaded, or, if no load line on the ship corresponds as aforesaid, the lowest load line thereon.

Inspection
of ships of
other
countries.

222.—A surveyor of ships shall have the same power to inspect the load lines of ships other than Nigerian ships or Load Line Convention ships not being Nigerian ships while they are within any port in Nigeria, as he has under this Act in respect of Nigerian load line ships.

Load line
certificates
of ships of
other
countries.

223.—(1) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of Nigerian load line certificates shall apply to load line ships, not being Nigerian ships, as they apply to Nigerian load line ships, subject to the following modifications—

(a) any such certificate may be issued in respect of an international load line ship as in respect of a local load line ship, so, however, that any such certificate issued in respect of a Load Line Convention ship shall be valid only so long as the ship is not plying on international voyages, and shall be endorsed with a statement to that effect, and shall be cancelled by the Minister if he has reason to believe that the ship is so plying ;

(b) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the Minister.

(2) Where the Minister is satisfied,—

(a) that by the law in force in any Commonwealth country other than Nigeria, provision has been made for the fixing, marking and certifying of load lines on Commonwealth ships, or any class or description of Commonwealth ships, registered in or belonging to that country ; or

(b) that provisions has been made for the fixing, marking and certifying of load lines by the law in force in any foreign country with respect to ships, or any classes or description of ships of that country, and that provisions has also been so made or has been agreed to be so made for recognizing Nigerian load line certificates

as having the same effect in ports of that country as certificates issued under that provision, and that the provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part and is equally effective,—

he may by Order direct that load line certificates issued in pursuance of that provision in respect of Commonwealth ships or that class or description of Commonwealth ships registered in or belonging to that Commonwealth country, or in respect of ships of that class or description of ships of that foreign country, as the case may be, shall have the same effect for the purpose of this Part as Nigerian load line certificates ; but no Order made under this subsection shall apply to Load Line Convention ships plying on international voyages.

224.—The master of every load line ship, other than a Nigerian ship or a Load Line Convention ship not being a Nigerian ship, shall produce to the Collector of Customs from whom a clearance for the ship from any port in Nigeria is demanded either a Nigerian load line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and a clearance shall not be granted, and the ship may be detained until the certificate required by this section is so produced.

Certificates of ships of other countries to be produced to Collector of Customs.

CHAPTER 37

LOADING OF TIMBER

225.—(1) The Minister may make rules prescribing the conditions on which timber may be carried as cargo in any uncovered space on the deck of any load line ship.

Rules for carriage of timber as deck cargo.

(2) The timber cargo rules shall contain such provisions as appear to the Minister to be necessary for the purpose of giving effect to paragraph 2 of Article 6 of the Load Line Convention.

(3) Subject to the provisions of subsection (2), the timber cargo rules may prescribe generally the conditions on which timber may be carried as aforesaid in any load line ship, either on all voyages or on any particular class of voyages, and either at all seasons or at any particular season, and, in particular, may prescribe the manner and position in which the timber is to be stowed and the provision which is to be made on the ship for the safety of the crew.

(4) If any provision of the timber cargo rules is contravened, or not complied with, in the case of any load line ship, the master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds :

Provided that, in any such proceedings against a master, it shall be a good defence to prove that the contravention or failure to comply was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master, nor the owner, nor the charterer, if any, could have prevented or forestalled.

(5) For securing the observance of the timber cargo rules, any surveyor of ships or other officer having authority in that behalf from the Minister, either general or special, shall have power to inspect any load line ship carrying timber cargo in any uncovered space on her deck, and, for that purpose, shall have all the powers of an inspector under this Act.

(6) The provisions of subsections (1) to (5) inclusive and the timber cargo rules shall apply to load line ships, not being Nigerian ships, while they are within any port in Nigeria, as they apply to Nigerian load line ships.

CHAPTER 38

MISCELLANEOUS PROVISIONS

Amendment of rules to correspond with amendments to Load Line Convention.

226.—If any provision of the Load Line Convention to which the Minister is empowered by this Part to give effect by any rules under this Act is amended in pursuance of Article 20 of that Convention, the rules may be amended accordingly by the Minister.

Countries to which the Load Line Convention applies.

227.—Where the Minister is satisfied—

(a) that the Government of any country has ratified, acceded to or denounced the Load Line Convention; or

(b) that the Load Line Convention has been applied or has ceased to apply to any territory in pursuance of the provisions of Article 21 thereof,—

he may, by Order, make a declaration to that effect.

Forgery of certificates.

228.—Every person who—

(a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent certificate under this Part; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered or utters any such certificate, or anything contained in, or any signature to, any such certificate,—

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years or to both.

Load lines on ships not otherwise subject to this Part.

229.—(1) This section shall not apply to—

(a) a load line ship; or

(b) a sailing ship of under one hundred tons gross tonnage; or

(c) a ship engaged solely in fishing which does not carry any cargo other than the fish caught by the crew of the ship; or

(d) a pleasure yacht; or

(e) a ship not exceeding sixteen feet in overall length, unless it is propelled by mechanical power and is a ferry carrying passengers for hire or reward; or

(f) a steamship or motor ship of one of the following classes which is of not more than one hundred tons gross tonnage, and does not carry cargo for hire or reward—

(i) tugs and salvage vessels;

(ii) ships engaged in surveying harbours or the approaches thereto;

(iii) dredgers;

(iv) hopper barges;

(v) pilot vessels;

(vi) ships exclusively employed in the carriage of passengers within such limits as are specified in a valid certificate of survey relating to such ships while carrying passengers not exceeding the number specified in that certificate:

Provided that the Minister may from time to time, if he thinks fit, direct by notice in writing to the owner of any ship of any of the kinds specified in this subsection, or by notice in the *Gazette* to the owners of any specified class of any of those ships, that the ship or ships of that class, as the case may be, shall be surveyed for submersion line certificates in the manner provided by this section.

(2) Ships to which this section applies shall be marked with lines, in this section referred to as submersion lines, and those lines shall show the minimum approved freeboard appropriate to the conditions in which the ship may trade, as described in a certificate issued under this section. Those lines shall be parallel to the deck at each side amidships and shall not be less than twelve inches long and one inch wide, and shall be clearly marked in such manner as to colour and otherwise, as, in the opinion of a surveyor of ships, will make them sufficiently visible.

(3) The position of the submersion lines shall be fixed by a surveyor of ships, who, in fixing their position, shall take into consideration the maximum depths to which the ship may safely be loaded in various circumstances having regard to the construction and strength of the hull and the superstructures, fittings, appliances and equipments with which the ship is provided for the purposes of ensuring its seaworthiness and safety.

(4) Where a ship to which this section applies is not, pursuant to section 195, exempt from survey—

(a) the owner shall, for the purpose of ensuring that the ship complies with the requirements of this section, cause the ship to be surveyed by a surveyor of ships in the manner prescribed in Part IV; and

(b) on receipt of a declaration of survey, the Minister, if satisfied that the ship complies with the requirements of this section, shall issue in respect of that ship a certificate in a form approved by him showing the ship's freeboard.

(5) Any certificate issued in respect of any ship under subsection (4)—

(a) may be combined in one document with the certificate of survey issued in respect of that ship;

(b) shall be transmitted by the Minister in the manner specified in section 168; and

(c) shall remain in force for the same period as the certificate of survey issued in respect of that ship;

and the provisions of sections 168, 171, 175 and 176, and of subsection (3) of section 177 shall, with the necessary modifications, apply with respect to any such certificate as if that certificate was a certificate of survey issued under section 163;

(6) No ship to which subsection (4) applies shall be used in navigation, however propelled or towed—

(a) unless there is in force in respect of that ship a certificate issued under the provisions of paragraph (b) of that subsection; or

(b) having the upper edge of the submersion lines, marked as herein provided, submerged when loaded.

(7) Where a ship to which this section applies is, pursuant to section 195, exempt from survey—

(a) the owner shall, for the purpose of ensuring that the ship complies with the requirements of this section, cause the ship to be surveyed by a surveyor of ships; and

(b) the surveyor of ships at the port at which the ship is surveyed, if satisfied that the ship complies with the requirements of this section, shall, upon the application of the owner and on payment of the prescribed fee, issue in respect of that ship a certificate in a form approved by the Minister showing the ship's freeboard.

(8) Any certificate issued in respect of any ship under subsection (7) shall expire upon the ship in respect of which it was issued ceasing to be exempt from survey under Part IV, or upon the giving of notice by the Minister or a surveyor of ships to the owner or agent of the ship that the certificate has been cancelled; and any such certificate which has expired or been cancelled shall, on demand, be delivered by the owner or agent of the ship to the surveyor of ships at the port at which the ship was surveyed.

(9) No ship to which subsection (7) applies shall be used in navigation, however propelled or towed—

(a) without having submersion lines marked as herein provided; or

(b) having the upper edge of the submersion lines, marked as herein provided, submerged when loaded.

(10) The owner of a ship in respect of which a certificate issued under this section is in force shall, as soon as possible after any structural alteration which affects the position of the ship's submersion lines, marked as herein provided, is made in the hull or superstructures of the ship, give written notice to the authority by whom the certificate was issued containing full particulars of the alteration.

(11) If the Minister or the surveyor of ships by whom a certificate is issued under this section has reason to believe that any such certificate was obtained fraudulently or on wrong information, or if the Minister, or, in the case of any ship to which subsection (7) applies, any surveyor of ships, has reason to believe that, since the position of the submersion lines of any ship to which this section applies was fixed in the manner herein provided—

(a) any such alteration as is mentioned in subsection (10) has been made in respect of that ship; or

(b) the markings of the submersion lines of any such ship have not been properly maintained,

the Minister or the surveyor of ships, as the case may be, may exercise with respect to the ship the powers specified in subsection (12).

(12) In any case to which subsection (11) applies, the Minister or the surveyor of ships, as the case may be, may—

(a) forthwith cancel the certificate, if any, issued in respect of that ship under this section and the certificate of survey, if any, issued in respect of that ship under Part IV; and

(b) require the owner to have the ship again surveyed in the manner herein provided, and the owner shall comply with any such requirement.

(13) If a certificate is cancelled, the Minister or a surveyor of ships as the case may be, shall notify the owner, agent or master of the ship of the cancellation and of the reasons for the cancellation. The Minister or the surveyor of ships as the case may be in any case to which this subsection applies, if satisfied thereafter that the ship complies with the requirements of this section and the justice of the case so requires, may re-issue the certificate or may issue a new certificate in its place without requiring a re-survey of the ship, or the transmission of a further declaration of survey.

(14) Any owner, agent or master who fails to comply with any requirement of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

PART VI.—SAFETY

CHAPTER 39

PREVENTION OF COLLISIONS

230.—(1) The Minister may make rules (in this Act called "collision rules") with respect to ships, and to aircraft on the surface of the water, for the prevention of collisions; and those rules shall contain such requirements as appear to the Minister to be necessary to implement the provisions of such international treaties, agreements and regulations for the prevention of collisions at sea as are for the time being in force.

Collision
rules.

(2) The collision rules, together with the provisions of this Part relating thereto, or otherwise relating to collisions, shall apply—

(a) to all ships and aircraft which are locally within the jurisdiction of Nigeria, whether or not they are Commonwealth ships or aircraft registered in or belonging to any Commonwealth country; and

(b) to all Commonwealth ships and to all aircraft which are registered in or belong to any Commonwealth country, whether or not they are locally within the jurisdiction of Nigeria or of any other Commonwealth country:

Provided that, for the purposes of this section and of section 235, in so far as they apply to aircraft this section and sections 231 and 235 shall be deemed to be the only provisions of this Part relating to the collision rules or otherwise relating to collisions.

(3) In any case arising in any court concerning matters arising locally within the jurisdiction of Nigeria or of any other Commonwealth country, all ships and aircraft to which subsection (2) applies shall, so far as concerns the collision rules and those provisions of this Part, be treated as if they were Nigerian ships, or, as the case may be, aircraft registered in or belonging to Nigeria.

(4) For the purposes of this section, aircraft taking off from or alighting on the water shall be deemed to be on the surface of the water when they are in contact therewith.

(5) This section shall apply in the case of ships and aircraft belonging to the Government of the Federation as it applies in the case of other ships and aircraft.

Owners and masters to observe collision rules.

231.—(1) All owners and masters of ships, and all owners and persons in command of aircraft, shall obey the collision rules, and shall not carry or exhibit any lights or shapes, or carry or use any means of making signals, other than those which are required or permitted by the collision rules to be carried or exhibited or used.

(2) If an infringement of the collision rules is caused by the wilful default of the owner or master of a ship, or, as the case may be, of the owner of any aircraft or of the pilot or other person on duty in charge of any aircraft, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or both.

(3) If any damage to person or property arises from the non-observance by any ship or aircraft of any of the collision rules, the damage shall be deemed to have been occasioned by the wilful default of the officer in charge of the deck of the ship at the time, or, as the case may be, of the pilot or other person on duty in charge of the aircraft at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the rules necessary.

(4) The Minister shall furnish a copy of the collision rules to any owner or master of a ship, or any owner or person in command of an aircraft, on the application of that owner, master or person in command.

(5) This section shall apply in the case of ships and aircraft belonging to the Government of the Federation as it applies in the case of other ships and aircraft.

Inspection for enforcing collision rules.

232.—(1) Unless otherwise exempted under this Act, any ship whether or not she is a Commonwealth ship, may be inspected by a surveyor of ships for the purpose of seeing that the ship is properly provided with lights and shapes and the means of making sound signals in conformity with the collision rules; and if he finds that the ship is not so provided, the surveyor of ships shall give to the master or owner or his agent notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

(2) Every notice so given shall be communicated in the manner directed by the Minister to the Collector of Customs at any port at which the ship may seek to obtain a clearance; and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the ship is properly provided with lights and shapes and with the means of making sound signals in conformity with the collision rules.

(3) For the purpose of an inspection under this section, a surveyor shall have all the powers of an inspector under this Act.

(4) Where a certificate as to lights and shapes and means of making the sound signals is refused, the owner may appeal to the Minister, and the Minister may appoint a board of survey under this Act at the port at or nearest to the place where the ship is.

(5) On any such appeal, the board of survey or, if the matter is referred to a scientific referee under this Act, the scientific referee, shall report to the Minister on the question raised by the appeal; and the Minister, when satisfied that the requirements of the report and of this Act as to lights and shapes and means of making sound signals have been complied with, may issue, or direct a surveyor or other person appointed by the Minister to issue, the certificate.

(6) Where a surveyor making an inspection under this section is required by the owner to make the survey in the presence of the owner or of some person appointed by the owner, and the surveyor and the owner or person appointed by the owner agree, no appeal shall lie to the Minister.

233.—(1) In every case of collision between two ships, the master or person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers, if any, shall—

Duties of master in case of collision.

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

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

(2) If the master or person in charge of a ship fails, without reasonable cause, to comply with this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years, or to both.

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

234.—(1) In every case of collision in which it is practicable so to do, the master of every ship shall, immediately after the occurrence, cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book; and the entry shall be signed by the master, and also by the mate or one of the crew.

Collision to be entered in official log.

(2) Every master who fails to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

235.—Whenever it is made to appear to the Minister that the Government of any foreign country is willing that the collision rules, or the provisions of this Part relating thereto or otherwise relating to collisions, or any of those rules or provisions, should apply to ships or aircraft registered in or belonging to that country when not locally within the jurisdiction of Nigeria or any other Commonwealth country, the Minister may, by Order, direct that those rules and provisions shall, subject to any limitation of time and to any conditions and qualifications contained in the Order, apply to the ships and aircraft of that country, whether or not they are locally within the jurisdiction of Nigeria or any other Commonwealth country, and that those ships and aircraft shall, for the purpose of those rules and provisions, be treated as if they were Nigerian ships or, as the case may be, aircraft registered in or belonging to Nigeria.

Application of collision rules to foreign ships and aircraft.

CHAPTER 40

GENERAL DUTY TO RENDER ASSISTANCE

General duty
to assist
persons in
danger at
sea.

236.—(1) The master or person in charge of a ship shall, 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 that person is a subject of a State at war with Nigeria, who is found at sea in danger of being lost; and, if he fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or imprisonment for a term not exceeding two years, or to both.

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

CHAPTER 41

SIGNALS OF DISTRESS

Signals of
distress.

237.—(1) The Minister may make Rules to prescribe what signals shall be used by ships as signals of distress, and the circumstances in which, and the purposes for which, any signal prescribed by any such Order is to be used, and the circumstances in which it is to be revoked.

(2) If any person uses or displays or causes, or permits any person under his authority to use or display—

(a) any signal prescribed by any Rules made or deemed to have been made under this section, except in the circumstances and for the purposes prescribed by the rules made or deemed to have been made pursuant to this section; or

(b) any private signal that is liable to be mistaken for any signal so prescribed by any Rules,—

he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, and, in addition, shall pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal's having been supposed to be a signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage is recoverable.

