

**THE BANGLADESH MERCHANT SHIPPING
ORDINANCE, 1983**

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THE SCHEDULE

***THE BANGLADESH MERCHANT SHIPPING
ORDINANCE, 1983**

ORDINANCE NO. XXVI OF 1983

[30th June, 1983]

An Ordinance to consolidate and amend the law relating to merchant shipping and to provide for matters connected therewith.

WHEREAS it is expedient to consolidate and amend the law relating to merchant shipping and to provide for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:-

PART I

INTRODUCTORY

CHAPTER 1

PRELIMINARY

1. (1) This Ordinance may be called the Bangladesh Merchant Shipping Ordinance, 1983.

Short title,
commencement,
extent and
application

(2) This Chapter and Chapter 45 shall come into force at once and the other provisions shall come into force on such date as the Government may, by notification in the *official Gazette*, appoint; and different dates may be appointed for different provisions.

(3) This Ordinance extends to the whole of Bangladesh.

(4) This Ordinance applies to-

(a) all Bangladesh ships wherever they may be, except inland ships as defined in the Inland Shipping Ordinance, 1976 (LXXII of 1976);

* The Ordinance was declared void by the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal No. 48 of 2011 and subsequently the Ordinance has been made effective as an Act of Parliament by section 4 and Schedule of ১৯৮২ সনের ২৪ মার্চ হইতে ১৯৮৬ সালের ১১ নভেম্বর তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৭ নং আইন)।

- (b) all ships deemed to be registered under this Ordinance wherever they may be;
- (c) all ships, not being Bangladesh ships, licensed under this Ordinance in coasting trade, while engaged in such trade; and
- (d) all other ships while in a port or place in, or within the territorial waters of Bangladesh, but does not apply to-
 - (i) any ship of, or commissioned for service in, the Bangladesh Navy or, while employed otherwise than for profit in the service of Government, or
 - (ii) any ship belonging to any foreign Prince or State, while employed otherwise than for profit in the service of such Prince or State.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

- (1) “apprentice” means a boy appointed for training to the sea service, whether called an apprentice or a cadet, or by any other name;
- (2) “Bangladesh Consular Officer” means a consul general, consul, vice-consul, pro-consul or consular agent appointed by the Government as such and includes-
 - (a) any person authorised by the Government to perform the functions of any of them; and
 - (b) a Seamen’s Welfare Officer performing the functions of a Bangladesh Consular Officer under Part IV;
- ¹[(3) “Bangladesh ship” means a ship belonging to a statutory corporation or a ship acquired and owned by a foreign national or company and leased out to the Government or a citizen of Bangladeshi or a Bangladesh company under such an agreement that the ownership of the ship shall be transferred after a specified period of time to the Government or such citizen or company in accordance with the terms of the agreement or a ship owned wholly by persons each of whom is-
 - (a) a citizen of Bangladesh, or

¹ Clause 3 was substituted by section 2 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

- (b) a company which fulfils the following conditions, namely:-
 - (i) the principal place of business of the company is in Bangladesh,
 - (ii) shares representing more than fifty per cent of the share capital of the company or shares carrying more than fifty per cent of the total voting power of the company are held by citizen of Bangladesh,
 - (iii) the majority of the directors of the company are citizens of Bangladesh,
 - (iv) either the Chairman or the Managing Director of the Board of Directors of the company is a citizen of Bangladesh.]
- (4) “coasting ship” means a ship not exceeding one thousand five hundred tons gross which is exclusively employed in trading coastwise within ports or places in Bangladesh or between ports or places in Bangladesh and India not beyond Calcutta, or Burma not beyond Akyab, or between Akyab and Calcutta;
- (5) “coasting trade” means the carriage by sea of passengers or goods between ports or places in Bangladesh or from any such port or place to a port or place in India not beyond Calcutta or to a port or place in Burma not beyond Akyab or between Akyab and Calcutta;
- (6) “coasts” includes the coasts of creeks and tidal waters;
- (7) “Collector of Customs” means a Collector of Customs appointed under the Customs Act, 1969 (IV of 1969), and includes any officer of customs authorised by him to perform any of his functions under this Ordinance;
- (8) “Collision Regulations” means the regulations made under section 368;
- (9) “company” has the same meaning as in section 2 of the Companies Act, 1913 (VII of 1913), and includes-
 - (a) a body corporate constituted or established by or under any law for the time being in force; and

- (b) any partnership or association of persons, whether incorporated or not;
- (10) “country to which the Load Line Convention applies” means-
- (a) a country the Government of which has been declared or is deemed to have been declared under section 295 to have accepted the Load Line Convention and has not been likewise declared to have denounced that Convention; or
 - (b) a territory to which the Load Line Convention has been declared as aforesaid to extend, not being a territory to which that Convention has been declared likewise to have ceased to extend;
- (11) “country to which the Safety Convention applies” means-
- (a) a country the Government of which has been declared under section 295 to have accepted the Safety Convention and has not been likewise declared to have denounced that Convention; or
 - (b) a territory to which the Safety Convention has been declared as aforesaid to extend, not being a territory to which that Convention has been declared likewise to have ceased to extend;
- (12) “crew” includes seamen and apprentices;
- ¹[(12a) “desertion” means intentional or wilful forsaking and abandonment of ship by a seaman and particularly includes-
- (i) failure to report to a ship by a seaman at the time of sailing from a port other than a port in his own country within the time he is required to do so by the master of the ship to which he is engaged;

¹ Clause (12a) was substituted by section 3 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

- (ii) failure to join a ship by a seaman at the time of sailing from a port in a foreign country before departure of the ship from that country where the seaman arrived by air or other means of transport for the purpose of joining that ship;
- (iii) failure to depart a foreign country by a seaman within the time he is required to do so by the appropriate authority of that country, after signing off from the ship to which he had been engaged, for the purpose of returning home or proceeding elsewhere as directed by his employer:

Provided that when for any reason beyond his control, a seaman is subject to the circumstances as mentioned in paragraph (i), (ii) or (iii) above, will not be considered to have deserted, if he reports to the appropriate authority of the country or to local agent of the ship he had been engaged within 3 (three) days of his stipulated reporting time and voluntarily returns to his own country and reports to the shipping authority or joins the vessel as he is required by his employer.]

- (13) “distressed seaman” means a seaman engaged under this Ordinance who, by reason of having been discharged or left behind from, or ship-wrecked from any ship at any port or place outside Bangladesh, is in distress there;
- (14) “effects” includes cloths and documents;
- (15) “equipment”, in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spares, masts, spars, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears, and appliances of all kinds, and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;
- (16) “fishing vessel” means a vessel, of whatever size and by whatever means propelled, which is exclusively engaged in sea fishing for profit;

- (17) “foreign-going ship” means a ship employed in trading between any port or place in Bangladesh and any other port or place outside Bangladesh, but does not include a coasting ship or a home-trade ship;
- (18) “freeboard” means, in relation to a decked vessel, the distance above the waterline measured vertically at the side of the vessel amidships from the position of the upper edge of the uppermost continuous deck;
- (19) “gross”, in relation to tonnage of a vessel, means the gross tonnage of the vessel as registered under this Ordinance:

Provided that where a vessel has been assigned alternative tonnages, “gross tonnage” shall mean the higher tonnage;

- (20) “home-trade ship” means a ship not exceeding three thousand tons gross which is employed in trading between ports or places in Bangladesh and India not beyond Vishakhapatnam or between ports and places in Bangladesh and Burma not beyond Moulmein;
- (21) “International Load Line Certificate” means a certificate purporting to have been issued in accordance with the Load Line Convention in respect of a ship, and is for the time being in force;
- (22) “Load Line Convention” means the International Convention respecting Load Lines, signed in London on the fifth day of April, 1966, and any Annex thereto as amended from time to time;
- (23) “Marine Board” means a Board convened under section 428;
- (24) “master”, in relation to a ship, includes any person having command or charge of the ship but does not include a pilot or harbour master;
- (25) “net”, in relation to tonnage of a vessel, means the net tonnage of the vessel as registered under this Ordinance:

Provided that, where a vessel has been assigned alternative net tonnages, “net tonnage” shall mean the higher of those tonnages;

- (26) “owner” means,-
- (a) in relation to a registered ship, the person who is for the time being shown as owner in the Register Book maintained under this Ordinance;
 - (b) in relation to any other ship, the person to whom the ship or a share in the ship belongs; and
 - (c) in relation to a sailing vessel or a fishing vessel, the person to whom the vessel belongs;
- (27) “passenger” means any person carried on board a ship except-
- (a) a person employed or engaged in any capacity on board the ship on the business of the ship; or
 - (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry ship-wrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled; or
 - (c) a child under one year of age;
- (28) “passenger ship” means a ship carrying more than twelve passengers;
- (29) “pilgrim” means a person, not being a member of the crew or a child under one year of age, going to or returning from the Hedjaz for or after performing Hajj, and includes any such person who is returning without having actually landed at the Hedjaz;
- (30) “pilgrim ship” means a ship conveying or about to convey pilgrims from or to any port or place in Bangladesh to or from any port or place in the Red Sea or the Persian Gulf;
- (31) “port of registry”, in relation to a ship or a sailing vessel or a fishing vessel, means the port at which she is registered or is to be registered;
- (32) “power-driven”, used in relation to a ship, means a ship propelled by electricity or other mechanical power;

- (33) “prescribed” means prescribed by rules made under this Ordinance;
- (34) “Principal Officer” means the person appointed as such under this Ordinance;
- (35) “proper return port”, in relation to a master, seaman, or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged or the port agreed to as such by the master, seaman or apprentice, as the case may be;
- (36) “Radio Inspector” means a person appointed as such under section 7;
- (37) “radio installation” means radio-telegraph or radio-telephone equipment, direction-finders, or other radio equipment required to be installed in ships in compliance with the requirements of Part VI or the rules made under section 308;
- (38) “radio service” means hours of watch, transmission of messages, observance of silence periods, maintenance of radio-log and everything necessary to be done for the proper operation of the radio installation, and includes any operator or watcher required to be carried on board in accordance with the rules made under section 308;
- (39) “Registrar” means the person referred to as a Registrar of Bangladesh Ships in section 17, and includes a Deputy Registrar or an Assistant Registrar appointed as such under that section;
- (40) “Safety Convention” means the International Convention for the Safety of Life at Sea, signed in London on the first day of November, 1974;
- (41) “Safety Convention Certificates” means all or any of the certificates issued under Part VI, namely, the Passenger Ship Safety Certificate, the Qualified Passenger Ship Safety Certificate, the Cargo Ship Safety Construction Certificate, the Qualified Cargo Ship Safety Construction Certificate, the Cargo Ship Safety Equipment Certificate, the Cargo Ship Safety Radio-telegraphy Certificate, the Qualified Cargo Ship Safety Radio-telegraphy Certificate, the Cargo Ship Safety Radio-telephony Certificate, or the Exemption Certificate;

- (42) “sailing vessel” means any description of vessel-
- (a) which is fitted exclusively with sails, or
 - (b) which is provided with sufficient sail area for navigation under sails alone and, if fitted with mechanical means of propulsion, such means are meant for auxiliary purposes only,
- and includes a rowing boat or canoe, but does not include a pleasure craft;
- (43) “salvage” includes all expenses properly incurred by the salver in the performance of salvage service;
- (44) “sea-going”, in relation to a vessel, means a vessel proceeding to sea beyond such limits as may be specified by the Government by notification in the *official Gazette*;
- (45) “seaman” means a person employed or engaged for service in any capacity on board any ship, but does not include a master, pilot or apprentice;
- (46) “second hand”, in relation to a fishing vessel, means the person next in authority to the skipper of the vessel;
- (47) “ship” includes every description of vessel used in navigation not propelled by oars, but does not include a sailing vessel;
- (48) “Shipping Authority” means the Director-General of Shipping or any other officer authorised by the Government, by notification in the *official Gazette*, to perform the functions of the Shipping Authority under this Ordinance;
- (49) “Shipping Master” means a person appointed as such under section 8 and includes a Deputy Shipping Master and an Assistant Shipping Master appointed under that section;
- (50) “skipper” means the person in command or charge of a fishing vessel or a sailing vessel;

- (51) “special trade” means the conveyance of special trade passengers by sea on international voyages within the area specified below:
- on the south bounded by the parallel of latitude 20°S from the east coast of Africa to the west coast of Madagascar, thence the west and north coasts of Madagascar to longitude 50°E , thence the meridian of longitude 50°E to latitude 10°S , thence the rhumb line to the point latitude 3°S , longitude 75°E , thence the rhumb line to the point latitude 11°S to longitude $141^{\circ}03'\text{E}$;
 - on the east bounded by the meridian of longitude $141^{\circ}03'\text{E}$, from latitude 11°S to the south coast of New Guinea, thence the south, west and north coasts of New Guinea to the point longitude $141^{\circ}03'\text{E}$, thence the rhumb line from the north coast of New Guinea at the point $141^{\circ}03'\text{E}$ to the point latitude 10°N , at the north-east coast of Mindanao, thence the west coasts of the Islands of Leyte, Samar and Luzon to the Port of Sual (Luzon Island), thence the rhumb line from the Port of Sual to Hong Kong;
 - on the north bounded by the south coast of Asia from Hong Kong to Suez;
 - on the west bounded by the east coast of Africa from Suez to the point latitude 20°S .
- (52) “special trade passenger” means a passenger carried in special trades in spaces on the weather deck, upper deck or between decks which accommodate more than 8 passengers;
- (53) “special trade passenger ship” means a mechanically propelled passenger ship which carries more than 30 special trade passengers;
- (54) “Surveyor” means a person appointed as such under section 6 and includes any other person authorised to perform the function of a Surveyor under this Ordinance;

- (55) “tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, but does not include a harbour;
- (56) “upper deck”, in ships with side openings, means the deck below the weather deck;
- (57) “valid Safety Convention Certificate” means a certificate purporting to have been issued in accordance with the Safety Convention in respect of a ship which is for the time being in force;
- (58) “vessel” includes a ship, boat, sailing vessel, fishing vessel and every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
- (59) “voyage”, in relation to a ship, means the whole distance between the ship’s port or place of departure and her final port or place of arrival;
- (60) “wages” includes emoluments;
- (61) “weather deck” means the uppermost continuous deck fully or partially exposed to weather which may be wholly or partially used by passengers;
- (62) “wreck” includes the following when found in the sea or in tidal water or on the shores thereof, namely:-
 - (a) goods which have been cast into the sea and then sink and remain under water,
 - (b) goods which have been cast or fall into the sea and remain floating on the surface,
 - (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again,
 - (d) goods which are thrown away or abandoned, and
 - (e) a vessel abandoned without hope or intention of recovery; and
- (63) “young person” means a person under eighteen years of age.

(64) "Marine Court" means a Court constituted under sub-section (1) of section 47 of Inland Shipping Ordinance 1976.

Power to alter conditions relating to ownership of Bangladesh Ship

3. (1) The Government may, by notification in the *official Gazette*, alter the percentage of the share capital or of the voting power referred to in paragraph (ii) of sub-clause (b) of clause (3) of section 2 from such date, not being earlier than the date of the notification, as may be specified therein.

(2) A notification under sub-section (1) shall not apply to a ship which is registered or deemed to be registered under this Ordinance, or for the registration of which application has been made, before the date specified in the notification; nor shall the notification be construed as affecting any right, privilege, obligation or liability acquired, accrued or incurred before such date.

CHAPTER 2

GENERAL ADMINISTRATION

Department of Shipping

4. (1) The Government may, for efficient administration of this Ordinance, establish a Department of Shipping which shall be headed by a Director-General of Shipping.

(2) Save as otherwise expressly provided in this Ordinance, the Principal Officers, the Deputy Principal Officers, Surveyors and other Officers appointed to perform any functions under this Ordinance, not being functions of judicial nature, shall, in the performance of their functions, be subject to the general supervision, direction and control of the Director-General of Shipping.

(3) The Government may, by notification in the *official Gazette*, direct that the powers exercisable by it under any of the provisions of this Ordinance specified in the notification shall, subject to such conditions, if any, as may be so specified, be exercisable also by the Director-General of Shipping.

(4) The Director-General of Shipping may, by general or special order, direct that any of the powers and functions which he is empowered or authorised to exercise and perform under this Ordinance shall, subject to such conditions, if any, as he may deem fit to impose, be exercised and performed also by such officer or authority as may be specified in the order:

Provided that no such order shall be made without the previous approval of the Government if it relates to any of the powers of the Government which the Director-General of Shipping has been authorised to exercise under sub-section (3).

5. (1) The Government shall establish and maintain the Principal Mercantile Marine Office at the port of Chittagong and may establish and maintain a branch office of that office at any other port in Bangladesh as it may consider necessary for carrying out the purposes of this Ordinance.

Mercantile
Marine Office

(2) The Principal Mercantile Marine Office at the port of Chittagong shall be in the charge of a Principal Officer appointed by the Government and a branch office of that office at any other port shall be in the charge of a Deputy Principal Officer; and the Deputy Principal Officer may perform the functions of a Principal Officer under this Ordinance.

(3) A Principal Officer appointed under sub-section (2) or an officer performing the functions of a Principal Officer may, without prejudice to his functions as such, perform all or any of the functions of a Surveyor under this Ordinance.

6. (1) The Government may, by notification in the *official Gazette*, appoint for the Principal Mercantile Marine Office and each of its branch offices as many persons as it may consider necessary to be Surveyors for the purposes of this Ordinance; and such Surveyors may be nautical Surveyors, ship Surveyors, an engineer and ship Surveyors.

Surveyors

(2) Where for the Principal Mercantile Marine Office or any of its branch offices no Surveyor has been appointed under sub-section (1), the Government may authorise any person whom it considers qualified for the purpose to perform the functions of a Surveyor; and a person so authorised may perform all or any functions of a Surveyor under this Ordinance.

7. The Government may appoint as many Radio Inspectors as it considers necessary so as to ensure that the requirements of this Ordinance and of the rules and regulations made thereunder relating to radio installation and radio service including radio-telegraph, radio-telephone and direction-finders, are complied with on board any ship.

Radio
Inspectors

Shipping
Offices

8. (1) The Government shall maintain a Shipping Office at every port in Bangladesh where there was a Shipping Office immediately before the commencement of this Ordinance and may establish and maintain such office at any other port in Bangladesh.

(2) For every Shipping Office, the Government shall appoint a Shipping Master and may appoint such Deputy Shipping Masters and Assistant Shipping Masters as it may consider necessary.

(3) A Shipping Master, a Deputy Shipping Master and an Assistant Shipping Master shall, in the performance of their functions, be subject to the general supervision and control of the Government or of such other authority as the Government may, by general or special order, direct.

Conduct of
business of
Shipping office
at other Office

9. (1) Where, at any port, there is no Shipping Office, the whole or any part of the business of a Shipping Office shall be conducted at such office and be committed to such officer at that office as the Government may direct; and thereupon such business shall be conducted accordingly.

(2) For the purposes of this Ordinance, an office at which the business of a Shipping Office is conducted under subsection (1) shall be deemed to be a Shipping Office and the officer to whom such business is committed under that subsection shall be deemed to be a Shipping Master.

(3) All acts done by or before a Deputy Shipping Master or an Assistant Shipping Master shall have the same effect as if done by or before a Shipping Master for the purposes of this Ordinance.

Functions of a
Shipping Master

10. The functions of a Shipping Master shall be-

- (a) to supervise and afford facilities for the engagement and discharge of seamen in the manner provided in this Ordinance and the rules and regulations made thereunder;
- (b) to provide means for securing the presence on board at the proper time of the seamen who are so engaged;

- (c) to facilitate the making of apprenticeships to sea services;
- (d) to perform such other functions relating to seamen, apprentices and ships as are, by or under this Ordinance or by general or special order of the Government, assigned to a Shipping Master.

11. (1) In respect of all engagements and discharge of seamen, the owner or Master of a ship so engaging or discharging shall pay to the Shipping Master such fees as the Government may, by notification in the *official Gazette*, fix; and the Shipping Master may decline to act in any case until such fee has been paid.

Fees for engagement or discharge of seamen

(2) A copy of the scale of fees for the time being payable under sub-section (1) shall be affixed at some conspicuous place in the Shipping Office.

12. (1) The Government may, by notification in the *official Gazette*, constitute an advisory Board to be called the Seamen's Welfare Board, hereinafter referred to as the Board, for the purpose of advising the Government on the measures to be taken for promoting the welfare of seamen, whether ashore or on board ship, generally and in particular the following:-

Seamen's Welfare Officer

- (a) the provision for Seamen's Provident Fund;
- (b) the establishment of hostels or boarding and lodging houses for seamen;
- (c) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen;
- (d) the establishment of hospitals for seamen or the provision of medical treatment for seamen;
- (e) the provision of educational and other facilities for seamen.

(2) The Government may appoint Seamen's Welfare Officers at such ports or places in or outside Bangladesh as it may consider necessary.

(3) A Seamen's Welfare Officer appointed under subsection (2) shall, under the general supervision and control of the Government or of such other authority as the Government may, by general or special order, direct, perform-

- (a) at any port or place in Bangladesh, such functions in relation to welfare of seamen as may be assigned to him by the Government; and
- (b) at ports or places, outside Bangladesh such function of a Bangladesh Consular Officer under Part IV as may be so assigned.

(4) The Government may make rules providing for-

- (a) establishment of Seamen's Provident Fund;
- (b) the composition of the Board and the term of office of members thereof;
- (c) the procedure to be followed in the conduct of business by the Board;
- (d) the travelling and other allowances payable to members of the Board;
- (e) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen; and
- (f) the procedure by which any such fee may be collected or recovered and the manner in which the proceeds of such fee, after deduction of the cost of collection, shall be utilised for the purpose specified in clause (e).

PART II

REGISTRATION AND NATIONALITY

CHAPTER 3

REGISTRATION

Application

13. This Chapter shall apply to all sea-going Bangladesh ships exceeding fifteen tons net and fitted with mechanical means of propulsion, but shall not apply to ships registered under any law for the time being in force for the registration of inland ships plying on inland water.

14. (1) Every Bangladesh ship to which this Ordinance applies shall have to be registered under this Ordinance. Registration

(2) A ship required to be registered under sub-section (1)-

- (a) shall not be recognised as a Bangladesh ship until she is so registered, and
- (b) may be detained until the master, if so required, produces a Certificate of Registry in respect of the ship.

(3) A ship registered at any time before the commencement of this Ordinance at any port in Bangladesh under any law for the time being in force shall, for a period of six months from such commencement or for such further period as may be specified in this behalf by the Government, be deemed to be registered under this Ordinance and be recognised as a Bangladesh ship and, if she is not registered under this Ordinance within such period, shall be liable to be forfeited to the Government.

(4) For the purpose of registration under this Ordinance of a ship referred to in sub-section (3) within the period specified therein, the provisions of this Ordinance shall have effect as if sections 19, 21 and 22 were omitted.

15. (1) The port of Chittagong, and such other ports in Bangladesh as the Government may, by notification in the *official Gazette*, specify in this behalf, shall be the ports of registry at which Bangladesh ships may be registered under this Ordinance. Ports of registry

(2) The port of registry at which a Bangladesh ship is registered for the time being shall be deemed her port of registry and the port to which she belongs.

16. (1) The Director-General of Shipping shall be the Registrar General of Bangladesh ships. Registrar General

(2) At the port of Chittagong, the Principal Officer shall be the Registrar of Bangladesh ships and at any other port, such authority as the Government may, by notification in the *official Gazette*, appoint, shall be such Registrar.

(3) The Government may, by notification in the *official Gazette*, appoint as many Deputy Registrars or Assistant Registrars of Bangladesh ships at a port of registry as it may consider necessary.

Register Book

17. (1) For the registration of ships, every Registrar of Bangladesh Ships shall keep a book to be called the Register Book.

(2) The registration of a ship shall be subject to the following provisions relating to property in a ship and entries in a Register Book shall be made accordingly:-

¹[* * *]

- (b) subject to the provisions of this Ordinance with respect to joint owners or owners by transmission, not more than ten persons shall be entitled to be registered at the same time as owners of any one ship; but this clause shall not affect the beneficial interest of any number of persons represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as the owner of a fractional part of a share in a ship but the number of persons not exceeding four may be registered as the joint owners of a ship or of any share or shares therein;
- (d) joint owners shall be considered as constituting one person and shall not be entitled to dispose of in severally any interest in a ship or any share therein in respect of which they are registered;
- (e) a company may be registered as the owner by its corporate name.

Application for registration

18. (1) An application for the registration of a Bangladesh ship shall be made by the owner thereof, or, if there be more owners than one, by some one or more of them or by one or more agents appointed for the purpose.

¹ Clause (a) was omitted by section 3 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

(2) The appointment of an agent under sub-section (1) shall be in writing, if made by an individual, under his hand and, if made by a company, under its common seal.

19. (1) Every ship in respect of which an application for registration is made, shall, at the expense of the owner, be surveyed by a Surveyor or by any Surveyor of a Classification Society duly authorised by the Government and the tonnage of the ship ascertained in the prescribed manner.

Survey and measurement of ships before registration

(2) The Surveyor or the Classification Society so authorised shall grant to the owner a certificate in the prescribed form specifying the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may be prescribed; and the owner shall deliver the certificate to the Registrar before registration.

20. (1) Every ship in respect of which an application for registration is made, shall, before registration, be marked in the prescribed manner permanently and conspicuously and to the satisfaction of the Registrar.

Marking of ship

(2) The marks required by this section shall be permanently continued and shall not be altered except in the event of any of the particulars thereby denoted being altered in the manner provided by this Ordinance, except to evade capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

(3) If an owner or master of a Bangladesh ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, 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 the said marks, except in the event mentioned in sub-section (2), he shall, for each offence, be punishable with fine which may extend to twenty thousand Taka; and on a certificate from a Surveyor that a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

21. (1) Subject to the other provisions of this Ordinance, a person shall not be registered as the owner of a Bangladesh ship or of a share therein unless he or, in the case of a company, the

Declaration of ownership on registration

person authorised in this behalf, has made and signed declaration of ownership in the prescribed form referring to the ship as described in the certificate of the Surveyor and containing the following particulars, namely:-

- (a) a statement that the requirements as to ownership specified in clause (26) of section 2 are satisfied;
- (b) a statement of the time when and the place where the ship was built or, if the ship was built outside Bangladesh and the time and place of building are not known, or the builder's certificate cannot be procured, a statement to that effect; and in addition thereto, in the case of a ship previously registered outside Bangladesh, a statement of the name by which she was so registered, or, in the case of a ship condemned, a statement of the time, place and Court at and by which she was condemned;

¹[* * *]

- (d) the name of her master and his citizenship;
- (e) the number of shares in the ship in respect of which he or the company, as the case may be, claims to be registered as owner; and
- (f) a declaration that the particulars stated are true to the best of his knowledge and belief.

(2) In respect of a ship or share owned by more than one person, a declaration under sub-section (1) may be made by any one of them authorised by them in this behalf.

Evidence on
first registration

22. (1) For the purpose of registration of a Bangladesh ship, the following evidence shall be produced by the applicant in addition to the declaration of ownership made under section 21, namely:-

- (a) in the case of a ship built in Bangladesh, the builder's certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the

¹ Clause (c) was omitted by section 4 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

proper denomination and the tonnage of the ship as estimated by him and the time when and the place where she was built, and the name of the person, if any, on whose account the ship was built, and, if there has been any sale, the instrument of sale under which the ship or a share therein has become vested in the applicant;

- (b) in the case of a ship built outside Bangladesh, the same evidence as in the case of a ship built in Bangladesh, or where the person making the declaration of ownership declares that the time and place of building are not known to him, or the builder's certificate cannot be procured, only the instrument of sale under which the ship or a share therein has become vested in the applicant; and

¹[* * *]

(2) If the person granting a builder's certificate produced under sub-section (1) makes a false statement therein, he, and in the case of a certificate granted outside Bangladesh, his agent or representative in Bangladesh, shall be punishable with fine which may extend to twenty thousand Taka.

23. (1) As soon as the provisions of sections 21 and 22 have been complied with in respect of a Bangladesh ship, the Registrar shall register the ship by making entry of the following particulars in the Register Book, namely:-

Registration of ships

- (a) the name of the ship and the name of the port to which she belongs;
- (b) the details contained in the Surveyor's certificate delivered under section 19;
- (c) the particulars respecting her origin stated in the declaration of ownership made under section 21; and
- (d) the name and description of her owner or owners, and, if there are more owners than one, the number of shares owned by each of them.

(2) The Registrar may refuse to register a Bangladesh ship by the name by which she is proposed to be registered if that

¹ Clause (c) was omitted by section 5 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

name is already borne by another ship, or if the name be so similar thereto as is calculated or likely to deceive, or is otherwise undesirable.

Documents to be retained by Registrar

24. On the registration of a ship, the Registrar shall retain in his custody the following documents, namely:-

- (a) The Surveyor's certificate delivered under section 19;
- (b) all declarations of ownership made under section 21;
- (c) the builder's certificate produced under section 22;
- (d) any instrument of sale by which the ship was previously sold; and
- (e) certified copy of the condemnation, if any.

Power of Government to inquire into title of ship to be registered as Bangladesh ship

25. (1) Where it appears to the Government that there is any doubt as to the title of any ship to be registered as a Bangladesh ship, it may direct the Registrar of her port of registry to require, by giving not less than thirty days' notice to the persons concerned, or such longer notice as the Government may fix, evidence to his satisfaction that the ship is entitled to be registered as a Bangladesh ship.

(2) If within the period referred to in sub-section (1), evidence to the satisfaction of the Registrar that the ship is entitled to be registered as a Bangladesh ship is not given, the ship shall be liable to be forfeited to the Government.