(3) Nothing in subsection (3) of section 240 shall interfere with the transmission of signals prescribed under this section.

Obligation to
assist vessels
in distress,
etc.

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

(2) Where the master of any ship in distress has requisitioned any Nigerian 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 assistance of the persons in distress.

(3) A 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) A 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) If a master fails to comply with the provisions of subsections (1) to (4) inclusive, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding two years or to both.

(6) If the master of a Nigerian ship, on receiving at sea a signal of distress or information from any source that a ship or other vessel, or an aircraft, or any person is in distress at sea, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log book of his reasons for not going to the assistance of those persons; and, if he fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(7) The master of every Nigerian ship shall enter or cause to be entered in the official log book every signal of distress or message that a ship or other vessel, or an aircraft or person, is in distress at sea; and, if he fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(8) Nothing in this section shall affect the provisions of section 236; and compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

CHAPTER 42

DANGERS TO NAVIGATION

239.—(1) The master of a Nigerian ship, when ice is reported on or near his course, shall at night either proceed at a moderate speed or change his course so as to keep amply clear of the ice reported and of the area of danger.

Careful
navigation
near ice.

(2) If the master of any ship fails to comply with this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

240.—(1) The master of a Nigerian ship, on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal and in accordance with any rules made or deemed to have been made by the Minister for the purposes of this section, to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

Report of
dangers to
navigation.

(2) If the master of a ship fails to comply with the provisions of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) Every person in charge of a radiotelegraph station which is under the control of the Government of the Federation, or which is established or installed under licence of that Government, shall, on receiving the signal prescribed by the above-mentioned rules for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Minister, shall transmit the message in such manner as may be required by the Minister; and compliance with this subsection shall be deemed to be a condition of every licence for a radiotelegraph station granted by or on behalf of the Government of the Federation.

(4) For the purposes of this section, "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.

CHAPTER 43

REPORT OF ACCIDENTS AND LOSS OF SHIP

Accidents to
be reported
to Minister.

241.—(1) When any ship to which this section applies has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or, in the case of a ship propelled by mechanical power, in any part of her machinery, or has been in collision with another ship, the master shall transmit to the Minister—

(a) where possible, by radiotelegraph or radiotelephone in the first instance, a preliminary report; and

(b) in all cases, if in port when the accident or damage occurs, within twenty-four hours of the happening, or otherwise within twenty-four hours of first reaching a port, whether in Nigeria or elsewhere, a full report in writing signed by him,

of the accident or damage, and of the probable cause thereof, stating the name of the ship, her official number, if any, the port at which she is registered or to which she belongs and the place where she is.

(2) If the managing owner, or, in the event of there being no managing owner or no such owner resident in Nigeria, the agent, of any ship to which this section applies has reason to believe that the ship has sustained or caused any such accident or received any such damage as is mentioned in subsection (1), he shall satisfy himself that that accident or damage has been reported to the Minister by the master; and, if any such managing owner or agent has reason to apprehend that that accident or damage has not been so reported, he shall as soon as conveniently may be send to the Minister notice in writing stating the name of the ship, her official number, if any, and the port at which she is registered or to which she belongs, and stating also, to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause thereof and the place where the ship then is.

(3) This section shall apply to—

(a) Nigerian ships;

(b) other coastal trade and inland waters ships; and

(c) other ships to which any such accident or damage as is mentioned in the foregoing provisions of this section occurs, or is believed to have occurred, on or near the coasts of Nigeria.

(4) Every master and every managing owner or agent who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

242.—(1) If the managing owner, or, in the event of there being no managing owner, or no such owner resident in Nigeria, the agent, of any ship to which this section applies has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Minister notice in writing stating the name of the ship, her official number, if any, and the port at which she is registered or to which she belongs, and stating also to the best of his knowledge and belief the probable cause of the loss.

Notice to be given of apprehended loss of ship.

(2) This section shall apply to—

(a) Nigerian ships;

(b) other coastal trade and inland waters ships; and

(c) other ships which are lost or are supposed to have been lost on or near the coasts of Nigeria.

(3) Every managing owner or agent who fails, without reasonable cause, to comply with this section within a reasonable time shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 44

SEARCH FOR MISSING SHIPS

243.—(1) When a Nigerian ship or a coastal trade or inland waters ship, is missing, and the owner has not caused reasonable search to be made for her, the Minister may require the owner to make such a search; and, if after being so required, the owner does not forthwith cause reasonable search to be made for the ship, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds.

Search for missing ships.

(2) For the purposes of this section, service of any notice on the agent of the owner shall be deemed to be service on the owner.

CHAPTER 45

ANCHORS AND CABLES

244.—(1) A maker of, or dealer in, anchors or chain cables shall not sell or contract to sell, nor shall any person purchase or contract to purchase, for the use of any ship, nor shall any person use on any Nigerian ship, any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been tested to the satisfaction of the Minister, and, where appropriate, stamped or otherwise marked in accordance with the requirements of the provisions of the law of any other Commonwealth country or of any foreign country approved by the Minister.

Anchors and chain cables to be tested.

(2) Every contract for the sale of a chain cable or of an anchor exceeding in weight one hundred and sixty-eight pounds shall, in the absence of an express stipulation to the contrary, be deemed to imply a warranty that the anchor or cable has before delivery been proved in accordance with the requirements of subsection (1).

(3) The burden of proving any such express stipulation and the testing and stamping shall, in the case of dispute, lie on the seller.

(4) Any person delivering a certificate or other document of like character relating to the proof testing of any anchor or chain cable, or other chain or cable shall place in some conspicuous part of the certificate or document, in such manner as to be clearly legible, a statement of the name of the person or organisation issuing the same, the nature of the proof testing and the place and date of the proof testing.

(5) No person shall place on any anchor, chain cable or other chain or cable, any marks, or deliver in relation thereto any certificate or other document of a similar character, which would be calculated to lead persons to suppose that the anchor, chain cable or other chain or cable has been tested, unless it has been actually so tested.

(6) In this section and in section 245, "anchor" and "chain cable" include any shackle attached to, or intended to be used in connection with, the anchor or chain cable.

Offences in
relation to
anchors and
chain cables.

245.—Every person who—

(a) fails to comply with, or acts in contravention of, subsections (1), (4) or (5) of section 244; or

(b) places on any anchor, chain cable or other chain or cable any distinctive mark appointed by the law of any Commonwealth country or of any foreign country approved by the Minister to indicate that it has been proved in accordance with the law of that country, or any other mark so closely resembling any such distinctive mark as to be calculated to lead persons to believe that the anchor, chain cable or other chain or cable has been proved in accordance with the law of that country, when the anchor, chain cable or other chain or cable has not been so proved; or

(c) delivers any certificate or other document of a like character relating, or purporting to relate, to the proof testing of any anchor, chain cable or other chain or cable that resembles a certificate or other document of proof testing delivered by any person authorized to do so by the law of any Commonwealth country or of any foreign country approved by the Minister, or is otherwise calculated to lead persons to believe that the anchor, chain cable or other chain or cable in respect of which it is delivered has been proved by the law of any such country; or

(d) knowing that any anchor, chain cable or other chain or cable has been stamped or marked in contravention of section 244 or of the corresponding provisions of the law of any Commonwealth country other than Nigeria or of any foreign country approved by the Minister, sells it to any other person or delivers it for use by any other person, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or to both.

246.—(1) Every maker of anchors shall mark each anchor he makes in legible characters on the crown thereof, and also on the shank under the stock, with his name or initials, with the addition of a progressive number and the weight of the anchor.

Manufacturers to place marks on anchors.

(2) Every person who commits a breach of subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

CHAPTER 46

DANGEROUS GOODS

247.—(1) A person shall not send or attempt to send by any ship, whether or not she is a Commonwealth ship, and a person not being the owner or master of the ship shall not carry or attempt to carry in the ship, any dangerous goods without distinctly marking their nature on the outside of the package containing the same, and upon the same side as the address or mark, and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the owner or master of the ship, at or before the time of sending the same to be shipped or taking the same on board.

Carriage of dangerous goods restricted.

(2) Every person who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or, if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then, to a fine not exceeding ten pounds.

248. A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any ship, any dangerous goods under a false description, and shall not falsely describe the sender or carrier thereof; and, if he acts in breach of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds.

Misdescribing dangerous goods.

249.—(1) The owner or master of any 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.

Master may refuse to carry dangerous goods, or cause same to be thrown overboard.

(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 aforesaid, or without such notice having been given as aforesaid, the master or owner of the ship may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in respect of the goods so thrown overboard.

(3) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any court of competent jurisdiction may declare those goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the Court may direct.

(4) 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; nevertheless, the Court may, in its discretion, require such notice as it directs to be given to the owner or shipper of the goods before they are forfeited.

Ships
carrying
passengers
not to carry
explosives.

250.—(1) Save as provided in any rules made or deemed to have been made under section 251, a ship carrying passengers shall not carry any explosives, except such reasonable quantity as may be required for the purpose of making signals, or as may be allowed by a surveyor of ships; and any such explosives shall be kept in properly constructed copper magazines, or such other magazines as are declared by the Minister to be proper magazines, or otherwise protected to the satisfaction of a surveyor of ships.

(2) If explosives are carried on any ship contrary to the provisions of subsection (1), the owner and the master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds:

Provided that it shall be a good defence to a charge under this section that neither the owner nor the master was aware, or suspected, or had reason to suspect, that those explosives were being carried on that ship.

(3) Any officer of customs or any surveyor may, without warrant, seize any explosives found on board any ship contrary to this section, and all explosives so seized shall be forfeited.

(4) In this section, "explosives" means any explosive within the meaning of the Explosives Act, but does not include safety cartridges for small arms or cartridges for shotguns.

Cap. 64.

Rules as to
carriage of
dangerous
goods.

251.—(1) The Minister may make rules for regulating, in the interests of safety, the carriage of dangerous goods in ships to which this section applies.

(2) This section shall apply to—

(a) Nigerian ships;

(b) other coastal trade and inland waters ships; and

(c) other ships while they are within any port in Nigeria, or are embarking or disembarking passengers within territorial waters, or are loading or discharging cargo or fuel within those waters:

Provided that this section shall not apply to any such ship which would not have entered any such port but for stress of weather or any other circumstance that neither the master, nor the owner, nor the charterer, if any, of the ship could have prevented or forestalled.

(3) If any of the rules made or deemed to have been made in pursuance of this section is not complied with in relation to any ship, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds, and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

252.—The provisions of this Part relating to the carriage of dangerous goods, and any rules thereunder, shall be deemed to be in addition to, and not in derogation of, any other enactment.

Saving as to other enactments.

CHAPTER 47

GRAIN CARGOES

253.—(1) Where grain is loaded on board any Nigerian ship, or is loaded within any port in Nigeria on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and, if such precautions as aforesaid are not taken, the owner, and the master, and any agent of the owner who was charged with the loading, or with sending the ship to sea laden with the grain, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds, and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading.

Carriage of grain.

(2) Where any ship, having been loaded with grain outside Nigeria without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Nigeria so laden, the owner, and the master, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds, and the ship shall be deemed for the purposes of this Act to be unsafe by reason of improper loading:

Provided that this subsection shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstance that neither the master, nor the owner, nor the charterer, if any, could have prevented or forestalled.

(3) The Minister may make rules prescribing, in relation to the loading of ships generally or of ships of any class, any precautions which are to be treated for the purposes of this section as necessary or reasonable precautions to prevent grain shifting; and, without prejudice to the generality of subsections (1) and (2), any particular precaution prescribed by rules made or deemed to have been made pursuant to this subsection shall be treated, for the purposes of this section, as a necessary or reasonable precaution in relation to any class of ships to which that precaution applies:

Provided that this subsection shall not apply where a ship is loaded in accordance in all respects with any provisions approved by the Minister with respect to the loading in question, other than rules made or deemed to have been made pursuant to this subsection.

(4) On the arrival at a port in Nigeria from a port outside Nigeria of any ship carrying a cargo of grain, and before the departure from the final port of loading in Nigeria of any ship carrying a cargo of grain, the master shall deliver or cause to be delivered to the Collector of Customs a notice stating—

(a) the draught of water and freeboard of the ship after the loading of her cargo was completed at the final port of loading; and

(b) the following particulars of the grain carried—

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

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting; and, if the master fails to deliver any notice required by this subsection, or if, in any such notice, he makes any statement that he knows to be false in a material particular or recklessly makes any statement that is false in a material particular, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) Any person having a general or special authority in that behalf from the Minister may, for securing the observance of the provisions of this section, inspect any grain, and the mode in which it is stowed, and, for that purpose, shall have all the powers of an inspector under this Act.

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

CHAPTER 48

BALLAST

Rules as to
ballast.

254.—(1) The Minister may make rules making provision with respect to the loading and storage on ships to which this section applies of ballast of any description.

(2) This section shall apply to—

(a) Nigerian ships;

(b) other coastal trade and inland waters ships; and

(c) other ships while they are within any port in Nigeria, or are embarking or discharging passengers within territorial waters, or are loading or discharging cargo or fuel within those waters:

Provided that this section shall not apply to any such ship which would not have entered any such port but for stress of weather or any other circumstance that neither the master, nor the owner, nor the charterer, if any, of the ship could have prevented or forestalled.

(3) Every person who commits a breach of any rules made pursuant to this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds.

CHAPTER 49

WOOL, FLAX, TOW, SKINS OR OTHER GOODS LIABLE TO SPONTANEOUS COMBUSTION

Condition of
wool, flax,
tow, or skins,
etc., to be
ascertained
before ship-
ment.

255.—(1) No person shall ship wool, flax, tow, skins or other goods liable to spontaneous combustion on any ship at a port in Nigeria for the purpose of conveying those goods to a port outside Nigeria if those goods are in such a condition, whether by reason of dampness or otherwise, as to constitute a fire hazard.

(2) Every person who fails to comply with the requirements of subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds:

Provided that it shall be a good defence to a charge under this section that the person charged took all reasonable steps to satisfy himself that the goods shipped were not in such a condition as to constitute a fire hazard.

256.—(1) The Minister may from time to time appoint officers to inspect wool, flax, tow, skins or other goods liable to spontaneous combustion before shipment on any ship, and to prevent the shipment of any such goods, if, in the opinion of any such officer they are in such a condition as to constitute a fire hazard.

Shipping wool, flax, tow, skins, or other goods liable to spontaneous combustion.

(2) The Minister may make rules—

(a) prescribing the duties of shippers and the powers of the above-mentioned officers with regard to the shipment of wool, flax, tow, skins or other goods liable to spontaneous combustion; and

(b) prescribing the mode of stowing on board ship any wool, flax, tow, skins or other goods liable to spontaneous combustion.

CHAPTER 50

DECK CARGOES

257.—(1) No ship shall carry any cargo on the deck without a permit first obtained from the Minister or a surveyor of ships specifying the type and quantity of deck cargo that may be carried, and every such permit may be general or special.

Permit to carry deck cargo.

(2) The Minister may make rules as to the issue of those permits and the appointment of persons to report to the Minister on the types and quantity of cargo so to be carried.

(3) Every master who proceeds to sea carrying any cargo on the deck without first obtaining a permit in accordance with the provisions of subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) In this section, "deck" means the ordinary upper deck of a ship and any other deck, by whatever name it may be known, above it.

(5) Nothing in this section shall apply with respect to the carriage of timber as deck cargo on any load line ship.

CHAPTER 51

UNSEAWORTHY SHIPS

258.—(1) Every person shall be guilty of an offence who sends or attempts to send, or is party to sending or attempting to send, a Commonwealth ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves either that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable.

Sending unseaworthy ship to sea.

(2) Every master of a Commonwealth ship shall be guilty of an offence who knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable.

(3) Any person who is guilty of an offence under subsection (1) or (2) shall on conviction be liable to a fine not excluding five hundred pounds or to imprisonment for a term not exceeding two years, or both.

Implied
obligation as
to seaworthi-
ness.

259.—(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.

(2) Nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Power to
detain unsafe
Common-
wealth ships.