Grant of certificate of registry

26. (1) On completion of the registration of a Bangladesh ship, the Registrar shall grant a Certificate of Registry in the prescribed form containing the particulars respecting the ship as entered in the Register Book and the name of her master.

(2) Every Registrar shall every year, not later than the 15th day of January and the 15th day of July, submit to the Registrar General a report in such form as the Government may direct, stating therein the particulars of all registries, cancellation of registry, transfers and any other relevant information in respect of the merchant ships registered by him during the six months preceding the month in which the report is required to be submitted.

Custody and use of Certificate

27. (1) The Certificate of Registry shall be used only for the lawful navigation of the ship, and it shall not be subject to

detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee, or other person to, on or in the ship.

(2) Every person, whether interested in the ship or not, who has in his possession or under his control the Certificate of Registry of a ship, shall 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, Collector of Customs or other person entitled by law to require such delivery.

(3) Any person refusing or failing to deliver a Certificate as required by sub-section (2), may, by order, be summoned by any Magistrate of the first class to appear before him and to be examined touching such refusal or failure, and, unless it is proved to the satisfaction of such Magistrate that there was reasonable cause for such refusal or failure, such person shall be punishable with fine which may extend to twenty thousand Taka.

(4) If the person refusing or failing to deliver the Certificate as required by sub-section (2) is proved to have absconded so that the order of such Magistrate cannot be served on him, or if he persists in not delivering the Certificate, the Magistrate shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed or as near thereto as circumstances permit.

(5) If the master or owner uses or attempts to use for navigation a Certificate of Registry not lawfully granted in respect of a ship, he shall be punishable with fine which may extend to fifty thousand Taka, and the ship shall be liable to be forfeited to the Government.

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

Power to grant new Certificate when original Certificate is defaced, lost, etc.

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

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

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

(5) If the Certificate of Registry stated to have been mislaid, lost or destroyed shall at any time afterwards be found, or if the person entitled to the Certificate obtains it at any time afterwards, the said Certificate shall forthwith be delivered to the Registrar of her port of registry, who shall cancel the same.

(6) If a master without reasonable cause fails to comply with the provisions of sub-section (4), he shall be punishable with fine which may extend to ten thousand Taka.

(7) If a person makes illegal use of a Certificate of Registry stated to have been mislaid, lost or destroyed, or if a person entitled to a Certificate of Registry obtains it at any time afterwards but fails to deliver the same to the Registrar as required by sub-section (5), he shall be punishable with fine which may extend to thirty thousand Taka.

Endorsement of
change of
master on
Certificate of
Registry

29. (1) Whenever there is a change of the master of a Bangladesh ship, a memorandum of the change shall be endorsed and signed on the Certificate of Registry,-

- (i) where it occurs at a port in Bangladesh, by the Registrar at such port or any other officer authorised in this behalf by the Government by notification in the *official Gazette*, and
- (ii) where it occurs at a port outside Bangladesh, by the Bangladesh Consular Officer at that port.

(2) The Collector of Customs at any port in Bangladesh may refuse to permit any person to do there any act as the master of a Bangladesh ship unless his name is inserted in or endorsed on her Certificate of Registry as her last appointed master.

30. (1) Whenever a change occurs in the registered ownership of a Bangladesh ship, the change shall be endorsed on her Certificate of Registry either by the Registrar of the ship's port of registry, or by the Registrar of any port at which the ship arrives if he has been advised of the change by the former.

Endorsement on
Certificate of
change of
ownership

(2) For the purpose of a change in the registered ownership of a Bangladesh ship being endorsed under sub-section (1) by the Registrar of her port of registry, the master of ship shall deliver the Certificate of Registry to the Registrar, if the change occurs when the ship is at her port of registry, forthwith after the change, and, if it occurs during her absence from that port and the endorsement is not made before her return, upon her first return thereto.

(3) The Registrar of any port, not being the port of registry of the ship in respect of which he is required to make an endorsement under sub-section (1), may, for that purpose, require the master of the ship to deliver to him her Certificate of Registry, and the master shall deliver the same accordingly.

(4) If the master of a ship fails to deliver to the Registrar the Certificate of Registry as required by sub-section (2) or sub-section (3), he shall be punishable with fine which may extend to fifty thousand Taka.

31. (1) In the event of a Bangladesh ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing for any reason to be such ship, the owner, or if there are more owners than one, everyone of them, shall immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Registrar at her port of registry, give notice thereof to the Registrar who shall make an entry to that effect in the Register Book, and the entries in that Book relating to the ship shall be considered as closed except so far as they relate to any unsatisfied mortgage entered therein.

Delivery of
Certificate of
ship lost or
ceasing to be a
Bangladesh ship

(2) On the occurrence of any such event as is referred to in sub-section (1), the master of the ship shall, unless her Certificate of Registry is mislaid, lost or destroyed, deliver the same-

- (a) to the Registrar, or to any other officer authorised in this behalf by the Government, by notification in the *official Gazette*,-
 - (i) if the event occurs in any port in Bangladesh, immediately on the occurrence of the event;
 - (ii) if it occurs elsewhere and the master arrives in any port in Bangladesh, within ten days of his arrival, or
- (b) to the Bangladesh Consular Officer, if the event occurs elsewhere and the master arrives in a port outside Bangladesh, soon after his arrival in such port.

(3) The Registrar, if he is not himself the Registrar of the ship's port of registry, or the officer authorised under sub-section (2), or the Bangladesh Consular Officer, as the case may be, shall, as soon as may be after the Certificate has been delivered to him, forward the same to the Registrar of the ship's port of registry.

(4) If an owner or a master fails to comply with any of the provisions of sub-section (1) or sub-section (2), as the case may be, he shall be punishable with fine which may extend to twenty thousand Taka.

Provisional
Certificate for
ships becoming
Bangladesh
ships abroad

32. (1) If at any port outside Bangladesh a ship becomes entitled to be registered as a Bangladesh ship, the Bangladesh Consular Officer may, upon receipt of specific instructions from the Registrar General, grant to the master of the ship a provisional Certificate of Registry in such form as may be prescribed by the Government and shall forthwith forward a copy thereof to the Registrar General.

(2) A provisional Certificate granted under sub-section (1) shall have the effect of a Certificate of Registry until the expiration of six months from its date, or until the arrival of the ship at a port where there is a Registrar, whichever first happens.

33. Where it appears to the Government that by reason of special circumstances it is desirable that permission should be granted to any Bangladesh ship to pass from one port in Bangladesh to another such port without being previously registered, the Government may authorise the Registrar of the first mentioned port to grant a pass in such form as may be prescribed, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a Certificate of Registry.

Temporary pass
in lieu of
Certificate of
Registry

¹[**34.** (1) No Bangladesh ship shall, except with prior permission in writing from the Director-General of shipping, be converted, modified or altered in such manner so as to change the character of the ship.

Restriction on
conversion of
ship

(2) Whoever contravenes or attempts to contravene the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to taka ten lakh, or with both.]

35. (1) The registry of a Bangladesh ship may be transferred from one port of registry in Bangladesh to another on an application in writing being made by all persons appearing in the Register Book to be interested therein as owners or mortgagees to the Registrar of her existing port of registry.

Transfer of
registry of
Bangladesh
ships

(2) On receipt of an application under sub-section (1) in respect of a ship, the Registrar shall transmit a notice thereof to the Registrar of the intended port of registry with a copy of all particulars relating to the ship and names of all persons appearing in the Register Book to be interested therein as owners or mortgagees, and also give notice of such transmission to the applicant.

(3) The Certificate of Registry of a ship in respect of which an application under sub-section (1) has been made, shall be delivered to the Registrar either of the existing port of registry or to the Registrar of the intended port of registry, and, if delivered to the former, shall be transmitted to the latter.

¹ Section 34 was substituted by section 6 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

(4) On receipt of the documents transmitted under sub-section (2), the Registrar of the intended port of registry shall enter in his Register Book all the particulars and names transmitted as aforesaid, and grant a fresh Certificate of Registry, and thereupon the port at which the fresh Certificate of Registry is granted at the ship's port of registry and the name of that port shall be substituted on the ship's stern for the name of her former port of registry.

(5) The Registrar granting a fresh Certificate of Registry under sub-section (4) shall give notice thereof, and forward the Certificate of Registry granted at the ship's former port of registry, to the Registrar of such port who shall make the necessary entry in his Register Book.

(6) The transfer under this section of the registry of a ship from one port in Bangladesh to another shall not affect in anyway the rights of any of the persons interested therein as owners or mortgagees.

(7) The registry of a Bangladesh ship shall not be transferred to any port outside Bangladesh except with the previous permission in writing of the Government, and no action shall be taken by the Registrar on any application for such transfer unless it is accompanied by such permission.

Mode of transfer
of ships, etc.

36. (1) A Bangladesh ship or a share therein shall not be transferred except by an instrument executed by the transferor, the execution being in the presence of, and attested by, at least two witnesses.

(2) An instrument of transfer shall be in the prescribed form or in a form as near thereto as circumstances permit and shall contain the description of the ship as contained in the Surveyor's certificate or some other description sufficient to identify the ship to the satisfaction of the Registrar.

(3) An instrument of transfer when duly executed shall be produced to the Registrar of the ship's port of registry, and the Registrar, if he is satisfied that the description therein is sufficient to identify the ship, shall enter in the Registry Book the name of the transferee as owner of the ship or share, as the case may be, and shall endorse on the instrument the fact of that entry having been made with the day and hour thereof.

(4) Every entry of transfer under this section shall be made in the Register Book in the order in which the instrument of transfer is produced to the Registrar.

37. (1) Where the property in a Bangladesh ship or a share therein is transmitted to a person on the death or insolvency of any owner thereof, or by any lawful means other than by a transfer under this Ordinance, that person shall authenticate the transmission by making and signing a Declaration of Transmission in the prescribed form.

Transmission of property in Bangladesh ship on death, insolvency, etc.

(2) A Declaration of Transmission shall be submitted to the Registrar of the ship's port of registry accompanied,-

- (a) if the transmission is in consequence of death, by a succession certificate, probate or letters of administration under the Succession Act, 1925 (XXXIX of 1925), or a certified copy thereof, and
- (b) if the transmission is in consequence of insolvency, by proper proof of such transmission.

(3) On receipt of the Declaration of Transmission submitted under sub-section (2), the Registrar shall enter in the Register Book the name of the person entitled under the transmission as owner of the ship or share in the property which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but all such persons shall, for the purposes of the provisions of this Ordinance with respect to the number of persons claiming to be registered as owners, be considered as one person:

Provided that nothing in this sub-section shall require the Registrar to make an entry in the Register Book under this section if he is of the opinion that by reason of the transmission the ship has ceased to be a Bangladesh ship.

38. (1) Where by reason of the transmission of any property in a ship or a share therein on death, insolvency or otherwise, a ship ceases to be a Bangladesh ship, the Registrar of her port of registry shall submit a report to the Government setting out the circumstances in which the ship has ceased to be a Bangladesh ship.

Order for sale where ship has ceased to be a Bangladesh ship

(2) On receipt of a report under sub-section (1), the Government may make an application to the High Court Division for a direction for the sale to any citizen of Bangladesh, or to any company which fulfils the conditions set out in sub-clause (b) of clause (3) of section 2, of the property so transmitted.

(3) The High Court Division may require such evidence in support of the application as it considers necessary and may make such order thereon subject to such terms and conditions, if any, as it thinks just, or may reject the application in any case it finds that the ship has not ceased to be a Bangladesh ship; and in case the ship or the share is ordered to be sold, it shall direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise.

(4) An application under sub-section (2) shall be made within such time as may be prescribed:

Provided that the High Court Division may admit an application after the prescribed time if it is satisfied that the Government had sufficient cause for not making the application within such time.

Transfer of ship
on sale by order
of Court

39. Where any Court, whether under section 38 or otherwise, orders the sale of any ship or share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and thereupon the person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the owner thereof, and shall, subject to the other provisions of this Ordinance, be deemed, in respect of the transfer of the ship or share, the owner thereof.

Mortgage of
ship or share,
etc.

40. (1) ¹[A registered ship] or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (hereinafter called a mortgage) shall be in the prescribed form, or in a form as near thereto as circumstances permit.

¹ The words and letter “A registered ship” were substituted, for the words, figure and comma “Subject to the provisions of section 34, a registered ship” by section 7 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

(2) Every instrument creating a mortgage shall be produced to the Registrar of the ship's port of registry for being recorded in the Register Book; and every mortgage so registered shall be called a registered mortgage.

(3) The Registrar shall record the mortgages in the Register Book in the order in which they are produced to him for the purpose and shall under his hand endorse on each instrument creating a mortgage the fact that the mortgage has been recorded by him stating the day and hour thereof.

(4) If there are more mortgages than one recorded in respect of the same ship or share, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is recorded in the Register Book, and not according to the date of each mortgage itself.

41. Where a registered mortgage of a ship or share is discharged, the Registrar shall, on the production of the instrument creating 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 interest in the ship or share, 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 created.

Entry of discharge of mortgage

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

Mortgagee not deemed to be owner

43. (1) A mortgagee under a registered mortgage shall be entitled to recover the amount due under the mortgage by appropriate proceeding in the High Court Division, and when passing a decree, or thereafter, the High Court Division may direct that the mortgaged ship or share be sold in execution of the decree.

Rights of mortgagee

(2) Subject to the provisions of sub-section (1), no mortgagee shall merely by virtue of the mortgage, be entitled to sell or otherwise dispose of the mortgaged ship or share.

Mortgage not affected by insolvency

44. A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date the mortgage has been recorded by the Registrar, notwithstanding that the mortgagor, at the commencement of his insolvency, 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 insolvent or any trustee or assignee on their behalf.

Transfer of mortgage

45. (1) ¹[A registered mortgage] of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the prescribed form, or in a form as near thereto as circumstances permit.

(2) Every instrument transferring a registered mortgage shall be produced to the Registrar of the ship's port of registry for being recorded in the Register Book; and the Registrar shall record the transfer by entering in the Register Book the name of the transferee as mortgagee of the ship or share and shall under his hand endorse on the instrument of transfer that it has been recorded by him stating the day and hour thereof.

(3) The transferee of a registered mortgage whose name is entered under sub-section (2) as a mortgagee shall have the same right of preference as that of the transferor.

Transmission of interest in mortgage in certain circumstances

46. Where the interest of a mortgagee in a ship or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Ordinance, the transmission shall be authenticated by a Declaration of Transmission in the prescribed form, and the provisions of section 37 shall, so far as may be, apply to such transmission.

¹ The words and letter "A registered mortgage" were substituted, for the words, figure and comma "Subject to the provisions of section 34, a registered mortgage" by section 8 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

47. (1) A Bangladesh ship registered under this Ordinance shall not be described by any name other than that by which she is for the time being so registered, nor shall a change be made in her name except in the prescribed manner.

Name of
Bangladesh ship
not to be
changed, etc.

(2) If any person acts or suffers any person under his control to act in contravention of any of the provisions of sub-section (1), he shall be punishable with fine which may extend to fifty thousand Taka and the ship in respect of which any such provision has been contravened may be detained until such provision is complied with.