260.—(1) Where a Commonwealth ship, or an unregistered ship which is owned wholly by persons qualified to own a registered Nigerian ship, being in any port in Nigeria, is an unsafe ship (that is to say, is, by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading or improper loading, or by reason of undermanning or being insufficiently ballasted, or, in the case of a ship propelled by mechanical power, by reason of having insufficient fuel on board for the intended voyage when proceeding at ordinary full speed, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended), the ship may be provisionally detained for the purpose of being surveyed, or of ascertaining the sufficiency of her crew or fuel, and may be either finally detained or released as follows—

(a) the Minister, if he has reason to believe, on complaint or otherwise, that a ship to which this section applies is unsafe, may order her to be provisionally detained as an unsafe ship for the purpose of being surveyed;

(b) when a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Minister may, if he thinks fit, appoint a surveyor to survey the ship and, where necessary, muster the crew and report thereon to him;

(c) the Minister, on receiving the report, may either order the ship to be released or, if, in his opinion, the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo or ballast, or the manning of the ship, or the supply of fuel, as the Minister thinks necessary for the protection of human life, and may from time to time vary or add to any such order;

(d) before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after that service, the owner or master of the ship may appeal in the prescribed manner to the Minister; and the Minister may appoint a board of survey under this Act to consider the case at the port at or nearest to which the ship is detained;

- (e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that that person shall be accompanied by some person of nautical, engineering or other special skill or knowledge, as the owner or master may select; and, in that case, if the surveyor and the person so selected agree, the Minister shall cause the ship to be detained or released accordingly; but, if they differ, the Minister may act as if the requisition had not been made; and the owner and the master shall have the like appeal touching the report of the surveyor as is before provided by this section;
- (f) where a ship has been provisionally detained, the Minister may at any time, if he thinks it expedient, refer the matter to a board of survey at the port at or nearest to which the ship is detained;
- (g) the Minister may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.
- (2) Any person authorised by the Minister for the purpose (in this Act referred to as a "detaining officer") shall have the same power as the Minister has under this section of ordering the provisional detention of a ship for the purpose of being surveyed, and of appointing a surveyor or surveyors to survey the ship; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.
- (3) A detaining officer shall forthwith report to the Minister any order made by him for the detention or release of a ship.
- (4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.
- (5) A ship detained under this section shall not be released by reason of her register in a Commonwealth country being subsequently closed.
- (6) A detaining officer shall, for the purpose of his duties, have all the powers of an inspector under this Act.
- (7) A detaining officer and any surveyor appointed under this section to survey a ship may, in the performance of their duties, go on board any ship and inspect the same, and every part thereof, and the machinery, equipment and cargo thereof, and may require the unloading or removal of any cargo, ballast or tackle; and every person who wilfully impedes a detaining officer or any such surveyor in the execution of the survey, or fails to comply with any requisition made by a detaining officer or surveyor, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.
- (8) Where a ship is surveyed or detained under this section, the Minister may direct an inquiry into the condition of her cables and anchors, and, if they have not been tested according to the provisions of the law of the Commonwealth country in which the ship is registered or to which she belongs, may make such further order as he thinks requisite previous to her release.

Liability for costs of detention and damages.

261.—(1) If it appears that there was not reasonable cause for the provisional detention of a ship under this Chapter as an unsafe ship, the Government of the Federation shall be liable to pay to the owner of the ship his costs of, and incidental to, the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Chapter, or if it appears that a ship provisionally detained was at the time of that detention an unsafe ship within the meaning of this Chapter, the owner of the ship shall be liable to pay to the Government of the Federation the 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 is recoverable.

(3) For the purpose of this section, the costs of and incidental to any proceeding before a board of survey and a reasonable amount in respect of the remuneration of the surveyor or detaining officer shall be part of the costs of the detention and survey of the ship; and where there is a dispute as to the amount of the costs the dispute may be referred to any registrar of a court of competent jurisdiction who shall on request by the Minister, ascertain and certify the proper amount of those costs.

Security for costs may be required.

262.—(1) Where a complaint is made to the Minister or a detaining officer that a Commonwealth ship is unsafe, the Minister or officer may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for the costs and compensation which the complainant may become liable to pay as hereinafter mentioned.

(2) That security shall not be required where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship, and is not, in the opinion of the Minister or officer, frivolous or vexatious; and the Minister or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government of the Federation is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government of the Federation all such costs and compensation as the Government of the Federation incurs, or is liable to pay, in respect of the detention and survey of the ship.

Detention of unsafe foreign ships.

263.—Where a foreign ship at a port in Nigeria is unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of overloading, improper loading, undermanning or insufficiency of fuel for the intended voyage when proceeding at ordinary full speed, or by being insufficiently ballasted, the provisions of this Chapter with respect to the detention of unsafe ships, except subsection (8) of section 260, shall apply, with the following modifications, to that foreign ship as if she were a Commonwealth ship—

(a) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port;

(b) where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require

that the person appointed by the Minister to survey the ship shall be accompanied by such person as the consular officer may select; and, in that case, if the surveyor and that person agree, the Minister shall cause the ship to be detained or released accordingly; but, if they differ, the Minister may act as if the requisition had not been made; and the owner and the master shall have the like appeal to a board of survey touching the report of the surveyor as is hereinbefore provide in the case of a Commonwealth ship:

Provided that this section shall not apply to a ship by reason of her being in a port in Nigeria if she was not bound for a port in Nigeria, and did not enter the port at which she is lying for the purpose of embarking or disembarking passengers, or loading or discharging cargo or loading fuel.

264.—(1) Where, in any proceeding against a seaman or apprentice for the offence of desertion or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one fourth, or, if their number exceeds twenty, by not less than five, of the seamen belonging to the ship that the ship is, by reason of unseaworthiness, overloading, improper loading, undermanning, defective equipments, insufficiency of ballast or insufficiency of fuel for the intended voyage when proceeding at ordinary full speed, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as it thinks fit to ascertain the truth or otherwise of the allegation. The court shall receive the evidence of the persons making the allegation, and may summon any other witnesses whose evidence it may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but, if not so satisfied, shall before adjudication cause the ship to be surveyed.

Complaint of unseaworthiness, etc., by crew.

(2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has, before quitting his ship, complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section, the court shall require a surveyor to survey the ship, or, if a surveyor or, as the case may be, a radio surveyor cannot be obtained without reasonable expense or delay, then any other impartial person or persons appointed by the court and having no interest in the ship, her freight or cargo, to inspect the ship, and, in either case, to answer any questions concerning her which the court thinks fit to put.

(4) Every such person shall survey or, as the case may be, inspect the ship and make his written report to the court, including an answer to every question put to him by the court; and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before them in accordance with those opinions.

(5) Any person making a survey or inspection under this section shall, for the purposes thereof, have all the powers of an inspector under this Act.

Liability for costs and compensation on survey pursuant to complaint by crew.

265.—(1) The costs, if any, of the survey or inspection under section 264 shall be determined by the court according to the prescribed scale of fees, and shall be paid into the Consolidated Revenue Fund by the owner or master of the ship.

(2) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey paid by the owner or master under subsection (1) may be deducted by the owner or master out of the wages due, or to become due, to the persons on whose demand, or in consequence of whose allegations, the survey was made.

(3) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the owner or master of the ship shall, in addition to his liability to pay the costs of the survey pursuant to subsection (1), be liable to pay to any seaman or apprentice detained in consequence of the proceedings before the court such compensation for his detention as the court may award.

CHAPTER 52

OVERLOADING AND OVERCROWDING

Rules for preventing overloading and overcrowding.

266.—(1) The Minister may make rules with respect to ships exempt from survey under this Act for—

- (a) preventing the overloading of ships and the overcrowding of ships with passengers;
- (b) securing the safety of passengers, and proper accommodation for passengers on ships; and
- (c) generally for regulating all other matters relating to the protection of life and property of passengers and others on ships.

(2) Unless otherwise exempted under Chapter 33, every person who commits a breach of any regulations made or deemed to have been made pursuant to this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds.

PART VII.—SHIPPING INQUIRIES AND COURTS

CHAPTER 53

INVESTIGATIONS AND INQUIRIES AS TO SHIPPING CASUALTIES

Preliminary inquiry.

267.—(1) Where a shipping casualty within the meaning of this Chapter has occurred, the Minister may appoint a fit person to hold a preliminary inquiry; and the person appointed shall have all the powers of an inspector under this Act.

(2) The person so appointed shall, not later than one month after the conclusion of the hearing, report his findings to the Minister.

Marine Boards.

268.—(1) The Minister may from time to time and whether or not a preliminary enquiry into a shipping casualty has been held, by Order constitute a Board with a magistrate as president (to be known as "the Marine Board") to make investigations as to casualties affecting ships or to inquire into charges of incompetency or misconduct on the part of officers of ships.

(2) The Marine Board shall, when holding any formal investigation into matters referred to it by the Minister, sit with one or more assessors of nautical, engineering, or other special skill or knowledge; and assessors shall be appointed out of a list of persons for the time being approved for the purpose by the Minister. The decision of the president shall be the decision of the Marine Board; but the president may if he thinks fit require the assessors to join in the report, and if an assessor refuses or dissents the assessor shall give his reasons in writing to the Minister.

(3) The list of persons approved as assessors shall be in force for three years only; but persons whose names are on any such list may be approved for any subsequent list, and the Minister may at any time amend the list.

(4) Where a formal investigation involves or appears likely to involve the cancelling or suspension of the certificate of a master, mate, or engineer, the Marine Board shall sit with not less than two assessors having experience in the merchant service.

(5) The person who applies for and obtains a formal investigation, shall superintend the management of the case and give such assistance to the Marine Board as it may require.

(6) Assessors shall if they are not members of the Public Service be paid such sums as the Minister after consultation with the Federal Minister charged with responsibility for finance may approve or direct for each day that the Marine Board sits.

(7) Where a Marine Board holds a formal investigation it shall be deemed to be a court of summary jurisdiction and for such purpose shall have and may exercise all the powers of a Magistrates' Court.

(8) The Minister may if he thinks fit and before making any appointment to the Marine Board as president, consult with the Chief Justice of the Federal Supreme Court; but the question as to what and if any consultation was held, shall not be inquired into by any court.

269.—(1) For the purpose of an investigation under this Part, a casualty shall be deemed to occur—

Shipping
casualties.

(a) when, on or near the coasts of Nigeria, any Commonwealth ship is lost, abandoned or materially damaged; or

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

(c) when any loss of life ensues by reason of any casualty happening to or on board any Commonwealth ship on or near the coasts of Nigeria; or

(d) when, in any place, any such loss, abandonment, material damage or casualty as above-mentioned has occurred, and any witness is found in Nigeria; or

(e) when, in any place, any Commonwealth ship has been stranded or damaged, and any witness is found in Nigeria; or

(f) when any Commonwealth ship has been lost, or is supposed to have been lost, and any evidence is obtainable in Nigeria as to the circumstances in which such ship proceeded to sea or was last heard of.

(2) The Marine Board in any of the following cases—

(a) where a casualty occurs to a Commonwealth ship on or near the coasts of Nigeria, or to any such ship in the course of a voyage to Nigeria;

(b) where a casualty occurs in any part of the world to a Nigerian ship;

(c) where some of the crew of a Commonwealth ship to which a casualty has occurred, and who are competent witnesses to the facts, are found in Nigeria;

(d) where the incompetency or misconduct has occurred on board a Commonwealth ship on or near the coasts of Nigeria, or on board any such ship in the course of a voyage to Nigeria;

(e) where the incompetency or misconduct has occurred on board a Nigerian ship;

(f) where any officer of a Commonwealth ship who is charged with incompetency or misconduct on board that ship is found in Nigeria, —

may make investigation respecting such casualty and may hear and inquire into any such charge of incompetency or misconduct; and for such purpose the matter in question shall be deemed to be within the ordinary jurisdiction of a magistrates' court, and the president shall have all the powers of an inspector under this Act.

(3) An inquiry shall not be held into any matter which has once been the subject of an investigation or inquiry, other than a preliminary inquiry under section 267, and has been reported on by a competent court or tribunal in any part of the Commonwealth, or in respect of which the certificate of any officer of a ship has been cancelled or suspended by court.

Grounds for
cancellation
or suspension
of
certificate.

270.—(1) The certificate of any officer of a Commonwealth ship may be cancelled or suspended—

(a) if the Marine Board finds that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or

(b) if the Marine Board finds that he is incompetent, or that he has been guilty of any gross act of misconduct, drunkenness or tyranny, or that, in case of collision, he has failed to render such assistance or give such information as is required by this Act.

(2) Where any case before the Marine Board involves a question as to the cancellation or suspension of a certificate, the Board shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancellation or suspension thereof.

(3) Any officer of a Commonwealth ship whose certificate is cancelled or suspended in pursuance of this Act shall, on the demand of the Marine Board, deliver his certificate to the Marine Board or, if it is not demanded by that board, deliver it to the Minister or to such other person as the Minister directs, and in default such officer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

(4) The Marine Board shall, in all cases, send a full report on the case with the evidence to the Minister, and shall also, if it determines to cancel or suspend any certificate, send the certificate cancelled or suspended to the authority by whom the certificate was granted.

(5) A certificate shall not be cancelled or suspended by the Marine Board under this Chapter unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(6) In this section "Commonwealth ship" means—

(a) a Nigerian ship ; and

(b) a ship registered in or belonging to any other Commonwealth country the Government of which has agreed that this section should so apply.

271.—(1) An appeal shall lie from the Marine Board to the High Court from a decision in the case of an investigation into the conduct of a holder of a certificate of competency granted under this Act, and the High Court in its discretion may determine the case or remit the case for re-hearing either generally or as to any part thereof before the Marine Board, and shall remit the case—

Appeal to
High
Court.

(a) if new and important evidence which could not be produced at the investigation or enquiry has been discovered, or

(b) if for any other reason there is ground for suspecting that a miscarriage of justice has occurred.

(2) Subject to the terms of any order of the court, where no application for re-hearing is made or a re-hearing is refused, the former holder of the certificate of competency may apply to the Minister and the Minister in his discretion may direct the re-issue and return of the certificate, or may direct the grant of another certificate of the same or a lower grade.

272.—In the exercise of its powers under this Act the Marine Board may,—

Further
powers of
Marine
Board.

(a) remove the master of any ship if that removal is shown to the satisfaction of the court to be necessary whether on the application of any owner of the ship or his agent or of the charterer or of any certificated mate or of one third or more of the crew of the ship ;

(b) appoint a new master in place of the one removed, but no such appointment shall be made without the consent of the owner, agent or charterer if within the jurisdiction of the Marine Board.

CHAPTER 54

BOARD OF SURVEY

Board of
Survey.

273.—(1) Subject to the provisions of this section and anything in Chapter 53 as to the powers of a Marine Board to the contrary notwithstanding, the Minister may from time to time by notice in the *Gazette* appoint a committee to be known as a Board of Survey, which shall consist of not more than five nor less than three members of whom one shall be a magistrate and be chairman of the Board. Members other than the chairman shall be masters of foreign-going Commonwealth ships or persons having special skill or knowledge in merchant shipping to the satisfaction of the Minister.

(2) A Board of Survey shall consider cases which the Minister may from time to time refer to it involving the survey of ships; and when sitting to consider any case referred to it, the Board shall be deemed to be a court having jurisdiction for the purpose, and accordingly the following provisions shall have effect to the extent necessary that is to say,—

(a) the hearing shall be open to the public;

(b) every member of the Board shall have the powers of an inspector under this Act;

(c) the Board may order the ship to be surveyed, and the Board or a majority may appoint a fit persons to make the survey and report to the Board;

(d) the Board shall have and may exercise the same powers as the Minister, as to release of a ship;

(e) the Board may if the majority thinks fit order the final detention for a ship;

(f) the owner, or agent as the case may be and the master of the ship or the representative of any such persons may attend any inspection or survey made;

(g) the Board shall have the powers of a court to make any order it thinks fit as to costs of inquiry or survey under this Chapter.

(3) If costs are awarded under the powers conferred by this section, they shall be recoverable in the same manner as a civil debt; and for such purpose the chairman may certify the award and when certified it may be filed without payment of any fee in the nearest magistrate's court. If an award is filed, the costs shall be deemed to have been awarded in respect of a claim within the civil jurisdiction of a magistrate and the rules of the magistrates' court shall be read with all amendments necessary to give effect to this subsection.

(4) Nothing in this Part shall be construed to affect in any way the Admiralty jurisdiction of a court.

CHAPTER 55

SCIENTIFIC REFEREES

Reference in
difficult cases
to scientific
persons.

274.—(1) If of opinion that an appeal to him to appoint a board of survey involves a question of construction or design, or of scientific difficulty or important principle, the Minister may refer the matter to such one or more scientific referees as appear to him to possess the

special qualifications necessary for the particular case. Referees may be selected by agreement between the Minister and the appellant, or in default of agreement, by the Minister; and thereupon the appeal shall be determined by a referee or referees instead of by the board of survey.

(2) If the appellant in any appeal so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, the Minister to whom any matter is referred under this section shall refer the appeal to a referee selected as provided in subsection (1).

PART VIII.—WRECK AND SALVAGE

275.—In this Part unless the context otherwise requires—

“owner”, in relation to a vessel, means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof;

Definition.

“salvage” includes all expenses properly incurred by the salvor in the performance of the salvage services;

“vehicle”, includes any vehicle of any description, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise;

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

CHAPTER 56

VESSELS IN DISTRESS

276.—(1) Where a Commonwealth or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, the Receiver of Wreck shall, upon being made acquainted with the circumstances, forthwith proceed thereto, and, upon his arrival, shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel, and of the lives of the persons belonging to the vessel and of the cargo and apparel of the vessel:

Duty of Receiver where vessel in distress.

Provided that the Receiver of Wreck shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

(2) If any person wilfully disobeys any lawful directions of the Receiver of Wreck, such person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

277.—(1) The Receiver of Wreck may, with a view to the preservation of life, or of the vessel, cargo or apparel—

Powers of the Receiver in case of vessels in distress.

(a) require such persons as he thinks necessary to assist him;

(b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as may be in his power; and

(c) demand the use of any vehicle or of any draught animal that may be near at hand.

(2) If any person refuses without reasonable cause to comply with any such requisition or demand, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred pounds.

Power to
pass over
adjoining
lands.

278.—(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass and repass, either with or without vehicles or draught animals, over any adjoining lands without being subject to interruption by the owner or occupier, so, however, that they do as little damage as possible, and may, also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) If the owner or occupier of any land—

(a) impedes or hinders any persons in the exercise of the rights given by this section by locking his gates or refusing, upon request, to open the same, or otherwise;

(b) impedes or hinders the deposit of any cargo or other article recovered from the vessel as aforesaid on the land; or

(c) prevents or endeavours to prevent any cargo or other article from remaining deposited on the land for a reasonable time, until it can be removed to a safe place or public deposit,

he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred pounds.

Power of
Receiver to
suppress
plunder and
disorder by
force.

279.—(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel, or of the shipwrecked persons, or of the cargo or apparel of the vessel, the Receiver of Wreck may cause that person to be apprehended.

(2) The Receiver of Wreck may use force for the suppression of any such plundering, disorder or obstruction, and may command all persons present to assist him in so using force.

(3) If any person is killed, maimed or hurt by reason of his resisting the Receiver of Wreck or any person acting under the orders of the Receiver of Wreck in the execution of the duties by this Part committed to the Receiver of Wreck, neither the Receiver of Wreck nor the person acting under his orders shall be liable to any punishment, or to pay any damages, by reason of the person being so killed, maimed or hurt.

Exercise of
powers of
Receiver in
his absence.

280.—(1) Where the Receiver of Wreck is not present, the following officers in succession (each in the absence of the other, in the order in which they are named), namely, any superior police officer, any magistrate, any commissioned officer on full pay in any of the armed forces of

Nigeria, may do everything by this Part authorized to be done by the Receiver of Wreck; and any direction, requisition or demand lawfully given or made by any such officer acting under this section shall, for the purposes of this Part be deemed to have been given or made by the Receiver of Wreck.

(2) An officer acting under this section for the Receiver of Wreck shall, with respect to any goods or articles belonging to a vessel the delivery of which to the Receiver of Wreck is required by this Act, be considered as the agent of the Receiver of Wreck, and shall place such goods or articles in the custody of the Receiver of Wreck; but he shall not be entitled to any fees payable to the Receiver of Wreck, or be deprived, by reason of his so acting, of any right to salvage to which he would otherwise be entitled.

281.—(1) Where any Commonwealth or foreign ship is or has been in distress on the coast of Nigeria, the Receiver of Wreck, or in the absence of the Receiver of Wreck a magistrate, shall, as soon as conveniently may be, examine on oath any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to any of the following matters—

- (a) the name and description of the ship;
- (b) the name of the master and of the owners;
- (c) the names of the owners of the cargo;
- (d) the ports from and to which the ship was bound;
- (e) the occasion of the distress of the ship;
- (f) the services rendered;
- (g) such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2) The person holding the examination shall take it down in writing and shall send two copies to the Minister. The Minister shall cause one copy to be placed in some conspicuous position for public inspection, and shall publish so much of the result of the examination as he thinks fit in the *Gazette*.

(3) The person holding an examination under this section shall have all the powers of an inspector to this Act; and for the avoidance of doubt, the power to examine on oath shall include the power to administer an oath.

CHAPTER 57

DEALING WITH WRECK

282.—Where any person finds or takes possession of any wreck within Nigeria, or finds or takes possession of any wreck outside those limits and brings it within those limits, he shall—

- (a) if he is the owner of the wreck, give notice to the Receiver of Wreck, stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised; or
- (b) if he is not the owner of the wreck, as soon as possible deliver it to the Receiver of Wreck,—

and, if the person fails without reasonable cause, to comply with this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred pounds, and shall, in addition, if he is not the owner, forfeit any claim to salvage, and be liable to pay to the owner of the wreck, if it is claimed, or if it is unclaimed to the Minister, double the value thereof.

Examination
in respect of
ship in
distress.

Rules to be
observed by
persons
finding
wreck.

Penalty for taking wreck at time of casualty.

283.—(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, any cargo or other articles belonging to, or separated from, the vessel which may be washed on shore, or otherwise lost or taken from the vessel, shall be delivered to the Receiver of Wreck.

(2) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the Receiver of Wreck, or to any person authorised by the Receiver of Wreck to demand the same, that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two hundred pounds.

(3) The Receiver of Wreck or any person authorized as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

Notice of wreck to be given by Receiver.

284.—(1) Where the Receiver of Wreck takes possession of any wreck, he shall, within forty-eight hours—

(a) cause to be posted at the nearest police station, and otherwise publish in such manner as he may deem fit, a description of the wreck and of any marks by which it is distinguished; and

(b) if, in his opinion, the value of the wreck exceeds twenty pounds, send a copy of such description to the Minister.

(2) The Minister may if he thinks fit direct that a copy of any description of any wreck sent to him by the Receiver of Wreck under subsection (1), be sent to the secretary of Lloyd's in London.

Claims of owners to wreck.

285.—(1) The owner of any wreck in the possession of the Receiver of Wreck, upon establishing his claim to the same to the satisfaction of the Receiver of Wreck within one year from the time when the wreck came into the possession of the Receiver of Wreck, shall, upon paying the salvage, fees and expenses due, be entitled to have the wreck or the proceeds thereof, delivered up to him.

(2) Where any foreign vessel is wrecked in Nigeria, or any articles belonging to, or forming part of, any such vessel, or belonging to, or forming part of, the cargo of any such vessel, are found in Nigeria, or are brought into any port within Nigeria, any consular officer of the country to which the vessel, or, in the case of cargo, to which the owner of the cargo, may have belonged, if authorized by any treaty or arrangement with that country, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the vessel or the articles.

Cap. 38.
Cap. 223.

(3) Reference in section 5 of the Consular Conventions Act to section 32 of the Wrecks and Salvage Act, shall be construed as a reference to subsection (2) of this section and shall be deemed to be amended accordingly.

Immediate sale of wreck by Receiver in certain cases.

286.—The Receiver of Wreck may at any time sell any wreck in his custody if in his opinion—

(a) it is under the value of five pounds;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value to pay for warehousing; and the proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver of Wreck for the same purposes, and subject to the same claims, rights and liabilities, as if the wreck had remained unsold.

CHAPTER 58

UNCLAIMED WRECK

287.—Where no owner establishes a claim to any wreck which—

(a) has been found in Nigeria, or found or taken possession of outside Nigeria and brought into Nigeria ; and

(b) has been in the possession of the Receiver of Wreck for one year, the Receiver of Wreck shall sell such wreck and shall pay into the Consolidated Revenue Fund the proceeds of the sale after deducting therefrom the expenses of sale and any other expenses incurred by, and the fees payable to him in respect thereof, and paying thereout to the salvors such amount of salvage as the Minister may, by special or general directions, specify.

Unclaimed wreck to be sold and proceeds paid into general revenue.

288.—Upon delivery of wreck or payment of the proceeds of sale of wreck by the Receiver of Wreck in pursuance of the provisions of this Part, the Receiver of Wreck shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

Delivery of unclaimed wreck by Receiver not to prejudice title.

CHAPTER 59

REMOVAL OF WRECKS

289.—(1) Subject to the provisions of any Act or other written law relating to ports, where any vessel is sunk, stranded or abandoned in any port, navigable river or tidal water within Nigeria, or in or near any approach to any such port, navigable river or tidal water, in such a manner as, in the opinion of the Receiver of Wreck, to be, or to be likely to become, an obstruction or danger to navigations, the Receiver of Wreck—

Removal of wreck by Receiver.

(a) may take possession of, and raise, remove or destroy, the whole or any part of the vessel ;

(b) may light or buoy any such vessel, or part of any such vessel, until the raising, removal or destruction thereof ; and

(c) subject to the provisions of subsections (2) and (3), may sell, in such manner as he thinks fit, any vessel or part so raised or removed, and also any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale reimburse himself for the expenses incurred by him under this section in relation to such vessel, or part of a vessel, or other property, and shall hold the surplus, if any, of those proceeds in deposit for payment to the person thereafter establishing his right thereto :

Provided that the deposit shall be paid into the Consolidated Revenue Fund unless such person makes his claim within three years of the sale.

(2) A sale shall not, except in the case of property which is of a perishable nature or which would deteriorate in value by delay, be made under this section until at least seven clear days' notice of the intended sale has been given in the *Gazette*.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the Receiver of Wreck of the fair market value thereof, to be ascertained by agreement between the Receiver of Wreck and the owner, or, failing such agreement, by some person to be named for the

purpose by the Minister; and the sum paid to the Receiver of Wreck as the value of any property under this subsection shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

(4) If the proceeds of sale of any such property as is mentioned in this section is less than the costs incurred by the Receiver of Wreck under this section, he may recover such difference from the owner of the vessel by civil action.

Breaking and
removal of
wrecks.

290.—(1) If any person, being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel, or the duly authorized agent or servant of such owner, is desirous of breaking up such vessel prior to removal thereof from Nigeria, such person shall, before commencing salvage or breaking up operations, obtain the written permission of the Receiver of Wreck, who shall be entitled to grant permission and, in his discretion, to require security in such reasonable amount as he may consider necessary to ensure the effective removal of such vessel, or any portion thereof, from Nigeria.

(2) Any person who, without the previous written permission of the Receiver of Wreck, does or causes to be done any salvage or breaking up operations of any vessel or any wrecked, submerged, sunken or stranded vessel lying within Nigeria shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both.

Powers of
removal to
extend to
tackle, cargo,
etc.

291.—The provisions of this Part relating to removal of wrecks shall apply to every article or thing, or collection of things, being or forming part of the tackle, equipments, cargo, stores or ballast of a vessel, in the same manner as if it were included in the word "vessel"; and, for the purposes of those provisions, any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

Interfering
with wrecked
vessel.

292.—A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress unless that person is, or acts by command of, the Receiver of Wreck or a person lawfully acting as such; and, if any person acts in contravention of this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, and the master of the vessel may repel him by force.

Summary
procedure
for conceal-
ment of
wreck.

293.—(1) Where the Receiver of Wreck suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any magistrate for a search warrant; and that magistrate shall have power to grant such a warrant; and the Receiver of Wreck, by virtue of such warrant, may enter any house or other place, wherever situate, and also any vessel, and search for such wreck, and seize and detain any such wreck there found.

(2) If any such seizure of wreck is made in consequence of information given by any person to the Receiver of Wreck, on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum, not exceeding in any case ten pounds, as the Receiver of Wreck may allow.

CHAPTER 60

SALVAGE

294.—Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Nigeria or any tidal water within Nigeria, and services are rendered by any person in assisting that vessel, saving life from that vessel or saving the cargo or apparel of that vessel, or any part thereof, and where services are rendered by any person other than the Receiver of Wreck in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck a reasonable amount of salvage, to be determined in case of dispute in the manner hereinafter mentioned.

Salvage of life, cargo or wreck within Nigeria.

295.—(1) A dispute as to the amount of salvage, whether of life or property and whether the services for which it is claimed have been rendered within or without Nigeria, arising between the salvor and the owner of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, in the following cases—

Determination of salvage disputes.

- (a) in any case where the parties in the dispute consent;
 - (b) in any case where the amount claimed does not exceed one hundred pounds;
 - (c) in any case where the value of the property saved does not exceed one hundred pounds,
- be referred to and determined by a magistrates' court.

(2) Subject to subsection (1), any dispute as to salvage shall be determined by a court of competent jurisdiction but, if the claimant does not recover in that court more than one hundred pounds, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim, unless that court certifies that the case was a fit one to be tried otherwise than under subsection (1).

(3) A dispute relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

296.—(1) Disputes as to salvage which are to be determined under subsection (1) of section 295 shall—

Determination of disputes as to salvage summarily.

(a) where the dispute relates to the salvage of wreck, be referred to a magistrates' court having jurisdiction at or near the place where the wreck is found; or

(b) where the dispute relates to salvage in the case of services rendered to any vessel, or to the cargo or apparel thereof, or in saving life therefrom, be referred to a magistrates' court having jurisdiction at or near the port in Nigeria into which the vessel is first brought after the occurrence by reason whereof the claim of salvage arises.

(2) A magistrates' court may, and shall if so requested by any party to the proceedings, for the purpose of determining any such dispute, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum as the Minister may direct.

297.—(1) Where any dispute as to salvage arises, the Receiver of Wreck may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

Valuation of property by Receiver.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the Receiver of Wreck, shall be admissible as evidence in any subsequent proceeding.

(3) There shall be paid, in respect of the valuation, by the person applying for the same such fee as the Minister may direct.

Detention of
property
liable for
salvage by
Receiver.

298.—(1) Where salvage is due to any person under this Part, the Receiver of Wreck shall—

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Part, detain the wreck.

(2) Subject as hereinafter mentioned, the Receiver of Wreck shall detain the vessel and the cargo and apparel or the wreck (in this Part referred to as "detained property") until payment is made for salvage or process is issued for the arrest or detention of the detained property by a court of competent jurisdiction.

(3) The Receiver of Wreck may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds one hundred pounds and any question is raised as to the sufficiency of the security, to the satisfaction of a court of competent jurisdiction.

(4) Any security given for salvage in pursuance of this section to an amount exceeding one hundred pounds may be enforced by any such court in the same manner as if bail had been given in that court.

Sale of
detained
property by
Receiver.

299.—(1) The Receiver of Wreck may sell any detained property, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases—

(a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due;

(b) where the amount is disputed, but no appeal lies from the decision of the first court to which the dispute is referred and payment is not made within twenty days after the decision of the first court;

(c) where the amount is disputed and an appeal lies from the decision of the first court to which the dispute is referred to some other court, and within thirty days after the decision of the first court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal or of obtaining leave to appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the Receiver of Wreck in payment of the expenses, fees and salvage incurred and payable in respect of such property, and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the same.

Apportion-
ment of
salvage
under £200
by Receiver.

300.—(1) Where the aggregate amount of salvage payable in respect of salvage services rendered within Nigeria has been finally determined, either summarily in the manner provided by this Chapter or by agreement, and does not exceed two hundred pounds, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the Receiver of Wreck for liberty to pay the same to him; and the Receiver of Wreck shall, if he thinks fit,

receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid; and that certificate shall be a full discharge and indemnity to the person by whom the money is paid and to his vessel, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(2) The Receiver of Wreck shall, with all convenient speed, distribute any amount received by him under this section among the persons entitled to the same on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(3) A distribution made by the Receiver of Wreck in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

301.—Whenever the aggregate amount of salvage payable in respect of salvage service rendered within Nigeria has been finally ascertained and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, a court of competent jurisdiction may cause the aggregate amount of salvage payable to be apportioned among the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect, and may compel any person in whose hands, or under whose control, the amount may be to distribute the same, or to bring the same into court to be there dealt with as the court may direct, and may, for the purposes aforesaid, issue such process as it thinks fit.

Apportionment of salvage by court.

CHAPTER 61

RECEIVER OF WRECK

302.—(1) There shall be appointed, a Receiver of Wreck, and such number of assistant Receivers of Wreck for any part of Nigeria as may be necessary; and any such assistant Receiver of Wreck shall exercise such of the powers as are conferred by this Part on the Receiver of Wreck, and may perform such of the duties as are imposed by this Part on the Receiver of Wreck, as may be delegated to him by the Receiver of Wreck.

Receiver and assistant Receivers.

(2) Anything lawfully done by an assistant Receiver of Wreck acting under this section shall, for the purposes of this Part, be deemed to have been done by the Receiver of Wreck.

CHAPTER 62

FEES OF RECEIVERS OF WRECK

303.—(1) There shall be paid to the Receiver of Wreck and every assistant Receiver of Wreck the expenses properly incurred by them in the performance of their duties and also, in respect of such other matters as may be prescribed, such fees as may be prescribed; but the Receiver of Wreck and the assistant Receiver of Wreck shall not be entitled to any remuneration other than those payments.

Receiver's fees.

(2) The Receiver of Wreck and every assistant Receiver of Wreck shall, in addition to all other rights and remedies for the recovery of the expenses and fees aforesaid, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to the Receiver of Wreck or any assistant Receiver of Wreck in respect of expenses or fees, that dispute shall be determined by the Minister, and the Minister's decision shall be final.

(4) All fees received by the Receiver of Wreck or any assistant Receiver of Wreck in respect of any services performed by him as the Receiver of Wreck or the assistant Receiver of Wreck, as the case may be, shall be paid into the Consolidated Revenue Fund.