48. (1) When a ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the Register Book, then, if the alteration is made at any port having a Registrar, that Registrar, or if it is made elsewhere, the Registrar of the first port having a Registrar at which the ship arrives after the alteration, shall, on application being made to him stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew and every such application shall be made, unless the Registrar considering the circumstances of each case allows a longer period within three days after the alteration or, as the case may be, the arrival.

Registry of
alterations

(2) For the purpose of registry of an alteration in a ship, the ship's Certificate of Registry shall be produced to the Registrar, and the Registrar shall, in his discretion, either retain the Certificate 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.

(3) The particulars of the alteration as made, and the fact of the new Certificate of Registry having been granted, or endorsement having been made, shall be entered by the Registrar of the ship's port of registry in his Register Book, and for that purpose the Registrar to whom the application for the registry of the alteration has been made, if he is not himself the Registrar of the ship's port of registry, shall forthwith report to the last mentioned Registrar the particulars and facts as aforesaid, accompanied, where a Certificate of Registry has been granted, by the old Certificate of Registry.

(4) If an owner fails to make an application under sub-section (1) for registering anew a ship or for registering an alteration of a ship, he shall be punishable with fine which may extend to fifty thousand Taka and with a further fine which may extend to one thousand Taka for everyday after the first during which the failure continues.

Provisional
Certificate and
endorsement
where ship is to
be registered
anew

49. (1) Where any Registrar, not being the Registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional Certificate of Registry describing the ship as altered or provisionally endorse the particulars of the alteration on the existing Certificate of Registry.

(2) Every provisional Certificate of Registry granted, and every Certificate provisionally endorsed, under sub-section (1), shall, within ten days after the first subsequent arrival of the ship at her port of registry, be delivered by the master to the Registrar, and the Registrar shall thereupon cause the ship to be registered anew.

(3) The Registrar who grants provisional Certificate of Registry or provisionally endorses a Certificate under sub-section (1), shall add to the Certificate or endorsement a statement that the same is provisional and shall send a report of the particulars of the case to the Registrar of ship's port of registry, containing a similar statement as the Certificate or endorsement.

Procedure for
registration
anew

50. (1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of first registration, and, on the delivery to him of the existing Certificate of Registry and on compliance with the other requirements for registration, shall register the ship anew, and grant a new Certificate of Registry.

(2) When a ship is registered anew, the entries in the Register Book relating to her previous registration shall be considered as closed except so far as they relate to any unsatisfied mortgage, but the names of all persons appearing in those entries to be interested in the ship as owners or mortgagees shall be entered anew; and the registration anew shall not in any way affect the rights of any of those persons.

51. Where the registration of a Bangladesh ship is considered as closed under section 31 for any reason other than capture by the enemy, the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a Surveyor and certified by him to be seaworthy.

Restriction on re-registration of abandoned ships

CHAPTER 4

NATIONAL CHARACTER

52. (1) The Government may, by notification in the *official Gazette*, declare what shall be the proper national colours for Bangladesh ships, and distinctive colours may be declared for different classes of ships.

National colours for ships

(2) If any distinctive colours other than those declared under sub-section (1) are hoisted on board any Bangladesh ship, the owner of the ship, unless he proves that they were hoisted without his knowledge or consent, the master of the ship and every person hoisting such colours shall be punishable with fine which may extend to fifty thousand Taka; and any commissioned officer of the Bangladesh Navy, any Principal Officer, any Collector of Customs or any Bangladesh Consular Officer, may board any ship on which such colours are hoisted, and seize and take away the colours which shall be forfeited to the Government.

53. (1) No person on board a ship which is not a Bangladesh ship shall use any of the national colours declared under sub-section (1) of section 52 unless such use is made, the burden of proving which shall lie on him, for the purpose of escaping capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

Unlawful assumption or concealment of Bangladesh character, etc.

(2) Except for the purpose aforesaid, no owner or master of a Bangladesh ship shall knowingly do anything, or permit anything to be done, or carry or permit to be carried any papers or documents, with intent to conceal the Bangladesh character of the ship from, or to deceive, any person entitled by any law for the time being in force to inquire into the same, or with intent to assume a foreign character for the ship.

(3) Whoever contravenes any of the provisions of this section shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to eighty thousand Taka, or with both.

Bangladesh ships to hoist proper national colours in certain cases

54. (1) A Bangladesh ship shall hoist the proper national colours-

- (a) on a signal being made to her by any vessel of the Bangladesh Navy;
- (b) on entering or leaving any foreign port; and
- (c) if of fifty tons net or more, on entering or leaving any Bangladesh port.

(2) The master of a ship in respect of which the provisions of sub-section (1) are not complied with shall be punishable with fine which may extend to ten thousand Taka.

National character of ships to be declared before clearance

55. (1) A Collector of Customs shall not grant a port-clearance for any ship until the master of the ship has declared to him the name of the country to which the master claims that the ship belongs, and the Collector of Customs shall upon such declaration inscribe the name on the port-clearance.

(2) If a ship attempts to proceed to sea without port-clearance, she may be detained until the declaration required by sub-section (1) is made.

CHAPTER 5

MISCELLANEOUS

Liabilities of ships not registered as Bangladesh ships

56. A Bangladesh ship which under the provisions of this Ordinance is not registered as such shall not be entitled to any privileges, benefits, advantages or protection usually enjoyed by Bangladesh ships or to use the proper national colours for Bangladesh ships or to assume the Bangladesh national character, but so far as regards the payment of dues, the liability of fine and forfeiture and the punishment of offence committed by any person belonging to, or on board, such ship, such ship shall be dealt with in the same manner in all respects as if she were a registered Bangladesh ship.

57. Where any ship has either wholly or as to any share therein become subject to forfeiture under this Ordinance, any commissioned officer of the Bangladesh Navy, any Principal Officer, any Collector of Customs, or any Bangladesh Consular Officer, or any other officer authorised by the Government, by notification in the *official Gazette*, may seize and detain the ship, and bring her in for adjudication before the High Court Division, and the High Court Division may thereupon adjudge the ship with her equipment to be forfeited to Government and make such order in the case as to the High Court Division seems just.

Proceedings on forfeiture of ship

58. No notice of any trust in respect of a ship or a share therein, express, implied or constructive, shall be entered in the Register Book or be receivable by the Registrar, and, subject to any rights and powers appearing from the Register Book to be vested in any other person, the person registered as the owner of the ship or of the share shall have power to dispose of the ship or share in the manner provided in this Ordinance and to give effectual receipts for any money paid or advanced by way of consideration.

Notice of trust not received

59. Where any person is beneficially interested otherwise than by way of mortgage in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the person registered as owner, be subject to all the pecuniary penalties which may be imposed under this Ordinance or any other law for the time being in force on the owners of ships or shares therein; and proceedings for the enforcement of any such penalties may be taken against both or either of them.

Liability of owners

60. (1) On application to the Registrar and on payment of the prescribed fee, any person may, at any time during office hours, inspect any Register Book, and may obtain a certified copy of any entry therein:

Inspection of Register Book and admissibility of certain documents in evidence

Provided that no Register Book shall be inspected by, nor shall a certified copy of any entry therein be given to, any person unless he furnishes to the Registrar, along with the application, consent in writing from the owner of the ship to such inspection being allowed or such copy being given.

(2) The following documents shall be admissible in evidence in any Court, namely:-

- (a) any Register Book on its production from the custody of the Registrar, or other person having the lawful custody thereof;
- (b) a Certificate of Registry under this Ordinance purporting to be signed by the Registrar, or any other officer authorised in this behalf;
- (c) an endorsement on a Certificate of Registry purporting to be signed by the Registrar, or any other officer authorised in this behalf;
- (d) every declaration made under this Ordinance in respect of a Bangladesh ship.

Power to register Government ships

61. The Government may, by notification in the *official Gazette*, direct that, subject to such conditions and exceptions as may be specified therein, ships belonging to the Government, not being ships of or commissioned for service in the Bangladesh Navy, shall be registered under this Ordinance, and thereupon this Ordinance shall, subject to those conditions and exceptions, apply to such ships.

Special powers for Magistrates

62. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any Magistrate of the first class specially empowered by the Government in this behalf may pass a sentence of fine exceeding five thousand Taka for an offence under this Ordinance.

Power to make rules

63. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Ordinance.

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

- (a) the manner in which the tonnage of any ship shall be ascertained, whether for the purpose of registration or otherwise, including the mode of measurement;
- (b) the recognition for the purpose of ascertaining the tonnage of any ship, or for any other purpose, of any tonnage certificate granted in respect of any ship in any other

country, not being a country with which Bangladesh has entered into an agreement in this behalf, including the conditions and restrictions subject to which such recognition may be granted;

- (c) the manner in which surveys of ships shall be conducted and the form of certificate to be issued by a Surveyor;
- (d) the manner in which ships shall be marked;
- (e) the form in which any document or instrument required by or under this Part to be prepared or executed shall be prepared or executed, as the case may be, and the Particulars which it should contain;
- (f) the persons by whom and the authorities before which any declaration required by this Part shall be made, and the circumstances in which any such declaration may be waived and other evidence accepted;
- (g) the returns that shall be made by Registrars to the Registrar General or to such other authority as the Government may appoint, and the form in which, and the intervals at which, such returns shall be made;
- (h) the procedure for the registration, marking, naming or alteration of the names of Bangladesh ships;
- (i) the fees to be levied, and the actual expenses, if any, incurred by Government in the performance of its functions, under this Part, and the manner in which such fees and expenses shall be collected or recovered;
- (j) the manner in which Registrars and other authorities may exercise their powers under this Part or maintain the Register Book and other books and registers;
- (k) the manner in which ships belonging to Government, to which the provisions of this Part may be made applicable under section 61, may be registered;
- (l) any other matter which may be necessary for carrying out the purposes of this Part.

PART III

CONTROL OF SHIPPING

CHAPTER 6

LICENSING OF CERTAIN SHIPS

Application

64. This Part applies only to such power driven sea-going ships as are of not less than one hundred and fifty tons gross or of such other tonnage as the Government may, by notification in the *official Gazette*, fix.

Restriction on chartering of ships

65. (1) No citizen of Bangladesh, nor any company, officer or other authority, shall charter any ship, whether a Bangladesh ship or not, or, being the owner of any Bangladesh ship, or the agent of such owner, give or offer to give on charter any such ship to any person, except with the previous permission in writing of the Director-General of Shipping and such permission, if granted, may be subject to such conditions as the Director General of Shipping may think fit to impose.

(2) Whoever contravenes or attempts to contravene the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to Taka fifteen thousand or with both; and any transaction made in contravention of any such provision shall be void.

Licences for taking ships to sea

66. (1) No Bangladesh ship, and no ship chartered by a citizen of Bangladesh or by a company, officer or other authority shall be taken to sea from a port or place within or outside Bangladesh except under a licence granted in this behalf by the Shipping Authority.

(2) A licence granted under sub-section (1) may, in the discretion of the Shipping Authority, be-

- (a) a general licence; or
- (b) a licence for a specified period or a specified voyage.

(3) Subject to the provisions of section 68, a general licence shall remain valid until it is revoked or cancelled, and a licence for a specified period or a specified voyage shall be valid only for the period or voyage for which it is granted.

(4) A licence granted under sub-section (1) may contain such limitations and conditions as the Shipping Authority may think fit to impose, with respect to the trades in which the ship may engage and the voyage which it may undertake, and such limitations and conditions may be imposed so as to apply to the ship wherever it may be, or while in such waters, or engaged in such trades, or on such voyages, as may be specified.

(5) Whoever contravenes the provisions of sub-section (1) shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five thousand, or with both.

67. (1) No ship, not being a Bangladesh ship or a ship chartered by a citizen of Bangladesh, or by a company, officer or other authority, shall be engaged in coasting trade except under a licence granted in this behalf by the Shipping Authority.

Licences for coasting trade

(2) A licence granted under sub-section (1) may be for the whole or any part of the coasting trade and subject to such conditions as may be specified therein.

(3) Subject to the provisions of section 68, a licence granted under sub-section (1) shall remain valid until it is revoked or cancelled.

(4) Whoever contravenes the provisions of sub-section (1) shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five thousand, or with both.

68. (1) Any licence granted under section 66 or section 67 may be modified, suspended, revoked or cancelled by the Authority granting it, but no such licence shall be revoked or cancelled unless the person concerned has been given a reasonable opportunity of making a representation against such revocation or cancellation.

Revocation, etc. of licences

(2) Where a licence granted under section 66 or section 67 is revoked or cancelled or otherwise ceases to be valid, the person to whom it was granted shall, within sixty days after such revocation, cancellation or cessation, return it or cause it to be returned to the Authority granting it.

(3) Whoever contravenes the provisions of sub-section (2) shall be punishable with fine which may extend to two thousand Taka.

No
port-clearance
until licence is
produced

69. (1) A Collector of Customs shall not grant port-clearance to a ship required to take a licence under this Part until the owner or master thereof has produced the requisite licence and a certificate from the Shipping Authority to the effect that the conditions of the licence have been duly fulfilled.

(2) If a ship attempts to proceed to sea without port-clearance, she may be detained until the licence and certificate are produced as required by sub-section (1).

Restriction on
the use of
certain ships,
etc.

70. (1) No ship, other than a Bangladesh ship, shall, except with the previous permission in writing of the Shipping Authority, be engaged or used in lighterage of foodgrains and other cargo or transhipment of any cargo other than foodgrains at any point within the territorial waters of Bangladesh for carriage to any destination within Bangladesh.

(2) No foreign ship shall, except with the previous permission in writing of the Shipping Authority, use, for the purpose of loading and unloading of bulk cargo within the territorial waters of Bangladesh, any device or equipment which is not permanently attached to the ship.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka ten thousand, or with both.

Power to give
directions

71. (1) The Shipping Authority may, if it is satisfied that it is necessary or expedient in the public interest or in the interest of shipping in general so to do, and shall, where so directed by

the Government, by order in writing, give,-

- (a) in the case of a ship which has been granted a licence under section 66, directions with respect to all or any of the following matters, namely:-
 - (i) the ports or places, whether in or outside Bangladesh, to which, and the routes by which, ship shall proceed for any particular purpose;
 - (ii) the diversion of the ship from one route to another for any particular purpose;
 - (iii) the dates, if any, of arrival and departure of the ship at, or from, any port or place;
 - (iv) the classes of passengers which may be carried in the ship;
 - (v) the kind of cargo which may be carried in the ship and the quantity of such cargo that may be put on board any ship specified in the order;
 - (vi) the order of priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside Bangladesh;
 - (vii) the person or persons to whom passages may be given;
- (b) in the case of any ship which has been granted a licence under section 67, and is about to proceed from a port or place in Bangladesh to any port or place at which she may, or is to, call in the course of her voyage while engaged in the coasting trade, general or special directions with respect to all or any of the matters mentioned in sub-clauses (iii), (iv), (v), (vi) and (vii) of clause (a); and
- (c) in the case of any ship, other than a ship licensed under this Ordinance, directions regulating the quantity of any cargo that may be loaded in such ship from a port of Bangladesh for a place or port outside Bangladesh.