PART IX.—REGISTRATION OF SHIPPING

CHAPTER 63

REGISTRARS OF SHIPS

Registrar of
ships.

304.—(1) The Minister may from time to time appoint ports in Nigeria to be ports of registry for the registration of ships; and at each such port there may be appointed some fit person to be the Registrar of ships.

(2) No Registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him as Registrar, unless the same has happened through his neglect or wilful default.

(3) For the purposes of this Part of this Act, "ship" shall have an extended meaning so as to include any barge, lighter or like vessel used in navigation in Nigeria and however propelled.

Register
book.

305.—(1) The Registrar shall keep a book to be called the register book, and entries in that book shall be made in accordance with the following provisions—

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

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

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

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

(e) a corporation may be registered as owner by its corporate name.

(2) Any person may, upon payment of the prescribed fee, have access to the register book at any port of registry at any reasonable time during the hours of official attendance of the Registrar.

CHAPTER 64

QUALIFICATION FOR OWNING NIGERIAN SHIPS

Qualification
for owning
Nigerian
ships.

306.—(1) Subject to the provisions of subsection (2) and of any rules made or deemed to have been made thereunder, a ship shall not be registered in Nigeria under this Act unless she is owned wholly by persons of the following descriptions (in this Act referred to as "persons qualified to own a registered Nigerian ship")—

(a) Commonwealth citizens ;

(b) bodies corporate established under, and subject to, the law of a Commonwealth country and having their principal place of business in a Commonwealth country.

(2) The Minister may make rules with respect to the manner in which Nigerian Government ships, or any class of those ships, may be registered under this Act ; and, subject to any modifications which may be made by those rules either generally or in respect of any specified class of ships, this Act shall apply to Nigerian Government ships which are registered in accordance with the rules as if they were ships registered in the manner provided in Chapter 66.

(3) Where the Minister has reason to believe that there is some doubt as to the title of any ship registered in Nigeria under this Act to be so registered, he may direct the Registrar at the port of registry of the ship to require that evidence be given to his satisfaction that the ship is entitled to be so registered. If, within such time as may be determined by the Minister, not being less than thirty days, evidence to the satisfaction of the Registrar of the title of the ship to be registered is not given, the ship shall be liable to forfeiture.

CHAPTER 65

OBLIGATION TO REGISTER SHIPS

307.—(1) Whenever a ship is owned wholly by persons qualified to own a registered Nigerian ship, that ship shall be registered either in Nigeria in the manner provided in this Part or in some other Commonwealth country in accordance with the law of that country, unless—

Obligation to register ships.

(a) the ship is recognized by the law of a Commonwealth country other than Nigeria as a ship of that country, and is by the law of that country exempted from registration ; or

(b) the ship is, pursuant to subsection (2), exempted from registration under this Act.

(2) Ships not exceeding fifteen tons employed solely on the coasts or inland waters of Nigeria may, if the Minister thinks fit, by notice in the Gazette be generally or specially exempted from registration under this Act.

(3) If any ship, other than a Nigerian licensed ship, does not comply with the requirements of subsection (1), that ship shall not be recognized as a Nigerian ship.

(4) If the master of any ship which is owned wholly by persons qualified to own a registered Nigerian ship fails, on demand, to produce a certificate of registration of the ship or such other evidence as satisfies the Minister that that ship complies with the requirements of subsection (1), that ship may be detained until that evidence is produced.

(5) Any ship which immediately before the commencement of this Part, is registered at a port in Nigeria in accordance with the provisions of the Shipping Laws shall, on the commencement of this Part, be registered in Nigeria under this Act if it is owned by Nigerians as citizens or as a body corporate, and the Minister so requires.

CHAPTER 66

PROCEDURE FOR REGISTRATION

Application
for registry.

308.—(1) Application for registration of a ship in Nigeria under this Act shall be made to the Registrar at a port of Registry in Nigeria in the form from time to time approved by the Minister.

(2) The application shall be made, in the case of individuals, by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and, in the case of a corporation, by its agent; and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal of the corporation.

(3) The Registrar may require proof of ownership to his satisfaction before proceeding with the registry of a ship.

Survey and
measurement
of ship.

309.—(1) Whenever application for a ship to be registered is made under section 308, the owner or other applicant shall, on or before making the application, cause the ship to be surveyed by a surveyor of ships and the tonnage of the ship to be ascertained in accordance with the tonnage regulations.

(2) Notwithstanding anything in subsection (1), where the Minister is satisfied and by order in the *Gazette* so declares that the provisions of the law of any Commonwealth country other than Nigeria or of any foreign country, are of like effect to the tonnage regulations, he may if he considers that the tonnage of a ship has been ascertained by the Government of such Commonwealth or foreign country, or by an authority recognised by the Government of such a Commonwealth or foreign country in accordance with the provisions of the law of that country, by writing direct that the tonnage so ascertained shall be accepted as if it were the tonnage of the ship ascertained in accordance with the tonnage regulations. The provisions of this Act as to the tonnage of the ship shall thereupon apply as if the tonnage of the ship had been ascertained in accordance with the tonnage regulations.

(3) The surveyor shall, upon making the survey, deliver to the owner or applicant a tonnage certificate signed by him and that certificate shall be delivered to the Registrar before the ship is registered.

(4) A surveyor's tonnage certificate shall be in a form approved by the Minister, and shall specify the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as the Minister may from time to time require.

Marking of
ship.

310.—(1) Every ship in respect of which an application for registration under section 308 is made shall, before registry, be marked permanently and conspicuously to the satisfaction of the Minister as follows—

(a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches and of proportionate breadth;

(b) her official number and the number denoting her registered tonnage shall be cut in on her main beam;

(c) a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby; and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Minister may approve.

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

(3) If the owner or master of any ship registered in a Commonwealth country fails to keep the ship marked as is required by this section in the case of ships of that class registered in Nigeria, or if any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of those marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds:

Provided that it shall be a good defence to a charge under this subsection that the ship is marked, and has been kept marked, in accordance with the law of the Commonwealth country in which the ship is registered.

(4) If the scale of feet denoting the draught of water of any ship registered in a Commonwealth country is in any respect so inaccurate as to be likely to mislead, the owner of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) On a certificate from a surveyor of ships or an inspector that a ship registered in a Commonwealth country is insufficiently or inaccurately marked, such ship may be detained until the insufficiency or inaccuracy is remedied:

Provided that no ship registered in a Commonwealth country other than Nigeria shall be detained under this section if it is shown that the ship is marked, and has been kept marked, in accordance with the law of the Commonwealth country in which she is registered.

311.—(1) A person shall not be entitled to be registered as owner of a ship, or of a share therein, until he, or, in the case of a corporation, the person authorized by this Part to make declarations on behalf of the corporation, has made and signed a declaration of ownership referring to the ship as described in the surveyor's tonnage certificate, and containing the following particulars—

Declaration
of ownership
on registry.

(a) a statement of his qualification to own a registered Nigerian ship, or, in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a registered Nigerian ship;

(b) a statement of the time when, and the place where, the ship was built, or, if the ship was built in a foreign country and the time and place of building are unknown, a statement that she was built in a foreign country and that the declarant does not know the time and place of her building; and, in addition, in the case of a foreign ship,

a statement of her foreign name, or, in the case of a ship condemned, a statement of the time, place and court at and by which she was condemned;

(c) a statement of the name of the master of the ship;

(d) a statement of the number of shares in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner;

(e) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

(2) A declaration of ownership by an individual owner and a declaration of ownership on behalf of a corporation as owner shall each be made in a form approved for the purpose by the Minister.

Evidence on first registry.

312.—(1) On the first registry of a ship in Nigeria, the following evidence shall be produced in addition to the declaration of ownership—

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

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

(c) in the case of a ship that has been condemned by any competent court, an official copy of the condemnation.

(2) In the case of every ship built in Nigeria, the builder shall, if requested to do so, deliver to the owner a signed certificate containing the particulars specified in paragraph (a) of subsection (1).

(3) If any builder fails to comply with subsection (1) or wilfully makes a false statement in a certificate given thereunder, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) In this section, "builder", in the case of a ship built in Nigeria, includes any person whom the Minister recognizes as carrying on the business of the builder of a ship, and, in the case of a ship built in any Commonwealth country other than Nigeria, includes any person who is so recognized in accordance with the law of that country.

Entry of particulars in register book.

313.—(1) As soon as the requirements of this Part preliminary to registry have been complied with, the Registrar shall enter in the register book the following particulars respecting the ship—

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

(b) the details comprised in the surveyor's tonnage certificate;

(c) the particulars respecting her origin stated in the declaration of ownership;

(d) the name, address and occupation of her registered owner or owners, and, if there are more owners than one, what share in the ship is held by each owner.

(2) On the registry of a ship, the Registrar shall retain in his possession the following documents—

- (a) the surveyor's tonnage certificate ;
- (b) the builder's certificate, if any ;
- (c) all declarations of ownership ;
- (d) any bill of sale of the ship previously made ;
- (e) the copy of the condemnation, if any.

314.—(1) The name and address of the managing owner for the time being of every ship registered in Nigeria shall be registered in the register book at the ship's port of registry.

Managing owner to be registered.

(2) Where there is not a managing owner, there shall be so registered the name of the ship's agent or other person to whom the management of the ship is entrusted by or on behalf of the owner ; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

(3) If default is made in complying with this section, the owner shall be liable, or if there are more owners than one, each owner shall be liable in proportion to his interest in the ship, to a fine not exceeding in the whole one hundred pounds, and to an additional fine not exceeding one hundred pounds for each occasion on which the ship leaves any port in Nigeria while that default continues.

CHAPTER 67

CERTIFICATE OF REGISTRY

315.—(1) On completion of the registration of a ship the Registrar shall grant a certificate of registry in such form as may be approved by the Minister.

Issue and custody of certificate of registry.

(2) The certificate of registry of a ship, whether or not the ship is a Nigerian ship, shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest had or claimed by any owner, mortgagee or other person to, on or in the ship.

(3) No person who has in his possession, or under his control, the certificate of registry of a ship shall refuse or omit, without reasonable cause, to deliver the certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any Registrar, ship surveyor, Collector of Customs or other person entitled by law to require its delivery.

(4) Every person who commits a breach of subsection (3) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(5) If, in any proceedings in respect of an offence under this section, the court is of opinion that the certificate is lost, the court shall give its certificate to that effect, and shall cause a copy of that certificate to be transmitted to the Minister.

316.—If the owner or master of a ship, whether or not the ship is a Nigerian ship, uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five

Use of improper certificate.

hundred pounds or to imprisonment for a term not exceeding two years or both, and, in addition, the ship shall be liable to forfeiture.

Power to
grant new
certificate.

317.—(1) The Registrar at the port of registry of a ship registered in Nigeria may, with the approval of the Minister and on the delivery to him of the certificate of registry of the ship, grant a new certificate in lieu thereof.

(2) In the event of the certificate of registry of a ship registered in Nigeria being lost, mislaid or destroyed, the Registrar at her port of registry shall grant a new certificate of registry in lieu of her original certificate.

(3) If, in the case of a ship registered in Nigeria, the event referred to in subsection (2) occurs while the ship is at a port out of Nigeria, or if, after the occurrence of that event, the ship first arrives at a port out of Nigeria, the master of the ship, or some other person having knowledge of the facts of the case, shall furnish the proper officer at that port with a declaration stating the facts of the case and the names and descriptions of the registered owners of the ship; and the proper officer may, thereupon, grant a provisional certificate of registry, in a form approved by the Minister, containing a statement of the circumstances in which it is granted.

(4) Whenever a proper officer grants a provisional certificate in respect of any ship under subsection (3), he shall transmit a copy of that certificate to the Registrar at the ship's port of registry.

(5) The master of a ship in respect of which a provisional certificate has been granted under subsection (3), shall within ten days after the first subsequent arrival of the ship at a port in Nigeria, deliver the provisional certificate to the Registrar at that port, or, if there is no Registrar at that port, to the Registrar at the ship's port of registry; and, if the master fails to comply with this subsection, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(6) If, under subsection (5), a provisional certificate is delivered to a Registrar who is not himself the Registrar at the ship's port of registry, he shall forthwith forward the certificate to the Registrar at the ship's port of registry.

(7) Upon receipt of a provisional certificate granted under this section, the Registrar at the ship's port of registry shall grant a new certificate of registry.

Endorsement
of change of
master on
certificate.

318.—(1) If the master of a ship registered in any Commonwealth country is changed in consequence of the removal of the master by a marine court under Part VII, the court shall cause a memorandum of the change to be endorsed on the ship's certificate of registry and shall cause a copy of the endorsement to be transmitted to the Minister.

(2) If the master of a ship registered in Nigeria is changed while the ship is at a port in Nigeria, and the change occurs from any cause other than that mentioned in subsection (1), the Registrar at that port, or, if there is no Registrar at that port, the Registrar at the ship's port of registry, shall endorse and sign a memorandum of the change on the ship's certificate of registry.

(3) If the master of a ship registered in Nigeria is changed while the ship is at a port out of Nigeria, the proper officer at that port shall endorse and sign a memorandum of the change on the ship's certificate of registry, unless the change has occurred in consequence of the removal of the master by a competent court in a Commonwealth country, or in

consequence of the sentence of a competent naval court constituted under the law of a Commonwealth country, and that court has caused a memorandum of the change to be endorsed on the ship's certificate of registry.

(4) Where any Registrar, not being the Registrar at the ship's port of registry, or any proper officer, makes an endorsement under this section, he shall forthwith notify the Registrar at the ship's port of registry.

(5) The owner of every power driven craft operating solely on inland waters shall keep a continuous record of the persons from time to time in charge of that craft and her engines. Such record shall contain the name, address and certificate number of the said person and the dates when he assumed command and left the craft. The owner shall produce such record at any time on demand by any officer of the Ministry, and any owner failing to comply with this subsection shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds.

319.—(1) Whenever a change occurs in the registered ownership of a ship registered in Nigeria, the change of ownership shall be endorsed on the certificate of registry by the Registrar at the ship's port of registry, or by the Registrar or proper officer at any port at which the ship arrives after he has been advised of the change by the Registrar at the ship's port of registry.

Endorsement
of change of
ownership on
certificate of
registry.

(2) The master shall, for the purpose of such endorsement by the Registrar at the ship's port of registry, deliver the certificate of registry to the Registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and, if it occurs during her absence from that port and the endorsement under this section is not made before her return, then, upon her first return to that port.

(3) The Registrar at any port of registry, not being the ship's port of registry, or any proper officer who is by this section required to make an endorsement on the certificate of registry of a ship registered in Nigeria, may require the master to deliver to him the ship's certificate of registry, so long as the ship is not thereby detained; and the master shall deliver the certificate accordingly.

(4) Where any Registrar, not being the Registrar at the ship's port of registry, or any proper officer, makes an endorsement under this section in respect of any ship, he shall forthwith notify the Registrar at the ship's port of registry.

(5) If the master of any ship fails to deliver the ship's certificate of registry to a Registrar or proper officer when required under this section to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(6) Where the ownership of any ship registered in Nigeria is changed, the Registrar at the ship's port of registry may, on the application of the owner of the ship, register the ship anew, although registration anew is not required under this Part.

320.—(1) In the event of a ship registered in Nigeria being either actually or constructively lost, taken by the enemy, burnt or broken up or ceasing to be entitled to be registered under this Act by reason of a transfer to persons not qualified to own a registered Nigerian ship, or for any other reason except the transfer of her registry to a port in a Commonwealth country other than Nigeria, every owner of the ship or

Delivery of
certificate
when ship is
lost or ceases
to be a
Nigerian
ship.

any share therein shall immediately on obtaining knowledge of the event, if notice thereof has not already been given, give notice thereof to the Registrar at her port of registry, who shall make an entry thereof in the register book, and the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in Nigeria or at any port, within ten days of the occurrence, or, if the event occurs elsewhere, then within ten days after his arrival in Nigeria or at any port, deliver the ship's certificate of registry to the Registrar at the port at which the event occurs or at which he first arrives thereafter, or, if there is no Registrar at that port, to the Registrar at the ship's port of registry:

Provided that, if the event occurs at any port out of Nigeria, or, if after the event, the master first arrives at any such port, he shall deliver the ship's certificate of registry to the proper officer at that port.

(3) If any such owner or master fails, without reasonable cause, to comply with subsection (1) or (2), he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) If, under subsection (2), a ship's certificate of registry is delivered to a Registrar who is not himself the Registrar at the ship's port of registry, or to a proper officer, that Registrar or proper officer shall forthwith forward the certificate to the Registrar at the ship's port of registry.

(5) Where by this Act or the laws of any Commonwealth country the registry of a ship registered in any Commonwealth country is considered as closed, any unsatisfied registered mortgage including any mortgage made under a certificate of mortgage may, if the ship comes within the jurisdiction of a court of competent jurisdiction in Nigeria, be enforced in Nigeria notwithstanding the transfer of the ship to persons not qualified to own a Commonwealth ship; but nothing in this subsection shall prejudice the effect of the judgment of the court of a Commonwealth country under which the ship was sold.

(6) For the purposes of subsection (1), a ship shall be deemed to be constructively lost if there is, in respect of that ship, a constructive total loss within the meaning of that expression in the Marine Insurance Act 1961.

1961, No. 54.

Re-registration
of
abandoned
ships.

321.—If a ship has ceased to be registered in Nigeria by reason of having been wrecked or abandoned, or for any other reason except capture by the enemy or transfer to persons not qualified to own a registered Nigerian ship, or transfer of her registry to a port in a Commonwealth country other than Nigeria, the ship shall not be re-registered in Nigeria until she has, at the expense of the applicant for re-registration, been inspected by a surveyor of ships and certified by him to be seaworthy.

322.—(1) If, at a port in a foreign country, a ship becomes the property of persons qualified to own a registered Nigerian ship, and if some one or more of those persons declare to the proper officer at that port an intent to apply to have the ship registered in Nigeria, or if the master of the ship makes such a declaration and declares therein that he is authorized by some one or more of the owners of the ship to make the declaration, the proper officer may grant to the master of the ship, on application by him, a provisional certificate, in a form approved by the Minister, stating—

Provisional certificate for ship which in a foreign country becomes Nigerian owned.

- (a) the name of the ship;
- (b) the time and place of her purchase, and the names and addresses of the purchasers;
- (c) the name of the master; and
- (d) the best particulars respecting the tonnage, build and description of the ship which he is able to obtain,—

and shall forthwith forward a copy of the certificate to the Minister.

(2) A provisional certificate granted in accordance with subsection (1) shall be deemed to be a certificate of registry until the expiry of six months from the date on which it was granted, or until the arrival of the ship at a port in Nigeria, whichever is the earlier date, and shall thereafter have no effect.

(3) The master of every ship in respect of which a provisional certificate is granted under this section shall, within ten days of the ship's first arrival thereafter at a port in Nigeria, deliver the certificate to the Registrar at that port, or, if there is no Registrar at that port, to the Registrar at the ship's intended port of registry; and, if any master fails to comply with this subsection, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

323.—(1) Where a ship is owned wholly by persons qualified to own a registered Nigerian ship, and that ship is not registered in Nigeria or in any other Commonwealth country and is not recognized by the law of that country as a ship of that country, and the Minister is, by reason of special circumstances, satisfied that permission should be granted for that ship to pass, without being previously registered, from any port in Nigeria to any other port in a Commonwealth country, he may direct a Registrar to grant a pass in respect of that ship specifying the voyage which the ship is thereby authorized to make and specifying also the time for which, and any limits within which, the pass remains valid; and a Registrar, when so directed, shall grant the pass accordingly.

Temporary passes instead of certificate of registry.

(2) A pass granted under this section shall be in a form approved by the Minister; and every such pass, and every pass granted under the corresponding provisions of the law of any Commonwealth country other than Nigeria, shall, for the time and within the limits mentioned therein, have the same effect as a certificate of registry.

CHAPTER 68

REGISTRY OF ALTERATIONS AND REGISTRY ANEW

324.—(1) Wherever a ship registered in Nigeria is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book—

Registry of alterations.

- (a) if the alteration is made in Nigeria, the Registrar at the port at which the alteration is made, or, if there is no Registrar at that port, the Registrar at the ship's port of registry;

(b) if the alteration is made at any port in a Commonwealth country other than Nigeria, the proper officer at that port; or

(c) if the alteration is made elsewhere, on the ship's first arrival thereafter at a port in a Commonwealth country, the appropriate Registrar or proper officer, determined in accordance with the provisions of paragraphs (a) and (b),—

shall, upon application being made to him and on receipt of a certificate from a surveyor of ships stating the particulars of the alteration, either cause the alteration to be registered in accordance with the provisions of section 325 or direct that the ship be registered anew in accordance with the provisions of section 327.

(2) Wherever a ship registered in Nigeria is altered as aforesaid, application to register that alteration shall be made in accordance with the provisions of subsection (1), and if, in respect of any such ship, there is failure to comply with this subsection, the owner of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, and, in addition, to a further fine not exceeding five pounds for every day during which the offence continues after conviction.

(3) In this section, "surveyor of ships" includes any person who is, under the law of the Commonwealth country in which the ship is surveyed, qualified to survey ships for the purpose of ascertaining their tonnage in accordance with the tonnage regulations of that country.

Procedure
for registry
of alterations,

325.—(1) Where any Registrar or proper officer, on an application as to an alteration in a ship registered in Nigeria, causes the alteration to be registered, the ship's certificate of registry shall be produced to him; and the Registrar or proper officer shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration.

(2) Where any Registrar, not being the Registrar at the ship's port of registry, or any proper officer grants a new certificate or endorses an existing certificate under this section, he shall forthwith send a report of the particulars of the case to the Registrar at the ship's port of registry, containing a statement similar to that contained in the certificate or endorsement, and accompanied, where a new certificate of registry has been granted, by the former certificate of registry.

(3) The particulars of the alteration so made, and the fact of the new certificate having been granted or the endorsement having been made, shall be entered in his register book by the Registrar at the ship's port of registry.

Provisional
certificate
where ship
registered
anew.

326.—(1) Where any Registrar, not being the Registrar at the ship's port of registry, or any proper officer, on an application as to an alteration in a ship registered in Nigeria, directs the ship to be registered anew, he shall either grant a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

(2) Where any Registrar or proper officer grants a provisional certificate or provisionally endorses a certificate under this section, he shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the Registrar at the ship's port of registry, containing a statement similar to that contained in the certificate or endorsement.

(3) The master of every ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section shall, within ten days of the ship's first arrival thereafter at a port in Nigeria, deliver that certificate to the Registrar at that port, or, if there is no Registrar at that port, to the Registrar at the ship's port of registry; and, if any master fails to comply with this subsection, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) If, under this section, a ship's certificate of registry is delivered to a Registrar who is not himself the Registrar at the ship's port of registry, the first-mentioned Registrar shall forthwith forward the certificate to the Registrar at the ship's port of registry.

(5) When any ship in respect of which a provisional certificate is granted or a certificate is endorsed under this section first arrives thereafter at a port in Nigeria, application for registration of that ship anew shall be made to the Registrar at the ship's port of registry, and the other requisites to registry shall be complied with; and if, in respect of any such ship, there is failure to comply with this subsection, the owner of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds, and, in addition, to a further fine not exceeding five pounds for every day during which the offence continues after conviction.

327.—(1) When a ship registered in Nigeria is to be registered anew, the Registrar at the ship's port of registry shall proceed as in the case of first registry; and on the delivery to him of the existing certificate of registry, and on compliance with the other requisites to registry, or, if the registration anew is to take place in consequence of a change of ownership, such of those requisites as the Registrar thinks material, the Registrar shall make such registry anew, and grant a certificate thereof.

Procedure
for registry
anew.

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

CHAPTER 69

TRANSFER OF REGISTRY

328.—(1) The registry of any ship registered in Nigeria may be transferred from her existing port of registry to another port of registry in Nigeria on the application to the Registrar at the ship's existing port of registry, made by declaration in writing, of all persons appearing on the register to be interested therein as owners or mortgagees.

Transfer of
registry
within
Nigeria.

(2) On any such application, the Registrar shall transmit notice thereof to the Registrar at the intended port of registry, with a copy of all particulars relating to the ship and the names of all persons appearing on the register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered to the Registrar either at the existing or intended port of registry, and, if delivered to the former, shall be transmitted to the Registrar at the intended port of registry.

(4) On the receipt of those documents, the Registrar at the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry; and, thenceforth, the ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

(5) A transfer under this section shall not affect the rights of any persons appearing on the register to be interested in the ship as owners or mortgagees, and those rights shall, in all respects, continue in the same manner as if no such transfer had been effected.

Transfer of
registry to
other Com-
monwealth
country.

329.—(1) Subject in each case to the consent of the Minister, which shall be signified in writing and signed by the Minister or on his behalf by any person authorized by him for the purpose, the registry of any ship registered in Nigeria may be transferred from her existing port of registry to a port of registry in any Commonwealth country other than Nigeria on the application to the Registrar at the ship's existing port of registry, made by declaration in writing, of all persons appearing on the register to be interested therein as owners or mortgagees.

(2) On receiving any such application, and on delivery to him of the document signifying the Minister's consent to the intended transfer, the Registrar at the existing port of registry shall transmit notice of the intended transfer to the Registrar at the intended port of registry, with a copy of all particulars relating to the ship and the names of all persons appearing on the register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered to the Registrar either at the existing or intended port of registry, and, if delivered to the former, shall be transmitted to the Registrar at the intended port of registry.

(4) On the registration of the ship at her new port of registry, the Registrar at the ship's former port of registry shall make an entry thereof in the register book, and the registry of the ship in that book shall be closed, except as far as relates to any unsatisfied mortgages or existing certificates of sale or mortgage entered therein.

(5) Notwithstanding the requirements of subsection (1), where the Minister under this Act consents to the grant of a certificate of sale, a ship sold in exercise of the power conferred by that certificate may be registered anew in the manner provided by this Act, and if the registry of the ship is thereby transferred to a Commonwealth country other than Nigeria, that transfer of registry shall, for the purposes of this section, be deemed to have been made with the Minister's consent.

(6) Any document purporting to signify the Minister's consent to an intended transfer under this section and to be signed by any person authorized by the Minister for that purpose shall be admissible in evidence.

Transfer of
registry from
other
Common-
wealth
country
to Nigeria.

330.—(1) The registry of any ship registered in any Commonwealth country other than Nigeria may be transferred to a port of registry in Nigeria in the manner provided in this section, if notice is received from the Registrar at the ship's port of registry that such transfer is intended, together with a copy of all particulars relating to the ship and the names

of all persons appearing on the register to be interested therein as owners or mortgagees, and if the Registrar at the port of registry in Nigeria is satisfied that the ship is wholly owned by persons qualified to own a Nigerian ship.

(2) On the receipt of those documents and of the ship's certificate of registry, the Registrar at the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry; and, thenceforth, the ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

(3) Upon registration of the ship at her new port of registry, all persons appearing on the register to be interested in that ship as owners or mortgagees shall be deemed to have the same rights, and their rights shall be determined in the same manner, as if the ship had been first registered at a port in Nigeria in the manner provided in this Part, and as if any unsatisfied mortgages or existing certificates of sale or mortgage had been first entered in the register book at that port.

(4) When any ship is registered under this section at a port in Nigeria, the Registrar at that port shall forthwith notify the Registrar at the ship's former port of registry.

CHAPTER 70

MINISTER'S CONSENT TO CERTAIN TRANSACTIONS REQUIRED

331.—(1) Subject to the provisions of this Act, a ship or any share therein registered in Nigeria may, with the consent in writing signed by or on behalf of the Minister be transferred, or by way of mortgage be made security for a loan or other valuable consideration; and any mortgage of such a ship or share may with the like consent be transferred. For the purposes of this subsection, where the Minister consents to the grant of a certificate of sale or mortgage, a transfer or mortgage of the ship or share on the certificate shall be deemed to have been made with the consent of the Minister.

Minister's
consent to
certain
transfers and
mortgages
required.

(2) The consent of the Minister to any transaction to which subsection (1) applies may be given on such terms and subject to such conditions as may be determined by the Minister.

(3) When any ship registered in Nigeria, or any share therein, is transferred, or is, by way of mortgage, made a security for a loan or other valuable consideration, and when any mortgage of any such ship or share is transferred, the document signifying the consent of the Minister to the transaction shall be delivered to the Registrar at the ship's port of registry, and, in the case of the transfer of a ship or share therein to persons not qualified to own a registered Nigerian ship, notice of the particulars of that transfer shall be given to the Registrar; and, if default is made in the delivery of any such document or the giving of any such notice, the transferor or mortgagor shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) When, under subsection (3), notice is given to the Registrar of a transfer to persons not qualified to own a registered Nigerian ship, the Registrar shall, on delivery to him of the document signifying the

consent of the Minister to that transaction, record the particulars of the transfer, and shall endorse and sign on the document signifying the consent of the Minister, a memorandum showing that that document has been produced to him; and that document so endorsed may be uplifted by the transferor.

(5) Any document purporting to signify the Minister's consent to any transaction to which this section applies and to be signed by the Minister or any person authorised by him for the purpose shall be admissible in evidence.

Penalty for
illegal
transfers and
mortgages of
ships.

332.—(1) If any person purports to transfer a ship registered in Nigeria, or any share therein, or, by way of mortgage, to make any such ship or share a security for a loan or other valuable consideration, or to transfer a mortgage of any such ship or share, without obtaining the consent of the Minister in conformity with section 331, or otherwise than in accordance with any terms on which, or conditions subject to which, any such consent was obtained—

(a) that person shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or both; and

(b) the transaction shall be void, and any ship or share therein which has been the subject of any such transaction shall be liable to forfeiture.

(2) If any person to whom subsection (1) relates is a body corporate, every person who, at the time at which the body corporate purported to make any such transfer or mortgage, was a director or an officer of the body corporate shall be liable to the penalties provided in this section as if he had himself purported to make that transfer or mortgage, unless he proves that the transaction was made without his knowledge or that he exercised all due diligence to prevent the making of the transaction.

CHAPTER 71

TRANSFERS AND TRANSMISSIONS

Transfer by
bill of sale.

333.—(1) Where a ship or any share therein registered in Nigeria is disposed off to persons qualified to own a registered Nigerian ship, it shall be transferred by a bill of sale.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's tonnage certificate, or some other description sufficient to identify the ship to the satisfaction of the Registrar, and shall be in such form as may be approved by the Minister and shall be executed by the transferor in the presence of one witness at least who shall himself add his occupation and address after his signature.

Registry of
transfer.

334.—(1) Where a ship registered in Nigeria, or any share therein, is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorized by this Act to make declarations on behalf of the corporation, has made and signed a declaration referring to the ship, (in this Part referred to as a declaration of transfer).

(2) A declaration of transfer shall be in a form approved by the Minister, and shall contain—

(a) a statement of the qualification of the transferee to own a ship registered in Nigeria, or, if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a ship registered in Nigeria; and

(b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship, or any share therein.

(3) Every bill of sale for the transfer of a ship registered in Nigeria, or a share therein, shall, when duly executed, be produced to the Registrar at her port of registry, with the declaration of transfer, together with the document signifying the Minister's consent to the transaction in accordance with section 331; and the Registrar shall thereupon enter in the register book the name of the transferee as the owner of that ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the date and time of entry.

(4) Bills of sale of a ship, or of a share therein, shall be entered in the register book in the order of their production to the Registrar.

335.—(1) On the application of any interested person, a court of competent jurisdiction if it thinks fit may, without prejudice to any of its other powers and notwithstanding the consent of the Minister to the transfer of a ship or any share therein registered in Nigeria, by order prohibit for a specified time any dealing with a ship or share therein on such terms and conditions as it thinks just, or may act as the justice of the case requires. The court may likewise discharge any order, and in making any order under this subsection, may award or refuse to award costs.

Power of Court to prohibit transfer.

(2) An application under this section may be made by summons or otherwise, and either *ex parte* or upon service of notice on any person as the court may direct; and every registrar without being made a party to the proceeding shall on being served with the order or an official copy thereof, obey the order.

336.—(1) When the property in a ship registered in Nigeria, or any share therein, is transmitted to any person qualified to own a registered Nigerian ship on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act—

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

(a) that person shall authenticate the transmission by making in a form approved by the Minister and by signing a declaration (in this Part referred to as a declaration of transmission) identifying the ship and containing the several statements for share required to be contained in a declaration of transfer, or as near thereto as circumstances permit, and also a statement of the manner in which, and the person to whom, the property has been transmitted;

(b) if the transmission is consequent on death, the declaration of transmission shall be accompanied by a grant of probate or letters of administration in the estate of the deceased owner, or, in the case of the death of a joint owner, by proof of survivorship to the satisfaction of the Registrar; and

(c) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in any court in Nigeria as proof of the title of persons claiming under a bankruptcy.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person so entitled under the transmission as owner of the ship or share the

property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons, but those persons however numerous shall, for the purpose of ownership in the register book be considered as one person.

Order for sale on transmission to unqualified person.

337.—(1) Where the property in a ship registered in Nigeria, or a share therein, is transmitted on death, or bankruptcy, or otherwise to persons not qualified to own a registered Nigerian ship, a court of competent jurisdiction may, on application by or on behalf of the unqualified persons, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the persons entitled under the transmission or otherwise as the court may direct.

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

(3) Every such application for sale shall be made within thirty days after the occurrence of the event on which the transmission has taken place, or within such further time, not exceeding in the whole one year from the date of the occurrence, as the court may allow.

(4) If the application is not made within the time aforesaid, or if the Court refuses an order for sale, the ship or share transmitted shall thereupon be liable to forfeiture.