(2) Whoever fails to comply with any direction given under sub-section (1), shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five thousand, or with both.

Power to constitute Shipping Allocation Board

72. The Government may, by notification in the *official Gazette*, constitute a Shipping Allocation Board to advise on matters enumerated in section 71.

73. [*Power to fix shipping rates.- Omitted by section 9 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).*]

74. [*Power to constitute Shipping Rates Advisory Board.- Omitted by section 10 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).*]

Power to call for information

75. (1) The Shipping Authority may, by notice served personally or by post, require-

- (a) the master or owner of any ship in respect of which a licence granted under this Part is in force, or
- (b) the master or the agent in Bangladesh of the owner of any ship in respect of which any directions have been or may be given under clause (b) or clause (c) of sub-section (1) of section 71, to furnish, within the period specified in the notice, information regarding all or any of the following matters, namely:-
 - (i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried during any period specified in this behalf in the notice;
 - (ii) the rates of passenger fares and freight charges applicable to the ship; and
 - (iii) any other matter which may be prescribed.

(2) If any person on whom a notice has been served under sub-section (1) fails to furnish the information required thereby within the specified time or, in furnishing such information, makes any statement which he knows to be false in any material particular, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka ten thousand, or with both.

76. [Submission of schedule of fares, etc., in respect of certain ships.- Omitted by section 11 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).]

77. Where, in respect of any ship to which a licence has been granted or a directive is given in writing under the provisions of this Part, the Shipping Authority has reason to suspect that any of those provisions is not being complied with, it may enter or authorise any other person to enter on board the ship and ask for the relevant documents for examination.

Power of Shipping Authority to enter ship

78. If any of the limitations or conditions contained in a licence granted or, as the case may be, a directive given under the provisions of this Part is contravened, the master and the owner, or, in the case of a ship other than a Bangladesh ship, the master, and the agent in Bangladesh of the owner, of the ship in respect of which the contravention has taken place, shall each be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka ten thousand, or with both.

Penalty

79. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Part.

Power to make rules

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

- (a) the forms of licences;
- (b) rates of fees payable for different categories of licences;
- (c) the procedure to be followed by the Boards constituted under ¹[section 72];

²[* * *]

¹ The word and figure "section 72" were substituted, for the words and figures "sections 72 and 74" by section 12 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

² Clause (d) was omitted by section 12 of the Bangladesh Merchant Shipping (Amendment) Act, 1995 (Act No. II of 1995).

- (e) regulation of the activities of the shipping agents operating in Bangladesh;
- (f) the matters regarding which information may be required to be furnished under section 75; and
- (g) any other matter which it is necessary to prescribe.

PART IV

MANNING OF SHIPS

¹[CHAPTER 7

CERTIFICATE OF COMPETENCY

Definition	80. In this Chapter, unless there is anything repugnant in the subject or context, “Director-General” means the Director-General of the Department of Shipping established under this Ordinance.
Application	81. This Chapter shall apply only to Bangladesh ships.
Manning of ships	<p>82. (1) No ship shall go to sea or proceed on a voyage unless it is manned in accordance with the provisions of this Chapter and possesses a Certificate issued by the Director-General to the effect that the ship is manned in accordance with such provisions.</p> <p>(2) The Director-General shall issue the Certificate under sub-section (1) in such manner as may be prescribed.</p> <p>(3) The Director-General may, by order notified in the <i>official Gazette</i>, require a ship to carry such minimum number of officers, doctors, cooks and other seamen as may be specified in the order.</p> <p>(4) The Director-General shall not exercise his power under sub-section (3) requiring a ship to carry seamen, other than doctors and cooks, except to the extent that it appears to him necessary or expedient in the interest of safety of the ship.</p>

¹ CHAPTER 7 was substituted, for previous Chapters 7 and 8 by section 2 of the Bangladesh Merchant Shipping (Amendment) Act, 1988 (Act No. III of 1988).

(5) An order under sub-section (3) may make different provisions for different descriptions of ships or for ships of the same description in different circumstances.

(6) The Government may exempt any ship or class of ships from any requirements of an order made under sub-section (3).

(7) An exemption granted under sub-section (6) may be in respect of particular period or of one or more particular voyages.

(8) If a ship goes to sea or proceed on a voyage in contravention of the provisions of sub-section (1), the master of the ship shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one lakh Taka, or with both.

83. (1) The Director-General shall grant Certificate of Competency for various grades of service in different trades in a ship after conducting such examinations or tests as may be prescribed.

Certificate of Competency

(2) No seaman, master or pilot shall be employed or engaged for service on board a ship unless he has the requisite Certificate of Competency granted under sub-section (1).

(3) No person shall be granted a Certificate of Competency under sub-section (1) for employment or engagement on board a ship of or above sixteen hundred tons as a radio officer or operator unless he has-

- (a) such maritime radio communication general certificate as may be determined by the Director-General;
- (b) at least six months' sea-service as a trainee radio officer or operator;
- (c) successfully completed survival craft course, fire-fighting course and first-aid course.

(4) Notwithstanding anything contained in this section, the Director-General may relax the requirement of this section in respect of a person if-

- (a) such person satisfies the Director-General that he is reasonably capable of discharging the duties and responsibilities of the trade for which he is sought to be employed or engaged;

- (b) the owner of the ship satisfies the Director-General that despite due efforts person with requisite Certificate could not be available for employment or engagement;

Recognition of Certificate of Competency not granted by the Director-General

84. (1) A Certificate of Competency granted to a seaman, master or pilot by any authority in Bangladesh under any law for the time being in force before the commencement of the Bangladesh Merchant Shipping (Amendment) Act, 1988 shall be recognised as equivalent to a Certificate of Competency granted under this Chapter.

(2) A Certificate of Competency granted to a seaman, master or pilot by any authority outside Bangladesh may be recognised by the Director-General, by an order notified in the *official Gazette*, as equivalent to a Certificate of Competency granted under this Chapter.

(3) All provisions of this Ordinance relating to Certificate of Competency granted under this Chapter shall apply to such Certificate of Competency recognised under sub-section (1) or sub-section (2) and the recognition of any such Certificate may be suspended or withdrawn on the same ground and in the same manner as a Certificate of Competency granted by the Director-General under this Chapter is suspended or cancelled.

Form of Certificates

85. Every Certificate of Competency granted under this Chapter shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the Certificate, and the other shall be kept by the Director-General and recorded in the prescribed manner.

Loss of Certificate

86. Whenever a seaman proves to the satisfaction of the Director-General that he has, without any fault on his part, lost or been deprived of a Certificate of Competency already granted to him under this Chapter, the Director-General shall, on payment of such fee as may be prescribed, cause a copy of such Certificate to be granted to him or issue a duplicate thereof, and such copy or duplicate shall have all the effects of the original.

Master to be custodian of Certificates

87. The master of a ship shall be the custodian of Certificates of Competency of all seamen; and a seaman serving on board a ship shall deposit his Certificate of Competency with the master of the ship for its safe custody and for its production to the concerned authority whenever required to do so.

88. (1) No person who is not a citizen of Bangladesh shall be employed or engaged on board a ship as a seaman or in any other capacity without the previous permission in writing of the Government.

Employment of
aliens

(2) Where the provisions of sub-section (1) is contravened, the owner of the ship shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh Taka or with both.

89. (1) No person shall be employed or engaged on board a ship unless he enters into an agreement with the owner of the ship in such manner as may be prescribed.

Continuous
Discharge
Certificate Book

(2) Upon an agreement under sub-section (1), a seaman shall be issued a Continuous Discharge Certificate Book by the Shipping Master, on payment of such fee and in such manner as may be prescribed, for recording details of his service.

(3) Every Continuous Discharge Certificate Book shall be in duplicate and one copy thereof shall be delivered to the person entitled to the Book and the other shall be kept by the Shipping Master and recorded in the prescribed manner.

90. (1) If it appears to the Director-General that the holder of a Certificate Book issued under this Chapter has obtained it on false or erroneous information, he may, without prejudice to any other penalty to which such holder may be liable, by order, cancel or suspend such Certificate or Book:

Power to cancel
or suspend
Certificate, etc.

Provided that no such order shall be passed by the Director-General unless the holder of the Certificate or of the Book has been given an opportunity of making a representation against the proposed order.

(2) A person aggrieved by an order under sub-section (1) may prefer an appeal to the Government within a period of one month from the date of such order and the decision of the Government on such appeal shall be final.

(3) Upon cancellation or suspension of a Certificate or of the Book under sub-section (1), the holder of the Certificate or of the Book shall surrender the same to the Director-General.

(4) If any person contravenes the provision of sub-section (3), he shall be liable to fine which may extend to one lakh Taka.

Record of orders affecting Certificate, etc.

91. A note of all orders made under this Ordinance for suspending, cancelling, altering or otherwise affecting a Certificate of Competency or a Continuous Discharge Certificate Book shall be entered on the copy of the Certificate or of the Book kept by the Director-General.

Port Clearance

92. (1) The Collector of Customs shall not grant a port clearance to any ship unless a certificate issued by the Mercantile Marine Office established under this Ordinance is produced to him to the effect that the ship is duly manned in accordance with the provisions of this Chapter.

(2) If any ship attempts to go to sea without a port clearance under sub-section (1), the Collector of Customs or any officer authorised by him in this behalf may detain the ship until a Certificate mentioned in sub-section (1) is produced.

Report of accidents, etc.

93. (1) When a ship has sustained or caused any accident of whatever nature occasioning loss of life or any serious injury to any person or has received any material damage affecting her sea-worthiness or her efficiency either in her hull or in any part of her machinery or in any of her fittings or equipment, the owner or master of the ship shall, within three days after the happening of the accident, damage or casualty, or, as soon thereafter as possible, transmit to the Director-General a report of the accident or damage and of the probable cause thereof stating the name of the ship, port of registry and the place of occurrence.

(2) When any mutiny, strike, murder, assault or violence occurs in any ship, the owner or master of the ship shall, within three days after the occurrence of the incident, transmit to the Director-General a report of the same and of the probable cause thereof with all other relevant information.

(3) Whenever an accident or incident of the nature specified in sub-section (1) or sub-section (2) occurs on or in connection with, a foreign flag ship in Bangladesh waters, the

agent of the ship shall, within twenty four hours after the happening of the accident or occurrence of the incident, transmit to the Director-General a report of the same and of the probable cause thereof with all other relevant information.

(4) On receipt of a report under sub-section (1) or sub-section (2) or sub-section (3) the Director-General may, without prejudice to any other legal proceedings under any other law for the time being in force, order an enquiry into the accident or incident mentioned in the report.

(5) Where the Director-General is satisfied that an accident, damage or casualty has happened due to negligence or incompetence on the part of a person who is a foreign national or a person having a Certificate of Competency issued by a foreign Government or organisation, he may, without prejudice to any other action under this Ordinance or any other law for the time being in force, debar-

- (a) such person from being employed or engaged for service on a Bangladesh Ship;
- (b) any foreign ship from entering Bangladesh waters with such person being employed or engaged for service on that ship.

(6) If a person fails without any reasonable cause to comply with the requirements of this section, he shall be liable to fine which may extend to fifty thousand Taka.

94. If any person-

Penalty

- (a) forges or fraudulently alters or assists in forging or fraudulently altering any Certificate of Competency or an official copy of any such Certificate, or
- (b) makes or assists in making any false representation for the purpose of procuring either for himself or for any other person a Certificate of Competency, or
- (c) fraudulently uses a Certificate of Competency, or a copy thereof, which has been forged, altered, cancelled or suspended, or to which he is not entitled, or

- (d) fraudulently lends his certificate of Competency or allows it to be used by any other person,

he shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one lakh Taka, or with both.

Explanation.- In this section “Certificate of Competency” includes a Continuous Discharge Certificate Book issued under this Ordinance.

Power to make rules

95. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

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

- (a) classification of Certificate of Competency of different grades;
- (b) syllabus and courses of examinations or tests for Certificates of Competency;
- (c) eligibility for appearing in examinations or tests for various grades of Certificate of Competency and manner of holding such examinations or tests.]

CHAPTER 9

EMPLOYMENT OF YOUNG PERSONS

Employment of young persons

98. No young person under fifteen years of age shall be engaged or carried to sea to work in any capacity in any ship except-

- (a) in a school-ship or training-ship in accordance with the prescribed conditions; or
- (b) in a ship in which all persons employed are members of one family; or
- (c) where such young person is to be employed on nominal wages and shall be under the protection of his father or other adult near male relative.

99. (1) Subject to the provisions of sub-sections (2) and (3), no young person shall be engaged or carried to sea to work as a trimmer or a stoker in any ship.

Engagement of young persons as trimmers or stokers

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

- (a) to any work of trimming or stoking done by a young person in a school-ship or training-ship in accordance with the prescribed conditions; or
- (b) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or
- (c) to the engagement of carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a home-trade ship or coasting ship in accordance with the prescribed conditions.

(3) Where in any port a trimmer or stoker is required for any ship, other than a home-trade ship or coasting ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(4) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

100. (1) Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship unless there has been delivered to the master a certificate granted by a prescribed medical authority that the young person is fit to be employed in that capacity.

Medical examination of young persons

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

- (a) to the employment of a young person in a ship in which all persons employed are members of one family; or
- (b) where the Shipping Master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (1) being delivered to the master, and the young person is not

employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

(3) A certificate of fitness required by sub-section (1) shall remain in force for one year only from the date on which it is granted.

(4) The Shipping Master may require the master of any ship to produce for inspection any certificate of fitness delivered to him under sub-section (1).

Offences against sections 98, 99 and 100

101. (1) If any young person is engaged to work in any capacity in a ship in contravention of section 98, section 99, or section 100 on a false representation by his parent or guardian, or any other person, that the young person is of an age at which such engagement is not in contravention of any of those sections, such parent or guardian shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka two thousand, or with both.

(2) If any young person is carried to sea to work in contravention of section 98, section 99, or section 100, the master of the ship shall, for each offence, be punishable with fine which may extend to two thousand Taka.

(3) If any master refuses or neglects to produce for inspection any certificate of fitness delivered to him when required so to do under sub-section (4) of section 100, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Maintenance of list or Register of young persons in a ship

102. (1) There shall be included in every agreement with the crew of every ship, whether a Bangladesh ship or not, which engages young persons in Bangladesh, a list of the young persons who are members of the crew, together with particulars of the dates of their birth, and in the case of any ship where there is no agreement, the master shall maintain a Register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

(2) The Shipping Master may require the master of any ship where there is no such agreement as aforesaid to produce for inspection the Register maintained under sub-section (1).