Transfer or sale of ship by order of Court.

338.—When a court of competent jurisdiction, whether under this Chapter or otherwise, orders the sale of any ship or share therein, the order shall contain a declaration vesting in some person named therein the right to transfer that ship or share; and the person so named shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and every Registrar shall obey the requisition of the person so named as if that person were the registered owner.

CHAPTER 72 MORTGAGES

Method of mortgage of ship or share.

339.—(1) Subject to the requirements of this Act as to consent of the Minister, a ship registered in Nigeria, or a share therein, may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Part referred to as a mortgage) shall be in such form as may be approved by the Minister.

(2) On the production of a mortgage to the Registrar at the ship's port of registry, the Registrar shall record it in the register book.

(3) Mortgages shall be recorded by the Registrar in the order in which they are produced to him for that purpose, and the Registrar shall endorse and sign a memorandum on each mortgage, stating the date and time of that record.

Entry of discharge of mortgage.

340.—If a mortgage is discharged, the Registrar shall, on the production of the mortgage, with a receipt for the mortgage money endorsed thereon duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged; and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom, having regard to intervening acts and circumstances, if any, it would have vested if the mortgage had not been made.

341.—(1) If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority one over the other, according to the date at which each mortgage is recorded in the register book and not according to the date of each mortgage itself.

Priority of mortgages.

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

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

Powers of mortgagee.

(2) Subject to the consent of the Minister, every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but, where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

343.—(1) Subject to the consent of the Minister, a registered mortgage of a ship registered in Nigeria, or a share therein, may be transferred to any person; and the instrument effecting the transfer shall be in such form as may be approved by the Minister.

Transfer of mortgage.

(2) On the production of an instrument effecting a transfer of mortgage and of the mortgage to which it relates, the Registrar shall record the transfer by entering in the register book the name of the transferee as the mortgagee of the ship or share, and shall endorse and sign on the mortgage, and on the instrument effecting the transfer thereof, a memorandum that the transfer has been recorded by him, stating the date and time of that record.

344.—(1) If the interest of a mortgagee in a ship registered in Nigeria, or any share therein, is transmitted to any person on the death or bankruptcy of the mortgagee, or by any lawful means, other than by a transfer under this Part, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

Transmission of interest in mortgage by death, bankruptcy, etc.

(2) A declaration made under this section shall be in a form approved by the Minister, and shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by the like evidence as is required by this Part in the case of a corresponding transmission of the ownership of a ship or share.

(3) The Registrar on the receipt of the declaration, and the production of the evidence as aforesaid, shall enter the name of the person entitled under the transmission, in the register book as the mortgagee of the ship or share.

CHAPTER 73

*TRANSFERS AND MORTGAGES OF NIGERIAN SHIPS
OUT OF NIGERIA*

Authority
to sell or
mortgage
out of
Nigeria.

345.—(1) If a registered owner of a ship registered in Nigeria, or a share therein, is desirous of disposing by way of sale or mortgage of that ship or share at any place out of Nigeria, he may make application, by declaration in writing, to the Registrar at the ship's port of registry.

(2) In any such application, there shall be set forth the following particulars—

(a) the name and address of the person by whom the power mentioned in the certificate is to be exercised, together with—

(i) in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum; or

(ii) in the case of a mortgage, the maximum amount thereof, if it is intended to fix any such maximum;

(b) the place where the power is to be exercised, or, if no place is specified, a declaration that the power may be exercised anywhere, subject to the provisions of this Act;

(c) the limit of time within which the power may be exercised.

(3) Subject in each case to the consent of the Minister, which shall be signified in writing and signed by the Minister or on his behalf by any person authorized by him for the purpose, and subject, in the case of an application to dispose of a ship by way of sale, to subsection (1) of section 346, the Registrar shall enable any such applicant to dispose of the ship or share in the manner desired in accordance with subsection (4).

(4) On receiving an application made under this section, and on delivery to him of the document signifying the consent of the Minister thereto, the Registrar shall enter in the register book a statement of the particulars set forth in the application, and shall grant to the applicant a certificate of sale or a certificate of mortgage, as the case may require.

(5) A certificate of sale and a certificate of mortgage—

(a) shall each be in a form approved by the Minister for the purpose;

(b) shall not authorize any sale or mortgage to be made in Nigeria, or by any person not named in the certificate; and

(c) shall contain a statement of the particulars set forth in the application, and also a statement of any registered mortgages and certificates of sale or mortgage affecting the ship or share in respect of which the certificate is given.

(6) Any document purporting to signify the consent of the Minister to the grant of a certificate of sale or mortgage, and to be signed by the Minister or any person authorized by him for the purpose, shall be admissible in evidence.

General
rules for
certificates
of sale.

346.—(1) A certificate of sale shall not be granted except for the sale of an entire ship; and such a certificate shall not be granted under this Part, except upon the application, made by declaration in writing of all persons appearing on the register to be interested therein, as owners or mortgagees.

(2) The power conferred by any such certificate shall be exercised in conformity with the directions contained therein.

(3) A sale made in good faith in exercise of the power conferred by any such certificate to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of the sale.

(4) Whenever any such certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given.

347.—(1) If a ship registered in Nigeria is sold, in exercise of a power conferred by a certificate of sale granted under this Part, to persons qualified to own a registered Nigerian ship—

Procedure where ship sold under certificate of sale granted in Nigeria.

(a) a transfer of the ship shall be made by bill of sale in the manner provided by this Part; and the bill of sale, when duly executed, and the certificate of sale shall be produced to the proper officer at the place at which the ship is sold, and that officer shall thereupon endorse and sign on the certificate of sale a memorandum of the fact of that ship having been sold, and shall forthwith notify the Registrar at the ship's port of registry;

(b) the ship shall be registered anew, either in Nigeria in the manner provided by this Part or in some other Commonwealth country in the manner provided by the law of that country; and

(c) the Registrar at the ship's former port of registry in Nigeria, upon receipt from the Registrar at the port at which the ship is registered anew of the certificate of sale and the ship's former certificate of registry, each of those certificates having endorsed thereon an entry of the fact of the sale having taken place, shall thereupon enter the sale of the ship in the register book; and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(2) If a ship registered in Nigeria is sold in exercise of a power conferred by a certificate of sale, granted under this Part, to persons not qualified to own a registered Nigerian ship—

(a) the certificate of sale and the certificate of registry shall be produced to the proper officer at the place at which the ship is sold, and he shall retain those certificates, and shall endorse and sign on each of them a memorandum of the fact of that ship having been sold to persons not qualified to own a registered Nigerian ship;

(b) the proper officer making the endorsements required by paragraph (a) shall forward the certificates of sale and registry, each being duly endorsed, to the Registrar at the ship's port of registry;

(c) the Registrar at the ship's port of registry, upon receipt of the certificates of sale and registry, each being endorsed in accordance with paragraphs (a) and (b), shall make an entry of the sale in his register book, and the registry of the ship shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein; and

(d) if default is made in the production of the certificates mentioned in this subsection, the persons to whom the ship is sold shall be considered to have acquired no title to, or interest in, the ship, and the person on whose application the certificate of sale was granted, and the person exercising the powers conferred thereby, shall each be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(3) If no sale is made in exercise of the powers conferred by a certificate of sale granted under this Part, that certificate shall be delivered to the Registrar by whom it was granted, and that Registrar shall thereupon cancel the certificate, and shall enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void.

Registry in Nigeria where ship sold under certificate of sale granted in a Commonwealth country.

348.—(1) If any ship registered in a Commonwealth country is sold in exercise of a power conferred by a certificate of sale granted under the law of that country, to persons qualified to own a registered Nigerian ship, that ship may be registered anew in Nigeria in accordance with this section.

(2) Application for registry anew shall be made to a Registrar at a port of registry in Nigeria, and there shall be produced to the Registrar the bill of sale by which the ship is transferred, the certificate of sale and the certificate of registry of the ship.

(3) The Registrar, on registering the ship anew—

(a) shall retain the certificates of sale and registry, and shall endorse on each of those certificates an entry of the fact of a sale having taken place; and shall forward those certificates, so endorsed, to the Registrar at the ship's former port of registry; and

(b) shall enter in the register book such particulars as are, by this Part, required to be entered therein in the case of the first registry of a ship in Nigeria, and also a statement of any registered mortgages or certificates of mortgage enumerated on the certificate of sale.

(4) On such registry anew—

(a) the description of the ship contained in her former certificate of registry may be transferred to the new register book, without her being resurveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee; and

(b) all persons appearing on the register to be interested in that ship as owners or mortgagees shall be deemed to have the same rights, and their rights shall be determined in the same manner, as if that ship had been first registered at a port in Nigeria in the manner provided in this Part, and as if any unsatisfied mortgages or existing certificates of mortgage had been first entered in the register book at that port.

Rules as to certificates of mortgage.

349.—The following rules shall be observed as to certificates of mortgage:—

(1) The power shall be exercised in conformity with the directions contained in the certificate:

(2) Every mortgage made by thereunder shall be registered by the endorsement of a record thereof on the certificate by the proper officer at the place at which the mortgage is made:

(3) A mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage :

(4) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given :

(5) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book ; and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied or constructive notice, be entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage :

(6) Subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers, and be subject to the same liabilities, as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate :

(7) The discharge of any mortgage so registered on the certificate may be endorsed on the certificate by a registrar or proper officer on the production of such evidence as is, by this Act required to be produced to the registrar on the entry of the discharge of a mortgage in the register book ; and, on that endorsement being made, the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would, having regard to the intervening acts and circumstances, if any, have vested if the mortgage had not been made :

(8) On the delivery of any certificate of mortgage to the registrar by whom it was granted, he shall, after recording in the register book, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate and enter the fact of the cancellation in the register book ; and every certificate so cancelled shall be void.

350.—On proof at any time to the satisfaction of the Minister that a certificate of sale or mortgage is lost or destroyed, or so damaged as to be useless, and that the powers thereby given have never been exercised, or, if they have been exercised, then, on proof of the several matters and things that have been done thereunder, the Registrar by whom the certificate was granted may, with the consent of the Minister, as circumstances require, either issue a new certificate or direct such entries to be made in the register book, or such other things to be done, as might have been made or done if the loss, destruction or damage had not taken place.

Loss of
certificate
of sale or
mortgage.

351.—(1) The registered owner of a ship registered in Nigeria, or a share therein, in respect of which a certificate of sale or mortgage has been granted, specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorize the Registrar by whom the certificate was granted to give notice to the proper officer at every such place that the certificate is revoked.

Revocation
of certificate
of sale or
mortgage.

(2) Notice shall thereupon be given accordingly and be recorded by the proper officer receiving it; and, after it is recorded, the certificate shall be deemed to be revoked in respect of any sale or mortgage to be thereafter made at that place.

(3) After it has been recorded, the notice shall be exhibited to every person applying for the purpose of effecting or obtaining a transfer or mortgage under the certificate.

(4) A proper officer, on recording any such notice, shall inform the Registrar by whom the certificate was granted whether any previous exercise of the power to which the certificate refers has taken place.

CHAPTER 74

INCAPACITATED PERSONS

Provision
for cases of
infancy and
other disabili-
ty.

352.—If, by reason of infancy, mental disorder or defect or any other cause, any person interested in a ship or share therein is incapable of making any declaration or doing any act required or permitted by this Part to be made or done in connection with the registry of the ship, or any share therein, the legal guardian or representative of that person, or the committee, manager or other administrator of his estate, or if there is no such guardian, representative, committee, manager or administrator, any person appointed by any court of competent jurisdiction on application made on behalf of the incapable person or of any other person interested, may make that declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do that act in the name and on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.

CHAPTER 75

TRUSTS AND EQUITABLE RIGHTS

Notices of
trusts not
received.

353.—(1) No notice of any trust, express, implied or constructive, shall be entered in any register book or be receivable by any Registrar at a port of registry in Nigeria.

(2) Subject to the provisions of this Part, and subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship registered in Nigeria, or any share therein, shall have power absolutely to dispose, in the manner provided in this Part, of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Equities not
excluded by
Act and
liabilities
of owner.

354.—(1) In this Part, "beneficial interest" includes interests arising under contract and other equitable interests; and it is hereby declared that, without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees, and without prejudice to the provisions of this Act relating to the exclusion of unqualified persons from the ownership of ships registered in Nigeria, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

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

CHAPTER 76

NAME OF SHIP

355.—(1) A ship registered in any Commonwealth country shall not be described by any other name than that by which she is for the time being registered. Name of ship.

(2) Where a ship is registered in any Commonwealth country, no person shall apply to register that ship anew at a port of registry in Nigeria except by the name by which she is registered.

(3) Where a ship having once been registered in any Commonwealth country has ceased to be so registered, no person unless he is ignorant of her previous registration, proof whereof shall lie on him, shall apply to register that ship at a port of registry in Nigeria except by the name by which she was previously so registered.

(4) Where a foreign ship, not having at any previous time been registered in any Commonwealth country, becomes the property of persons qualified to own a registered Nigerian ship, no person shall apply to register that ship at a port of registry in Nigeria except by the name which she bore as a foreign ship immediately before she became the property of persons qualified to own a registered Nigerian ship.

(5) In any case within subsection (3) or subsection (4) of this section, no registrar at any port of registry in Nigeria shall knowingly register any such ship by any other name without the prior consent in writing of the Minister.

(6) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds; and, except in the case of an application being made under this section with respect to a ship which has not at any previous time been registered in a Commonwealth country, the ship may be detained until this section is complied with.

356.—(1) If the consent of the Minister is required to enable a ship to be registered in Nigeria by the name by which it is proposed to register that ship, or if it is desired to change the name of any ship registered in Nigeria, application shall be made to the Minister in writing for his consent to that registration or change. Change of name of ship.

(2) Subject to the provisions of this Chapter and any rules made or deemed to have been made pursuant thereto, the Minister may, in his discretion, consent to the registration of the ship by the name proposed, or, as the case may be, to the proposed change of the name by which the ship is registered.

(3) Upon giving such consent, the Minister may, and shall in any case where any rules made or deemed to have been made pursuant to section 357 so direct, require notice thereof to be given in such form and manner as he thinks fit or as the rules require, before the name of the ship is marked on the ship or before the name of the ship is entered on the register, or, in the case of a change of name of a ship registered in Nigeria, before the name of the ship is altered in the register.

(4) The consent of the Minister under this section shall be in writing signed by the Minister or on his behalf by any person authorized by him, and, if the consent is given under any rules made or deemed to have been made pursuant to this Chapter shall contain a statement of the conditions, if any, subject to which the consent is given.

(5) On the consent of the Minister under this section being obtained, and upon the giving of such notice, if any, as is required—

(a) if the consent relates to an application to register a ship in Nigeria, the Registrar to whom the application is made, upon delivery to him of the document signifying the Minister's consent and on the other requisites to registration being duly complied with, shall register the ship by the name proposed in accordance with the provisions of this Part; or

(b) if the consent relates to an application to change the name of a ship registered in Nigeria, the Registrar at the ship's port of registry, upon delivery to him of the ship's certificate of registry and the document signifying the Minister's consent, shall alter the name in the register book, and shall endorse and sign a memorandum of the alteration on the ship's certificate of registry.

(6) When the name of a ship registered in Nigeria is changed under this section, the name of the ship upon her bows and stern shall, forthwith, be altered correspondingly; and, if default is made in compliance with this subsection, the owner of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(7) Any document purporting to signify the consent of the Minister in respect of an application under this section and to be signed by the Minister or any person authorized by him for the purpose, shall be admissible in evidence.

Name not to correspond with that of an existing ship.

357.—(1) Except as may be provided by rules made or deemed to have been made under this section, a ship shall not be registered in Nigeria by any name which is already the name of a ship registered in any Commonwealth country, or is so similar to any such name as to be calculated to deceive.

(2) The Minister may make rules prescribing the circumstances in which, and the conditions subject to which his consent may be given to the registration of a ship in Nigeria by a proposed name, notwithstanding that that name is a name to which subsection (1) applies; and the rules may prescribe the form of notice to be given before the name of the ship is marked on the ship, or before the name of the ship is entered on the register, or, in the case of a change of name of a ship registered in Nigeria, before the name of the ship is altered in the register.

(3) If, in respect of any ship, default is made in compliance with any conditions subject to which the consent of the Minister is granted under any rules made or deemed to have been made pursuant to this section, the owner of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

(4) If, upon any application being made to register a ship at a port of registry in Nigeria, it appears to the Registrar at that port that the name by which it is proposed to register the ship is a name to which subsection (1) applies, he shall refuse to register the ship by that name, unless the consent of the Minister has first been obtained in accordance with section 356.

CHAPTER 77

NATIONAL CHARACTER OF SHIPS

358.—(1) A Collector of Customs shall not grant a clearance for any ship until the master of the ship has declared to him the name of the country to which he claims the ship belongs, and the Collector of Customs shall thereupon inscribe that name on the clearance.