(3) If any master fails to maintain the Register required to be maintained under sub-section (1) or refuses or neglects to

produce such Register for inspection when required so to do under sub-section (2), he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

103. The Government may, by notification in the *official Gazette*, make rules prescribing-

Power to make rules

- (a) the conditions of employment of young persons, in any capacity, in school-ships and training-ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;
- (b) the conditions of employment of young persons as trimmers or stokers in home-trade ships and coasting ships;
- (c) the authorities whose certificates of fitness shall be accepted for the purposes of section 100; and
- (d) the principles and procedure to be followed by ship-owners where there is no agreement with the crew.

CHAPTER 10

ENGAGEMENT OF SEAMEN

104. (1) Subject to the other provisions of this Ordinance, the Government may, by notification in the *official Gazette*, make rules regulating the engagement of seamen, their employment on various ships, and other matters affecting maritime labour generally.

Rules relating to engagement of seamen and maritime labour

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

- (a) the establishment of one or more Seamen's Employment Boards, and the constitution, composition and functions thereof;
- (b) the registration of seamen, and the fees to be charged by the Shipping Master for the issue of Registration Book to them;

- (c) the maintenance of seamen's rosters;
- (d) the principles and procedure to be followed by ship owners in engaging and promoting seamen;
- (e) the licensing of Agents who act on behalf of owners in engaging seamen for foreign ships and the conditions to be complied with by such Agents before licence is granted or renewed.

Supply of
seamen, etc.

105. (1) A person shall not engage or supply, or employ for the purpose of engaging or supplying, a seaman, to be entered on board any ship in Bangladesh unless that person is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employment of the owner, or is a Shipping Master.

(2) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of sub-section (1).

(3) If a person contravenes the provisions of sub-section (1) or sub-section (2), he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

(4) An agent for recruiting seamen, acting on behalf of owners of foreign ships, shall not recruit or attempt to recruit any seaman unless he is duly licensed by the Government and no such recruitment shall be carried out except with the concurrence of the Shipping Master.

(5) If a person contravenes the provisions of sub-section (4), he shall be punishable with imprisonment which may extend to six months, or with fine not exceeding ten thousand Taka, or with both.

Seaman's
identity card

106. (1) The Government may, by order, provide-

- (a) for the issue to every Bangladeshi seaman of a card, in this section referred to as seaman's identity card, in such form and containing such particulars with respect to the holder thereof and such other particulars, if any, as may be specified in the order, and for requiring every Bangladeshi seaman to apply for such card;

- (b) for requiring the holder of a seaman's identity card to produce it to such person in such circumstances as may be specified in the order;
- (c) for the surrender of the seaman's identity card in such circumstances as may be specified in the order;
- (d) for any incidental or supplementary matter which the Government thinks expedient for the purpose of the order to provide;

and any provision of the order having effect by virtue of clause (a) of this sub-section may be so framed as to apply to all Bangladeshi seaman or any description of them, and, as to have effect subject to any exemption for which provision may be made in the order.

(2) An order under this section may make a contravention of any provision thereof an offence punishable on a summary conviction, with a fine not exceeding one thousand Taka.

(3) If a person makes a statement which he thinks to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or for any other person a seaman's identity card, he shall be liable on summary conviction to a fine not exceeding Taka one thousand.

107. (1) No person shall engage any Bangladeshi seaman at any port or place in Bangladesh, nor carry to sea from any such port or place any such seaman in any ship, except a coasting ship of less than two hundred tons gross so long as such coasting ship is employed on voyages confined to ports or places within Bangladesh, unless the seaman is in possession of a Continuous Discharge Certificate issued in Bangladesh by a Shipping Master in a form approved by the Director-General of Shipping or such other document as may be prescribed.

Seaman to be in possession of Continuous Discharge Certificate

(2) if a person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

108. Whenever a seaman proves to the satisfaction of a Shipping Master that the Continuous Discharge Certificate issued to him has, without fault on his part, been lost, torn or

Loss of Continuous Discharge Certificate, etc.

defaced, or that he has otherwise been deprived of it, the Shipping Master shall, on payment of the prescribed fee, if any, issue to the seaman a copy of the Certificate to which he may be entitled, and such copy shall have all the effect of the original.

Cancellation,
etc. of
Continuous
Discharge
Certificate

109. (1) Notwithstanding anything contained elsewhere in this Ordinance, the Shipping Master may suspend, cancel or confiscate the Continuous Discharge Certificate of any seaman who is shown to the satisfaction of the Shipping Master to have deserted his ship or is found guilty of smuggling, theft, misbehaviour or such other offence as may, in the opinion of the Shipping Master, make him unsuitable for employment on board a ship.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of receipt of such order, prefer an appeal to the Director-General of Shipping.

(3) An appeal under sub-section (2) shall be preferred and disposed of in such form and manner as may be prescribed.

Certificate of
fitness of
seaman

110. (1) No person shall engage any Bangladeshi seaman at any port or place in Bangladesh, nor carry to sea any such seaman in any ship of two hundred tons gross and above from any such port or place unless the seaman is in possession of a certificate in the prescribed form issued by the prescribed medical authority to the effect that he is fit to be employed in the capacity in which he is to serve, or unless an endorsement to that effect appears in his Continuous Discharge Certificate.

(2) The Government may prescribe-

- (a) the standard of fitness required of seamen or different classes of seamen having regard to the age of the seamen and the nature of duties to be performed by them;
- (b) the nature of the medical examination of seamen and the authority by whom the medical examination shall be conducted;
- (c) the form and the contents of the certificates of fitness and the period of their validity; and

- (d) the medical authority by whom a seaman who has been refused a certificate of fitness in the first instance may be re-examined, and the fee payable for such re-examination.

(3) The Government may exempt any seaman or class of seamen employed in any ship or class of ships from the operation of all or any of the provisions of this section.

(4) If a person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

(5) An owner, master or agent may, prior to engaging a seaman, have him examined by a medical officer whose prescribed particulars have been registered with a Shipping Master.

111. (1) The Government may, by notification in the *official Gazette*, make rules as to manning of ships.

Rules relating to manning of ships

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

- (a) the rating of seamen other than officers;
- (b) the minimum and maximum age limits, and qualifications and experience required for each rating; and
- (c) the number of each rating to be carried on board a ship having regard to her tonnage, mode of propulsion and the number of passengers she is certified to carry.

112. (1) The master of every Bangladesh ship, except a coasting ship of less than two hundred tons gross so long as such coasting ship is employed on voyages confined to ports or places within Bangladesh, shall enter into an agreement in accordance with this Ordinance with every seaman whom he engages at, and carries to sea as one of his crew from any port or place in Bangladesh.

Agreement with crew

(2) The master of a ship who neglects or fails to enter into an agreement required by sub-section (1) shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

Forms and contents of the agreement

113. (1) An agreement with the crew shall be in the form approved by the Government, and shall be dated at the time of the first signature thereof and shall be signed-

- (a) where the ship is at the port or place of engagement, by the master before any seaman signs the same; and
- (b) where the ship is not at the port or place of engagement, by the owner or the owner's agent before the master signs it and by the master before the seaman is on board.

(2) An agreement with the crew shall contain as terms thereof the following particulars, namely:-

- (a) the name of the ship or ships with the official number or numbers in which each seaman undertakes to serve;
- (b) 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 ports of the world, if any, to which the voyage or engagement is not to extend;
- (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, such scale being not less than the prescribed scale;
- (g) any regulations as to, conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt;

- (h) payment of compensation for personal injury or death caused by accident arising out of or in course of employment;
- (i) where it is agreed that the services of any Bangladeshi seaman shall end at any port or place outside Bangladesh, a stipulation to provide him either with fit employment on board some other ship bound to the port or place at which he was engaged or to such other port or place in Bangladesh as may be mutually agreed upon, or a passage free of charge to any such port or place; and
- (j) stipulations relating to such other matters as may be prescribed.

(3) An agreement with the crew shall provide that in the event of a dispute arising outside Bangladesh in respect of any matter touching the agreements, such dispute shall be referred to the Bangladesh Consular Officer whose decision thereon shall be binding on the parties until the return of the ship to the port or place in Bangladesh at which the seaman is to be discharged.

(4) An agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case, respecting the advance of wages, supply of warm clothing and similar other matters, as are not inconsistent with the provisions of any law for the time being in force relating to merchant shipping.

(5) If a master enters into an agreement with any seaman for a scale of provisions less than the prescribed scale, he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

114. If the master of a ship, not being a Bangladesh ship, has an agreement with the crew made in due form according to the law of the port at which she is registered or in which her crew were engaged and engages a single seaman, not being a Bangladeshi seaman, in any port in Bangladesh, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Ordinance.

Engagement in
Bangladesh of
single seaman
for foreign ship

Special provisions with regard to agreements with crew of Bangladesh foreign-going ships

115. (1) The following provisions shall have effect with respect to the agreements with the crew made in Bangladesh in the case of Bangladesh foreign-going ships, namely:-

- (a) the agreement shall, subject to the provisions of this Ordinance as to substitutes, be signed by each seaman in the presence of a Shipping Master;
- (b) the Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain 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 Shipping Master, and the other part 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 had duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by desertion, death, or other unforeseen cause, the engagement shall, if practicable, be made before a Shipping Master, and if 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, who shall attest the signature;
- (e) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may, subject to the provisions of sub-section (2), be made to extend over two or more voyages and agreements so made are in this Ordinance referred to as running agreements;
- (f) on every return to a port or place in Bangladesh before the final termination of a running agreement, the master shall discharge or engage before Shipping Master at such port or place any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement that no such discharges or engagements have been made or are intended to be made before the ship leaves such port or place or, as the case may be, that all those made have been made as required by law; and

- (g) the master shall deliver the running agreement so endorsed to the Shipping Master, and the Shipping Master shall, if the provisions of this Ordinance relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) A running agreement shall not extend beyond the expiration of the period of six months from the date on which it was executed, or beyond the first arrival of the ship at her port or place of destination in Bangladesh after the expiration of that period, or beyond the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of the period of six months from the date on which it was executed, the ship proceeds on a voyage from a port or place outside Bangladesh to any other such port or place which is not on the direct route or a customary route to her port or place of destination in Bangladesh:

Provided further that every such agreement shall, in addition to any other particulars required by law, contain such stipulations as the Government may direct for the discharge of the crew and payment of their wages, for securing their return to the port or place at which they were shipped or to some other port or place in Bangladesh, and for other purposes, on the termination of the agreement at a port or place outside Bangladesh under the foregoing proviso.

(3) If any master wilfully makes a false statement in any such endorsement as is referred to in clause (f) of sub-section (1), she shall, for each offence, be punishable with fine which may extend to five thousand Taka.

116. (1) When a running agreement has been made with the crew of a Bangladesh foreign-going ship and the ship arrives after the expiration of a period of six months from the date on which it was executed at a port or place of destination in Bangladesh which is not the port or place at which the crew have agreed to be discharged, the master may, with the previous sanction of the Shipping Master, renew the agreement with the crew, or be required by the Shipping Master so to renew the agreement for the voyage from such port or place of destination to the port or place in Bangladesh at which the crew have agreed to be discharged.

Renewal of running agreements in certain cases

(2) If the master of the ship is required by the Shipping Master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government in respect of the subsistence of the crew and their repatriation to the port or place at which they have agreed to be discharged shall be a charge upon the master of the ship.

Special provisions as to agreements with crew of home-trade or coasting ships

117. The following provisions shall have effect with respect to the agreements with crew of home-trade ships or coasting ships for which an agreement with the crew is required under this Ordinance, namely:-

- (a) an agreement for service in a home-trade ship or a coasting ship for which an agreement is required by section 112, not being a ship engaged exclusively on the work of any harbour, pilotage or local authority, shall be made for a single ship and signed by the crew engaged before the Shipping Master as provided in this Ordinance for foreign-going ships; and such agreement may be made for a period of six months, the agreement being terminable, notwithstanding the expiration of that period, at a port or place in Bangladesh:

Provided that while a ship is at a port or place in Bangladesh, the master or the seaman may terminate the agreement by giving 24 hours' notice which shall not expire later than 24 hours before the ship is put to sea;

- (b) an agreement, if any, for service in a coasting ship for which an agreement is not required by section 112, shall not extend beyond the next following thirtieth day of June, or thirty-first day of December or the first arrival of the ship at her final port or place of destination in Bangladesh after such date, or the discharge of cargo consequent on such arrival;
- (c) an agreement for service in two or more coasting ships belonging to the same owner may be made by the owner instead of by a master, and the provisions of this Ordinance with respect to the making of the agreement shall apply accordingly;
- (d) notwithstanding anything contained in clause (b) or clause (c), the owner of two or more coasting ships or his agent may enter into time agreements in the form sanctioned by the Government with individual seaman to serve in any one or more such ships belonging to such owner and such agreements may extend beyond the next following thirtieth day of June, or thirty-first day of December.

118. (1) The master of every Bangladesh ship, the crew of which has been engaged before a Shipping Master, shall, before finally leaving Bangladesh, sign and send to the nearest Shipping Master a full and accurate statement in the form sanctioned by the Government, of every change which takes place in his crew before finally leaving Bangladesh and that statement shall be admissible in evidence.

Changes in crew to be reported

(2) Nothing in sub-section (1) shall be construed as enabling the master to engage, except in accordance with the other provisions of this Ordinance, any seaman as an additional member of the crew.

(3) If any master fails without reasonable cause to comply with the requirements of sub-section (1), he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

119. (1) In the case of a Bangladesh foreign-going ship or a Bangladesh home-trade ship, on the due execution of an agreement with the crew in accordance with this Ordinance, and also when, in the case of a Bangladesh foreign-going ship, 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 Ordinance respecting that agreement, the Shipping Master shall grant the master of the ship a certificate to that effect.

Certificate as to agreement with crew of foreign-going and home-trade ships

(2) The master of every such ship as aforesaid shall, before proceeding to sea, produce that certificate to the Collector of Customs, whose duty it is to grant a port clearance and the ship may be detained until the certificate is produced.

(3) The master of such ship shall, within forty-eight hours after the ship's arrival at the port or place where the crew is to be discharged, deliver such agreement to a Shipping Master at that port or place; and the Shipping Master shall thereupon give to the master a certificate to that effect; and the Collector of Customs shall not clear any such ship inwards without the production of such certificate.

(4) If any master fails, without reasonable cause, to comply with any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Certificate as to agreements with crew of coasting ships

120. (1) The master or owner of a Bangladesh coasting ship for which an agreement with the crew is required under this Ordinance shall, within twenty-one days after the thirtieth day of June, and the thirty-first day of December in every year, or, if the ship is not at any port or place in Bangladesh within that period, within forty-eight hours of her next arrival at a port or place in Bangladesh, deliver to a Shipping Master in Bangladesh every agreement made within the six months next preceding such days respectively.

(2) The Shipping Master, on receiving such agreement, shall give the master or owner of the ship a certificate to that effect; and the Collector of Customs shall not grant a port-clearance for any such ship without production of the certificate, and, if any such ship attempts to go to sea without such clearance, the Collector of Customs may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with any of the provisions of this section shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Copy of agreement with crew to be made accessible to the crew

121. (1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement with the crew and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as is accessible to the crew.

(2) Any master who fails without reasonable cause to comply with the provisions of sub-section (1) shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Alteration in agreement with the crew

122. Every erasure, interlineation or alteration in any agreement with the crew, except additions made for the purpose of shipping substitutes or persons engaged subsequently to 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 such erasure, interlineation or alteration by the written attestation, if made in Bangladesh, of some Shipping Master, or, if made elsewhere, of a Bangladesh Consular Officer.

123. (1) The master or owner of every Bangladesh ship, not being a ship engaged exclusively on the work of any harbour, pilotage or local authority, and the master of every ship, other than a Bangladesh ship, while in a port or place in Bangladesh, shall make out and sign a list, in this Ordinance referred to as the List of Crew, in such form and containing such particulars as may be prescribed; and different forms may be prescribed for different classes of ships.

List of crew to be furnished to Shipping Masters

(2) The List of Crew relating to a ship, except a Bangladesh coasting ship, shall be delivered to the Shipping Master at the port or place where the ship happens to be, as soon after arrival as possible and before departure.

(3) The List of Crew relating to a Bangladesh coasting ship shall be delivered or transmitted by the master or owner to some Shipping Master in Bangladesh on, or within twenty-one days after, the thirtieth day of June and the thirty-first day of December in each year; and the Shipping Master shall give to such master or owner a certificate of such delivery or transmission, and such ship may be detained, and shall not be cleared inwards by the Collector of Customs, until the certificate is produced.

(4) Any master or owner who fails without reasonable cause to comply with any of the provisions of this section shall, for each offence, be punishable with fine which may extend to five thousand Taka.

124. (1) When the master of a ship, other than a Bangladesh ship, being at a port or place in Bangladesh, or the owner's agent in Bangladesh of such ship, engages any Bangladeshi seamen to proceed to any port or place outside Bangladesh he shall enter into an agreement with every such seaman, and the agreement shall be made before a Shipping Master in the manner provided by this Ordinance for the making of agreements in the case of Bangladesh foreign-going ships.

Engagement of seamen for ships other than Bangladesh ships

(2) All the provisions of this Ordinance respecting the form of such agreements and the stipulations to be contained in them, and the making and signing of the same, shall be applicable to the engagement of such seamen:

Provided that any such dispute as is referred to in sub-section (3) of section 113 shall not be referred to the Bangladesh Consular Officer if such reference is contrary to the rules of International Law.

(3) The master of such ship shall give to the Shipping Master a bond in the prescribed form with the prescribed security for every such seaman engaged by him in Bangladesh and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Government of all expenses which may be incurred by the Government in respect of any such seamen who is discharged or left behind at any port or place outside Bangladesh and becomes distressed and is relieved under the provisions of this Ordinance:

Provided that the Government may waive the execution of such bond where the owner of the ship has an agent at any port in Bangladesh and such agent accepts liability in respect of all matters for which the master of the ship would be liable if he were to execute the bond or may accept from the agent such security as it may consider appropriate.

(4) The fees prescribed for the purpose shall be payable in respect of every such engagement and deductions from the wages of a seaman so engaged may be made to the extent and in the manner allowed under this Ordinance.

(5) If the master of a ship other than a Bangladesh ship engages such a seaman in Bangladesh otherwise than in accordance with the provisions of this section, he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

Agreement to meet legal requirements of the country of Registration of the ship

124A. (1) If a Master of a foreign ship, who has entered into an agreement with a Bangladeshi seaman under sub-section (1) of section 124, which shall be deemed to be the governing agreement between the Master of the ship and the seaman, requires the seaman to sign an agreement to meet the requirements of the law of the country of registration of the ship, the seaman shall sign such agreement.

(2) Notwithstanding any provisions relating to the salary and other benefits admissible to the seaman in the agreement signed or entered into under sub-section (1), the seaman shall be entitled to such salary and other benefits admissible under the governing agreement and the provision relating thereto in the subsequent agreement shall have no effect.

(3) Any seaman claiming or demanding the salary or other benefits from the Master or owner of a foreign ship on the basis of any agreement, other than the governing agreement during its continuance in force, shall be tried and be punished under section 124B.

124B. (1) If a Bangladeshi seaman engaged under sub-section (1) of 124 refuses to sign or enter into an agreement required by sub-section (1) of section 124A, he shall be liable to imprisonment for a term which may extend to one year, or with fine which may extend to Taka fifteen thousand, or with both.

Penalties for violating provisions of Sec. 124A

(2) If a Bangladeshi seaman engaged under sub-section (1) of section 124 breaks or attempts to break, whether in a port or place in or outside Bangladesh, an agreement made under sub-section (1) of section 124A, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to Taka fifteen thousand, or with both, and his Registration as seaman shall also be liable to be cancelled.

(3) If he claims or demands salary or other benefits in excess of the salary or other benefits admissible to him under the governing agreement in violation of provision of sub-section (2) of section 124A, he shall be liable to imprisonment for a term which may extend to one year, or with fine which may extend to Taka fifteen thousand.

124C. (1) if a seaman is guilty of realising salary or other benefits from the Master or owner of a foreign ship in excess of those admissible to him under the governing agreement in violation of provision of sub-section (2) of section 124A, or if he is found guilty of desertion, he shall be liable to be tried in summary way and the excess amount realised or, as the case may be, the actual cost spent for his repatriation shall be recovered from the seaman as a public demand.

Recovery of excess salary, repatriation cost, etc.

(2) The amount recovered on account of excess salary or other benefit shall be refunded to the person from whom it was realised.

Engagement of seaman outside Bangladesh

125. (1) When the master of a Bangladesh ship engages a seaman at any port or place outside Bangladesh, the provisions of this Ordinance respecting agreements with the crew made in Bangladesh shall apply subject to the following modifications, that is to say:-

- (a) the master shall, before carrying the seaman to sea, procure the sanction of a Bangladesh Consular Officer, and shall, if not contrary to any law in force in that port or place, engage the seaman before that officer; and
- (b) the master shall request such Consular Officer to endorse upon the agreement an attestation to the effect that it has been signed in his presence and otherwise made as required by this Ordinance, and that it has his sanction, and if the attestation is not made, the burden of proving that the engagement was made as required by this Ordinance shall lie upon the master.

(2) As soon as may be after a seaman has been engaged under sub-section (1), the master shall sign and send to the Shipping Master before whom the crew was engaged a full and accurate statement, in the form sanctioned by the Government, of the seaman so engaged.

(3) If a master fails to comply with any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Power to prohibit engagement of Bangladeshi seamen

126. The Government or an officer authorised by it in this behalf may, by order in writing, stating the reasons thereof, prohibit any person from engaging, in Bangladesh or in any specified part thereof, any Citizen of Bangladesh or any person domiciled in Bangladesh to serve as a seaman on any ship specified in such order.

Power to board ships and muster seamen

127. (1) For the purpose of preventing seamen from being taken on board any ship at any port in Bangladesh contrary to the provisions of this Ordinance, any Shipping Master may enter at any time on board any such ship upon which he has reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein.

(2) If the master or any other person obstructs any Shipping Master in the execution of his duty under this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

128. If any person-

- (a) forges any Continuous Discharge Certificate or a certificate of fitness, or a copy of any such certificate, or
- (b) fraudulently alters any entry in any Continuous Discharge Certificate or a certificate of fitness, or
- (c) fraudulently uses any Continuous Discharge Certificate or certificate of fitness which is forged or altered or does not belong to him,

Forged
Continuous
Discharge
Certificate, etc.

he shall, for each offence, be punishable with imprisonment for a term which may extend to two years, or with fine, which may extend to fifteen thousand Taka, or with both.

129. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

Power to make
rules

CHAPTER 11

DISCHARGE OF SEAMEN

130. (1) When a seaman serving in a foreign-going ship or home-trade ship is, on the termination of his engagement, discharged in Bangladesh, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Ordinance in the presence of a Shipping Master.

Discharge of
seamen to be
before Shipping
Master

(2) The provisions of sub-section (1) shall apply in relation to the discharge of seamen serving in any Bangladesh coasting ship for which an agreement is required under this Ordinance as they apply in relation to the discharge of seamen serving in foreign-going ship or home-trade ship:

Provided that this sub-section shall not apply where a seaman is discharged from a ship under an agreement made in accordance with section 117 for service in two or more ships for the purpose of being engaged in another ship to which the agreement related.

(3) If the master or owner of a Bangladesh coasting ship for which an agreement with the crew is not required under this Ordinance so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship or home-trade ship.

(4) If any master, owner or owners' agent acts in contravention of any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Entries to be made in Continuous Discharge Certificate and return of Certificates of Competency to officers on discharge

131. (1) If a seaman is discharged from a ship in Bangladesh, either on his discharge or on payment of his wages, the master shall enter in the Continuous Discharge Certificate of the seaman, under his signature, particulars specifying the period of the seaman's service and the date and place of his discharge.

(2) The master shall, 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.

(3) If a master acts in contravention of sub-section (1), or fails, without reasonable cause, to return the Certificate of Competency to the officer concerned as required by sub-section (2), he shall, for each offence, be punishable with fine which may, in the former case, extend to one thousand Taka and in the latter to five hundred Taka.

Report to Shipping Master as to work of seamen, etc.

132. (1) When a seaman is discharged from a ship in Bangladesh, the master shall furnish to the Shipping Master before whom the discharge is made a report in the prescribed form stating-

- (a) the quality of the work of the seaman,
- (b) his conduct and character on board,
- (c) whether the seaman has fulfilled his obligation under the agreement with the crew,
- (d) that he declines to express an opinion on all or any of these particulars,

and the master shall, if the seaman so desires, endorse on his Continuous Discharge Certificate a copy of such report which shall be verified by the Shipping Master.

(2) If the master states that he declines to express an opinion on all or any of the particulars mentioned in sub-section (1), he shall enter in the official log book in the presence of a Certificated Officer, his reasons for so declining.

(3) If the master fails to comply with the provisions of this section, he shall be punishable with fine which may extend to five thousand Taka.

133. (1) When the master of a Bangladesh ship discharges a seaman at any port or place outside Bangladesh, except at a port or place in a country in which the seaman was engaged, the provisions of this Ordinance respecting the discharge of seamen in Bangladesh shall apply subject to the following modifications, that is to say-

Discharge of
seamen abroad

- (a) at a port or place having a Bangladesh Consular Officer,-
 - (i) the master shall not discharge a seaman except with the previous sanction of the Bangladesh Consular Officer endorsed on the agreement with the crew, nor, unless the law in force at such port or place prohibits it, otherwise than in the presence of that officer;
 - (ii) the Bangladesh Consular Officer to whom an application is made for sanction under sub-clause (i) shall examine the grounds on which the seaman is proposed to be discharged, and may grant or refuse sanction as he thinks just, but shall not unreasonably refuse such sanction; and
 - (iii) if a copy of the report referred to in sub-section (1) of section 132 is endorsed on the seaman's Continuous Discharge Certificate, the Bangladesh Consular Officer shall verify the same; and
- (b) at a port or place where there is no Bangladesh Consular Officer, the master may himself, if not contrary to any law in force in such port or place, discharge a seaman

and, shall, if the seaman so desires, endorse on his Continuous Discharge Certificate the report referred to in sub-section (1) of section 132.

(2) As soon as may be after a seaman has been discharged under sub-section (1), the master shall sign and send to the Shipping Master before whom the crew was engaged a full and accurate statement of the seaman so discharged in the form sanctioned by the Government.

(3) If a master acts in contravention of this section, he shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to ten thousand Taka or with both.

Discharge of
seamen and
apprentices on
charge of
owner-ship

134. (1) Where a Bangladesh ship is transferred or disposed of at any port or place outside Bangladesh, every seaman and apprentice belonging to that ship shall be discharged at that port or place, unless the seaman or apprentice consents in writing in the presence of the Bangladesh Consular Officer to complete the voyage of the ship, if continued.

(2) Where a seaman or apprentice is so discharged, the provisions of this Ordinance as to Continuous Discharge Certificate and the repatriation of the seaman or apprentice to a proper return port shall apply as if the service of the seaman or apprentice had terminated otherwise than by the consent of the seaman to be discharged during the currency of the agreement.

Transmission of
documents on
transfer of
seaman from
one ship to
another

135. (1) Where a seaman is transferred under his agreement from one ship to another, the master of the ship from which the seaman is transferred shall, as soon as practicable, transmit to the master of the other ship all documents in his possession relating to the seaman.

(2) If the master fails without reasonable cause to comply with sub-section (1), he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Repatriation of
seaman and
apprentice on
termination of
service abroad

136. (1) When the service of a seaman or apprentice terminates, without the consent of the seaman or apprentice, at a port or place outside Bangladesh, and before the expiration of the period for which the seaman was engaged or the apprentice was bound, the master or owner of the ship shall, in addition to any

other relative obligation imposed on either of them by this Ordinance, make adequate provision for the maintenance of the seaman or apprentice according to his rank or rating, and for the return of that seaman or apprentice to a proper return port.

(2) If the master or owner fails without reasonable cause, to comply with sub-section (1), the expenses of maintenance and of the journey to the proper return port shall, if defrayed by the seaman or apprentice, be recoverable as wages due to him and if defrayed by a Bangladesh Consular Officer, be regarded as expenses falling within the provisions of sub-section (2) of section 175:

Provided that inability to provide the said expenses shall not, for the purposes of this sub-section, be regarded as reasonable cause.

137. (1) The master of a ship shall not discharge at any port or place in Bangladesh a seaman or apprentice shipped outside Bangladesh, unless he previously obtains sanction in writing of a Shipping Master, but such sanction shall not be refused when the seaman or apprentice is discharged on the expiration of the period for which the seaman was engaged or the apprentice was bound.

Leaving behind in Bangladesh of seaman or apprentice shipped abroad

(2) Subject to the provisions of sub-section (1), the sanction under that sub-section may be given or refused at the discretion of the Shipping Master, but whenever it is refused, the reasons for so refusing it shall be recorded by him.

138. (1) The master of a Bangladesh ship shall not leave a seaman or apprentice behind at any port or place outside Bangladesh, except where the seaman or apprentice is discharged in accordance with this Ordinance unless he previously obtains from the Bangladesh Consular Officer a certificate endorsed on the agreement with the crew and stating the cause of the seaman or a apprentice being left behind.

Leaving behind seaman or apprentice by masters of Bangladesh ships abroad

(2) The Bangladesh Consular Officer to whom an application is made for a certificate under sub-section (1) shall examine the grounds on which the seaman or apprentice is to be left behind, and may grant or refuse the certificate as he thinks just, but shall not unreasonably refuse such certificate.

(3) As soon as may be after a seaman or apprentice is left behind under sub-section (1), the master shall sign and send to the Shipping Master before whom the crew was engaged a full and accurate statement of the seaman or apprentice so left behind in the form sanctioned by the Government.

(4) If a master acts in contravention of any of the provisions of this section, he shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand Taka, or with both.