National character of ship to be declared before clearance.

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

359.—(1) If a person—

(a) uses the national colours and assumes the national character of Nigeria on board a foreign ship for the purpose of making that ship appear to be a Nigerian ship; or

(b) uses the national colours and assumes the national character of any Commonwealth country, other than Nigeria, on board a foreign ship for the purpose of making that ship appear to be a ship of a Commonwealth country; or

(c) otherwise uses, without the authorization of a competent authority in a Commonwealth country and without the sanction of the law of any such country (and proof of such authorization or sanction shall lie on the person alleging the same), on board any foreign ship, any distinctive flag, ensign, pendant or marking for the purpose of falsely asserting that that ship is entitled to any benefits, privileges, advantages or protection usually enjoyed by Commonwealth ships, —

Penalty for unduly assuming Commonwealth character.

the ship shall be liable to forfeiture, unless the assumption has been made, or the distinctive flag, ensign, pendant or marking has been used, for the purpose of escaping capture by the enemy, or by a ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture, the burden of proving a title to use any colours, flag, ensign, pendant or marking referred to in subsection (1) and assume any character referred to in that subsection, shall lie on the person using and assuming the same.

360.—If the master or owner of a Commonwealth ship, or of a ship which is owned wholly by persons qualified to own a registered Nigerian ship, does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal from any person who is, under the law of any Commonwealth country, entitled to inquire into the same the fact that that ship is a Commonwealth ship, or is a ship owned wholly by persons qualified to own a

Penalty for concealment of Commonwealth or assumption of foreign character.

registered Nigerian ship, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be liable to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, shall on conviction be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or both.

Penalty for acquiring ownership if unqualified.

361.—(1) If any person who is not qualified to own a registered Nigerian ship acquires as owner any interest, legal or beneficial—

(a) otherwise than by such transmission as is provided for in this Part, in a ship registered in Nigeria, or in a ship which is not a Commonwealth ship and which is owned wholly by persons qualified to own a registered Nigerian ship; or

(b) otherwise than in accordance with the law of any Commonwealth country other than Nigeria, in a ship registered in, or recognized as belonging to, that country,—

and any such ship is a ship which uses the national colours and assumes the national character of Nigeria or of any other Commonwealth country, that interest shall be liable to forfeiture.

(2) Nothing in this section shall be construed to prohibit Nigerian ships which are exempt from registration under this Part from using on the coasts or inland waters of Nigeria the national colours of Nigeria, or any other national colours which any ship is for the time being entitled to wear in accordance with any Act or rule of law.

Liabilities of ships not recognized as Nigerian or Commonwealth ships.

362.—Where by this Act a ship which is owned wholly by persons qualified to own a registered Nigerian ship is not to be recognised as a Nigerian ship, that ship shall not be entitled to any benefits, privileges, advantages or protection usually enjoyed by Nigerian ships or by other Commonwealth ships, or to use the national colours or assume the national character of Nigeria or of any other Commonwealth country; but, as to the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board that ship, or by any persons belonging to her, the ship shall be dealt with in the same manner in all respects as if she were registered in Nigeria and recognised as a Nigerian ship.

Penalty for carrying improper colours.

363.—(1) If there are hoisted on board any Commonwealth ship, any colours or pendant usually worn by ships of the naval forces of Nigeria or of any other Commonwealth country, or the distinctive national colours of any country except—

(a) in the case of a Nigerian ship, such national colours as that ship is for the time being allowed to wear in accordance with any written law or any other lawful authority; and

(b) in the case of a Commonwealth ship other than a Nigerian ship, the proper national colours of that ship, or any other pendant or colours which she is, under the law of the Commonwealth country in which she is registered or to which she belongs, for the time being allowed to wear,—

the master of the ship, or the owner thereof if he is on board the ship, and every other person hoisting the pendant or colours, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding three hundred pounds.

(2) Any commissioned officer on full pay in any of the armed forces of Nigeria or any Collector of Customs, or, in the case of any Nigerian ship, any proper officer, may board any ship on which any pendant or colours are hoisted contrary to this section and seize and take away the pendant or colours; and the pendant or colours shall be forfeited.

364.—(1) A Nigerian ship shall hoist the national colours—

(a) on a signal being made to the ship by any ship which forms part of the naval forces of Nigeria or of any other Commonwealth country, or which is commanded by an officer of any such forces on full pay;

(b) on entering any port in a foreign country; and

(c) if of fifty tons gross tonnage or upwards, on entering or leaving any port in a Commonwealth country.

(2) If default is made on board any such ship in complying with this section, the master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Penalty for
not showing
colours.

CHAPTER 78

FORFEITURE OF SHIPS

365.—(1) Where any ship has either wholly or as to any share therein become liable to forfeiture under this Part—

(a) any commissioned officer on full pay in any of the armed forces of Nigeria, or any Collector of Customs; or

(b) if the ship is a Nigerian ship, any officer on full pay in any of the armed forces of any Commonwealth country other than Nigeria, or any proper officer,—

may seize and detain the ship, and bring her for adjudication before a court of competent jurisdiction or, if the ship has also become liable to forfeiture under the law of any Commonwealth country other than Nigeria, before a competent court in that country.

(2) Where any ship is brought before any such court for adjudication, whether by any such officer or Collector as is mentioned in subsection (1) or by any other officer or official acting in accordance with the law of any Commonwealth country other than Nigeria, the court may, subject to subsection (4), thereupon adjudge the ship, with her tackle, apparel, and furniture, to be forfeited to the Government of Nigeria, and may make such order in the case as to the court seems just, and may award to the officer, Collector of Customs or other official bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the court thinks fit:

Proceedings
on forfeiture
of ship.

Provided that, notwithstanding any other provision in this Part, the court shall not, under this section, adjudge the forfeiture of a Commonwealth ship, which is not a Nigerian ship, if it is shown to the satisfaction of the court that that ship has not become liable to forfeiture under the law of the Commonwealth country in which she is registered or to which she belongs.

(3) Any such officer or Collector of Customs or other official as is mentioned in this section shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or, if so brought in, is declared not liable to forfeiture, if it is shown to the satisfaction of the court before whom any trial relating to the ship or seizure or detention is held that there were reasonable grounds for the seizure or detention; but, if no such grounds are shown, the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

(4) When any Commonwealth ship, which is not a Nigerian ship, has, under subsection (2) been adjudged to be forfeited, that ship, with her tackle, apparel, and furniture, shall be placed at the disposal of the Government of the Commonwealth country in which she is registered or to which she belongs, and any order or award made by the court upon the adjudication of that ship shall be satisfied as that Government may direct and provide, and not otherwise.

CHAPTER 79

MEASUREMENT OF SHIP AND TONNAGE

Rules for
ascertaining
register
tonnage.
Third
Schedule.

366.—(1) Subject to the provisions of this section the tonnage of every ship to be registered in Nigeria, shall, previously to her being registered, be ascertained in accordance with rule I in the Third Schedule, and the tonnage of every ship to which that rule can be applied whether she is about to be registered or not, shall be ascertained by that rule.

(2) Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured in accordance with rule I, shall be measured in accordance with rule II in that Schedule, and the owner of any ship measured in accordance with rule II may, at any subsequent period, apply to the Minister to have the ship re-measured in accordance with rule I; and the Minister may thereupon, upon payment of such fee as may be authorized, direct the ship to be re-measured accordingly, and the number denoting the register tonnage shall be altered accordingly.

(3) For the purpose of ascertaining the register tonnage of a ship, the allowance and deductions hereinafter mentioned shall be made from the tonnage of the ship ascertained as aforesaid.

(4) In the measurement of a ship for the purpose of ascertaining her register tonnage, no deduction shall be allowed in respect of any space which has not been first included in the measurement of her tonnage.

(5) In ascertaining the tonnage of open ships, rule IV in the Third Schedule shall be observed.

(6) Throughout the rules in the Third Schedule, the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and, in carrying those rules into effect, all measurements shall be taken in feet, and fractions of feet shall be expressed in decimals.

(7) The Minister may, by Order, make such modifications and alterations as from time to time become necessary in the rules in the Third Schedule for the purpose of the more accurate and uniform application thereof, and the effectual carrying out of the principle of measurement adopted therein.

(8) The provisions of this Act relating to tonnage, together with the rules for the time being in force, are in this Act referred to as the tonnage regulations.

367.—(1) In the case of any ship propelled by mechanical power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as mentioned in section 366, and the remainder shall, subject to any deductions hereinafter mentioned, be deemed to be the register tonnage of the ship, and that deduction shall be estimated as follows, that is to say—

Allowance
for engine
room space.

(a) as regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by, and necessary for, the proper working of the boilers and machinery is above twenty per cent and under thirty per cent of the gross tonnage of the ship, the deduction shall be thirty-seven one-hundredths of the gross tonnage; and, in ships propelled by screws in which the tonnage of such space is above thirteen per cent and under twenty per cent of the gross tonnage, the deduction shall be thirty-two one-hundredths of the gross tonnage:

(b) as regards all ships, other than ships to which paragraph (a) or section 368 applies, the deduction shall, if the Minister and the owner both agree thereto, be estimated in the same manner, but the Minister or the owner may require the space to be measured and the deduction estimated accordingly; and, whenever the measurement is so required, the deduction shall consist of the tonnage of the space actually occupied by, or required to be enclosed for, the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and, in the case of ships propelled by screws, of three-fourths, of the tonnage of the space. In the case of ships propelled by screws, the contents of the shaft trunk shall be added to, and deemed to form part of, the space. The measurement of the space shall be governed by rule III in the Third Schedule.

(2) The deduction under subsection (1) for the space occupied by the propelling power of a ship shall not, in any case, exceed fifty-five per cent of that portion of the tonnage of the ship which remains after deducting from the gross tonnage any deductions allowed under section 369:

Provided that this subsection shall not apply to ships constructed for the purpose of towing vessels so long as they are exclusively employed as tugs, but, if and when employed for the carriage of passengers, cargo or stores, or using graving docks, dry docks or other places for the repairing of vessels, the register tonnage on which dues may be levied under this Act or any other Act shall be ascertained in the manner prescribed by this Act.

(3) Such portion of the space above the crown of the engine room and above the upper deck as is framed in for the machinery, or for the admission of light and air, shall not be included in the measurement of the space occupied by the propelling power, except in pursuance of a request in writing to the Minister by the owner of the ship, but shall not be included in pursuance of that request unless—

(a) that portion is first included in the measurement of the gross tonnage; and

(b) a surveyor of ships certifies that the portion so framed in is reasonable in extent and is so constructed as to be safe and seaworthy, and that it cannot be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the ship.

(4) Goods or stores shall not be stowed or carried in any space measured for propelling power, and, if the same are so carried in any ship, the owner and master of the ship shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one hundred pounds.

Allowance
for engine
room space
in certain
cases.

368.—(1) If in ascertaining the register tonnage of a ship to which this section applies, it is found that the space solely occupied by and necessary for the proper working of the boilers and machinery is thirteen per cent or less of the gross tonnage of the ship, the deduction allowable for that space under section 367 shall be computed in accordance with subsection (2) of this section; but no deduction shall be made unless the surveyor of ships is satisfied that the space provided for the working of the boilers and machinery and the ventilation and lighting of that space are adequate.

(2) Subject to the limit imposed by subsection (2) of section 367, the amount of such deduction shall,—

(a) if the tonnage of the space solely occupied and necessary for the proper working of the boilers and machinery is thirteen per cent of the gross tonnage of the ship, be thirty-two per cent of that gross tonnage;

(b) if the tonnage of the space mentioned in paragraph (a) is less than thirteen per cent of the gross tonnage of the ship, be thirty-two per cent of that gross tonnage proportionately reduced.

(3) In relation to ships propelled by paddle wheels, the provisions of subsections (1) and (2) shall have effect as if, for the references to thirteen per cent and thirty-two per cent, there were substituted respectively references to twenty per cent and thirty-seven per cent.

(4) This section shall apply,—

(a) to any ship built after the commencement of this section; and

(b) to any ship in respect of which a surveyor of ships is for the time being satisfied that the space provided for the working of the boilers and machinery and the ventilation and lighting of the space are adequate, and the owner has made a request in writing to the Minister that this section should apply.

(5) Where, under this section, the making of the deduction mentioned in subsection (1), or its computation in accordance with subsection (2), depends on the surveyor of ships being satisfied as prescribed in subsection (1), and—

(a) the deduction has been made and so computed but a surveyor of ships, on inspecting the ship, fails to be satisfied as aforesaid; or

(b) the deduction has not been made or, as the case may be, has not been so computed, but a surveyor of ships on inspecting the ship, is satisfied as aforesaid,—

the surveyor shall inform the registrar, and the register tonnage of the ship shall be altered accordingly.

369.—(1) In measuring or re-measuring a ship for the purpose of ascertaining her register tonnage, the following deductions shall, subject to subsection (2), be made from the space included in the measurement of the tonnage—

Deductions
for ascertain-
ing tonnage.

(a) in the case of any ship—

(i) any space used exclusively for the accommodation of the master, and any space occupied by seamen or apprentices and appropriated to their use, which is certified under regulations made or deemed to have been made under this Act with regard thereto ;

(ii) any space used exclusively for the working of the helm, the capstan and the anchor gear, or for keeping the charts, signals and other instruments of navigation, and boatswain's stores ;

(iii) the space occupied by the donkey engine and boiler, if connected with the main pumps of the ship ; and

(iv) any space, other than a double bottom, adapted only for water ballast ;

(b) in the case of a sailing ship, any space set apart and used exclusively for the storage of sails.

(2) The deductions allowed under this section, other than a deduction for a space occupied by seamen or apprentices, and certified as aforesaid, shall be subject to the following provisions—

(a) the space deducted shall be certified by a surveyor of ships as reasonable in extent and properly and efficiently constructed for the purpose for which it is intended ;

(b) there shall be permanently marked in or over every such space a notice stating the purpose to which it is to be applied, and that whilst so applied it is to be deducted from the tonnage of the ship ;

(c) the deduction on account of space for storage of sails shall not exceed two and a half per cent of the tonnage of the ship.

370.—In the case of a ship constructed with a double bottom for water ballast, if the space between the inner and outer plating thereof is certified by a surveyor to be not available for the carriage of cargo, stores or fuel, then, the depth required by the provisions of rule I in the Third Schedule relating to the measurement of transverse areas shall be taken to be the upper side of the inner plating of the double bottom ; and that upper side shall, for the purposes of measurement, be deemed to represent the floor timber referred to in that rule.

Measure-
ment of ships
with double
bottoms for
water ballast.

371.—Whenever the tonnage of a ship has been ascertained and registered in accordance with the tonnage regulations, that tonnage shall thereafter be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, in either of which cases the ship shall be re-measured and her tonnage determined and registered in accordance with the tonnage regulations.

Tonnage
once ascer-
tained to be
tonnage of
ship.

Tonnage of
ships of other
countries.

372.—(1) If the Minister is satisfied that the provisions of the law of any foreign country as to the measurement of tonnage are of like effect to the tonnage regulations, the Minister may, by Order, direct that the ships of that country shall, without being re-measured in Nigeria, be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and the Minister may, by any such Order, limit the time during which that Order is to remain in force, and if he thinks fit may make that Order subject to conditions and qualifications, and the operation of the Order shall be limited and modified accordingly.

(2) Subject to subsection (3), and in the case of foreign ships, to the terms of any Order made or deemed to have been made under this section, ships registered in or belonging to any Commonwealth country other than Nigeria, and ships registered in or belonging to any foreign country in respect of which an Order made or deemed to have been made under subsection (1) is in force, shall, without being re-measured in Nigeria, be deemed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a ship registered in Nigeria is deemed to be the tonnage of that ship; and any space shown by the certificate of registry or other national papers of any such ship as deducted from tonnage on account of being occupied by seamen or apprentices, and appropriated to their use, shall be deemed to have been certified under, and to comply with, the provisions of this Act which apply to such a space in the case of a ship registered or to be registered in Nigeria, unless a surveyor of ships certifies that the construction and equipments of the ship do not come up to the standard required under this Act in the case of a Nigerian ship; and, if any question arises whether the construction and equipments of the ship so come up to the required standard, a surveyor of ships may inspect the ship for the purpose of determining whether such a certificate should be given by him or not.

(3) If it is made to appear to the Minister that the tonnage of any foreign ship, as measured by the rules of the country to which she belongs, materially differs from that which would be her tonnage if measured under this Act, the Minister may, by Order, direct that, notwithstanding any Order made under subsection (1) and for the time being in force, any of the ships of that country may, for all or any of the purposes of this Act, be remeasured in accordance with this Act.

Space
occupied by
deck cargo
liable to
dues.

373.—(1) If any foreign-going ship carries as deck cargo that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's register tonnage any timber, stores or other goods, except fresh fruit, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's register tonnage the tonnage space occupied by the goods at the time at which the dues became payable.

(2) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to enclose the goods.