Wages and other property of seaman or apprentice left behind by Bangladesh ships abroad

139. (1) If a seaman or apprentice belonging to a Bangladesh ship is left behind at any port or place outside Bangladesh, the master of the ship shall enter in the official log book a statement of the amount due to the seaman or apprentice in respect of wages at the time when he was left behind and of all property left on board by him, and shall take such property into his charge.

(2) Within forty-eight hours after the arrival of the ship at the port in Bangladesh at which the voyage terminates, the master shall deliver to the Shipping Master-

- (a) a statement of the amount due to the seaman or apprentice in respect of wages, and of all property left on board by him, and
- (b) a statement, with full particulars, of any expenses that may have been caused to the master or owner of the ship by the absence of the seaman or apprentice, where the absence is an offence punishable under section 196,

and if required by the Shipping Master to do so, shall furnish such vouchers as are reasonably required to verify the statements.

(3) The master shall, at the time when he delivers the statements referred to in sub-section (2) to the Shipping Master, also deliver to him the amount due to the seaman or apprentice in respect of wages and the property that was left on board by him and the Shipping Master shall give to the master a receipt therefore in the prescribed form.

(4) The master shall be entitled to be reimbursed out of the wages or property referred to in clause (a) of sub-section (2) such expenses shown in the statement referred to in clause (b) of that sub-section as appear to the Shipping Master to be property chargeable.

140. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

Power to make rules

CHAPTER 12

WAGES OF SEAMEN

141. (1) The master of every ship shall, before paying off or discharging a seaman under this Ordinance, deliver at the time and in the manner provided by this Ordinance a full and true account in a form sanctioned by the Government of the seaman's wages and of all deductions to be made therefrom on any account whatsoever.

Master to deliver account of wages

(2) The said account shall be delivered-

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

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall, for each offence, be punishable with fine which may extend to five hundred Taka.

142. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Ordinance except in respect of a matter happening after the delivery.

Deductions from wages of seamen

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount 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.

Disrating of
seamen

143. (1) Where the master of a ship disrates a seaman he shall forthwith enter or cause to be entered in the official log book a statement of the disrating and furnish the seaman with a copy of the entry; and any reduction of wages consequent of the disrating shall not take effect until the entry has been so made and the copy so furnished.

(2) 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 141 and 142.

Deduction on
account of
provident fund,
etc.

144. (1) Notwithstanding anything contained elsewhere in this Ordinance, or in any other law for the time being in force, a deduction may be made from the wages of a seaman either monthly or at the end of a voyage as applicable in each case, on account of provident fund, pension, social insurance, gratuity or any other fund approved by the Government for the purpose.

(2) The Government may make rules with regard to the manner in which the deductions from the wages may be made and the amount of such deductions for the purposes of such fund, and the collection, deposit, withdrawal, administration, disbursement, expenditure and other ancillary matters relating thereto.

Payment of
wages before
Shipping Master

145. (1) Where a seaman is discharged before a Shipping Master in Bangladesh, the master or owner of the ship shall pay the wages of the seaman through, or in the presence of, the Shipping Master unless a competent Court otherwise directs; and in such a case, if the master or owner pays the wages in any other manner, he shall, for each offence, be punishable with fine which may extend to two thousand Taka.

(2) If the master or owner of a home-trade ship of less than two hundred tons gross so desires, he may pay the wages of the seaman of that ship in the same manner as a seaman discharged from a foreign-going ship is paid.

Time of
payment of
wages

146. (1) The master or owner of every ship discharging a seaman under this Ordinance shall pay to every seaman his wages within five days of the seaman's discharge and the

seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If the seaman consents, the final settlement of his wages may be left to the Shipping Master, and the receipt of the Shipping Master shall in that case operate as if it were a release given by the seaman in accordance with this Chapter.

(3) In the event of the seaman's wages or any part thereof, not being settled under sub-section (2), 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.

(4) Except in a case where final settlement of wages is left to a Shipping Master under sub-section (2), if a master or owner fails without reasonable cause to make payment as required by sub-section (1), he shall pay to the seaman such sum not exceeding the amount of two days' pay for each of the days during which the payment is delayed as may be decided by the Shipping Master in each case.

(5) Any sum payable under sub-section (4) may be recovered from the master or owner as wages.

147. (1) Where a seaman is discharged, and the settlement of his wages completed before a Shipping Master, he shall sign in the presence of the Shipping Master a release in a form sanctioned by the Government 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 Shipping Master.

Settlement of wages

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

(3) A copy of the release, certified under the hand of the Shipping Master to be a true copy, shall, on payment of the prescribed fee, be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all effect of the original of which it purports to be a copy.

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

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

(6) Notwithstanding anything contained in the preceding sub-sections, a seaman may except from the release signed by him any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release; and the release shall not operate as a discharge and settlement of any claim or demand so noted nor shall sub-section (4) apply to any such claim or demand.

Decision on
disputes by
Shipping
Masters

148. (1) Where under the agreement with the crew any dispute arises at any port in Bangladesh between the master, owner or agent of a ship and any of the crew of the ship, it shall be submitted to the Shipping Master,-

- (a) Where the amount in dispute does not exceed five hundred Taka, at the instance of either party to the dispute; and
- (b) in any other case, if both parties to the dispute agree in writing to submit the dispute to the Shipping Master.

(2) The Shipping Master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be conclusive as to the rights of the parties, and any document purporting to be submission or award shall be *prima facie* evidence thereof:

Provided that if, in any case, the Shipping Master is of opinion that the question is one which ought to be decided by a Court of law, he may refuse to decide the dispute.

(3) An award made by a Shipping Master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by Magistrate under this Ordinance.

(4) Nothing in the Arbitration Act, 1940 (X of 1940), shall apply to any matter submitted to a Shipping Master for decision under this section.

149. (1) In any proceedings under this Ordinance before a Shipping Master relating to the wages, claims or discharge of a seaman, the Shipping Master may require the owner or his agent or the master or any mate or other member of the crew to produce any log books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine on the matter any of those persons being then at or near the place.

Power of Shipping Master to require production of ships' papers

(2) If any person so required fails, without reasonable cause, to comply with the requisitions, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

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

Rate of exchange for payment to seaman in a currency other than the currency as stated in the agreement

151. A seaman's right 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 wages and provisions

Wages not to depend on freight

152. (1) The right to wages shall not depend on the earning of freight, and 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 any other laws, rules and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of 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.

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

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

153. (1) Where the service of any seaman engaged under this Ordinance terminates before the date contemplated in the agreement by reason of the wreck, loss or abandonment of the ship or by reason of his being left on shore at any place outside Bangladesh under a certificate granted under this Ordinance of his unfitness or inability to proceed on the voyage, the seaman shall be entitled to receive,-

- (a) in the case of wreck, loss or abandonment of the ship,-
 - (i) wages at the rate to which he was entitled at the date of termination of his service for the period from the date his service is so terminated until he is returned to and arrives at a proper return port, or for a period of two months, whichever be longer; and
 - (ii) compensation, being not less than two months' wages, for the loss of his effects; and
- (b) in the case of unfitness or inability to proceed on the voyage, wages for the period from the date his service is terminated until he is returned to and arrives at a proper return port subject to such limits as may be prescribed.

(2) A seaman shall not be entitled to receive any wages under sub-clause (i) of clause (a) of sub-section (1) if he declines to avail himself of the repatriation arrangements made by or on behalf of the owner and approved by the Bangladesh Consular Officer concerned, nor shall a seaman be entitled to receive such wages in respect of any period during which-

- (a) he was, or could have been suitably employed, or

- (b) through negligence he failed to apply to the proper authority for relief as a distressed or destitute seaman.

(3) This section shall apply to every person employed or engaged in any capacity on board any ship and for the time being entered on the ship's articles of agreement, and to every master, and apprentice, as it applied to a seaman.

154. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when so required, 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

155. If a seaman having signed an agreement 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 he may have 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 seamen

156. (1) As respects wages due or accruing to a seaman or apprentice,-

Restriction on sale of and charge upon wages

- (a) they shall not be subject to attachment by order of 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;
- (d) a payment of wages shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(2) The provisions of clauses (b) and (c) of sub-section (1) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund approved in this behalf by the Government, the main purpose of which is the provision of benefits for seaman; and the provisions of clauses (a) and (d) of sub-section (1) shall not apply to anything done or to be done for giving effect to such an assignment.

(3) Nothing in this section shall affect the provisions of this Ordinance or any other law for the time being in force with respect to allotment notes.

Summary
proceedings for
wages

157. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Restriction on
suits for wages

158. A proceeding for the recovery of wages shall not be instituted by or on behalf of any seaman or apprentice in any Civil Court, except-

- (a) where the owner of the ship is adjudged bankrupt or declared insolvent;
- (b) where the ship is under arrest or is sold by the authority of any Court; or
- (c) where a Magistrate under the authority of this Ordinance refers a claim to the Court.

Advances and
allotments

159. (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional 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.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Ordinance.

(3) 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, conditional on his going to sea from any port in Bangladesh shall be void, and no money paid in satisfaction or in respect of any such agreement shall 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.

(4) No seaman, who has been lawfully engaged and has received under his agreement an advance payment, shall, wilfully or through misconduct, fail to attend his ship or desert therefrom before the payment becomes really due to him and if he fails to attend his ship or deserts therefrom, he shall be liable to a fine which may extend to one thousand Taka or at the discretion of the Court, to imprisonment for a term which may extend to one month.

(5) Where it is shown to the satisfaction of the Shipping Master that a seaman lawfully engaged has wilfully or through misconduct failed to join the ship, the Shipping Master may withhold any of the seaman's certificates of discharge for such period as he may think fit, and while a seaman's certificate of discharge is so withheld, the Shipping Master may refuse to furnish copies of any such certificate or certified extracts therefrom.

160. (1) Any stipulation made 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 payment to be made.

Regulations as
to allotment
notes

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part, not exceeding two-thirds, of his wages in favour either of a relative of the seaman, or some member of his family, or a savings Bank or a fund approved by the Government, to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the Government.

Payment of
sums allotted

161. (1) The owner or any agent who has authorised the drawing of an allotment note shall pay or remit to the person or persons nominated in this behalf by the seaman the amount mentioned in such note, and inform the Shipping Master that this has been done.

(2) If any owner or agent fails to pay or remit as aforesaid any such amount, the Shipping Master shall demand the sums due under the allotment note, and, if the owner or agent fails to pay such sums to the Shipping Master, the Shipping Master may sue for and recover the same with cost:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Ordinance is required, or by a certified copy of some entry in the official log book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(3) The Shipping Master on receiving any such sum as aforesaid shall pay it over to the person, bank or fund named in that behalf in the allotment note.

(4) All such receipts and payment shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of a Shipping Master.

(5) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Power to make
rules

162. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

CHAPTER 13

PROPERTY OF DECEASED SEAMEN

163. (1) If any seaman or apprentice engaged on any ship, the voyage of which is to terminate in Bangladesh, dies during that voyage, the master of the ship shall immediately report the death to the Shipping Master at the port of engagement of the seaman, and take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

Master to take charge of the effects of deceased seamen

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

(3) The master shall enter in the official log book the following particulars, namely:-

- (a) a statement of the amount of money and a description of the effects;
- (b) in the case of a sale, a description of each article sold and the sum received for each; and
- (c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Ordinance referred to as the property of the seaman or apprentice.

164. (1) Where a seaman or apprentice dies as aforesaid and the ship before coming to a port in Bangladesh, touches and remains for more than forty-eight hours at some port elsewhere, the master shall report the case to the Bangladesh Consular Officer at such port and shall give to that officer any information he requires as to the destination of the ship and probable length of the voyage.

Disposal of property of seaman who dies during the voyage

(2) The Bangladesh Consular Officer may, if he thinks it expedient, require the property of the seaman and apprentice to be delivered and paid to him and shall thereupon give to the master a receipt thereof and endorse under his hand upon the agreement with the crew such particulars with respect thereto as the Government may specify.

(3) The receipt shall be produced by the master to the Shipping Master within forty-eight hours after his arrival at his port of destination in Bangladesh.

(4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in Bangladesh without touching and remaining as aforesaid at a port elsewhere or the Bangladesh Consular Officer does not require the delivery and payment of the property as aforesaid, the master shall, within forty-eight hours after his arrival at his port of destination in Bangladesh, pay and deliver the property to the Shipping Master at that port.

(5) A deduction claimed by the master in such account shall not be allowed unless verified by an entry in the official log book, and also by such vouchers, if any, as may be reasonably required by the Shipping Master.

(6) A Shipping Master 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.

Liability of master in respect of property of deceased seaman, etc.

165. (1) If the master fails to comply with the provisions of this Ordinance with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log book the proper entries relating thereto, or to the payment or delivery of the property, he shall, notwithstanding any penalty to which he may be liable under this Ordinance, be accountable for the property to the Shipping Master as aforesaid, and shall pay and deliver the same accordingly; and shall, in addition, be punishable, for each offence, with fine not exceeding three times the value of the property not accounted for or, if such value is not ascertained, with fine which may extend to five thousand Taka.

(2) The property may be recovered in the same Court and in the same manner in which the wages of seamen may be recovered under this Ordinance.

Property of deceased seaman left abroad but not on board ship

166. If any seaman or apprentice on a Bangladesh ship, or engaged in Bangladesh on any other ship, the voyage of which is to terminate in Bangladesh, dies at any place outside Bangladesh leaving any money or effects hereinafter referred to

as the property of a deceased seaman or apprentice not on board the ship, the Bangladesh Consular Officer at or near the place shall claim and take charge of such money and other effect.

167. (1) A Bangladesh Consular Officer or a Shipping Master to whom the effects of a deceased seaman or apprentice are delivered or who takes charge of such effects under this Ordinance may, if he thinks fit, sell any of the property of a deceased seaman or apprentice delivered to him or of which he takes charge under this Ordinance and the proceeds of any such sale shall be deemed to form part of the property of the deceased seaman or apprentice.

Dealing with property of deceased seamen

(2) Before selling any valuable comprised in the said effects, such Officer or Shipping Master shall endeavour to ascertain the wishes of the next of kin of the deceased seaman or apprentice as to the disposal of such valuables and shall, if practicable and lawful, comply with such wishes.

(3) A Bangladesh Consular Officer to whom any property of a deceased seaman or apprentice is delivered or who takes charge of any such property under this Ordinance shall remit the property to the Shipping Master at the port of engagement of the deceased seaman or apprentice in such manner and shall render such accounts in respect thereof as may be prescribed.

168. (1) Where a seaman or apprentice is lost with the ship to which he belongs, the Government or such Officer as the Government may appoint in this behalf, may recover the wages and the compensation due to him from the owner, master or agent of the ship in the same Court and in the same manner in which seaman's wages are recoverable, and shall deal with those wages in the same manner as with the wages and compensation due to other deceased seamen or apprentices under this Ordinance.

Recovery of wages, etc. of seamen lost with their ship

(2) In any proceeding for the recovery of the wages and compensation, if it is shown by some official records or by other evidence that the ship has, twelve months or upwards before the institution of the proceeding, left any port, she shall, unless it is shown that she has been heard of within six months after the departure, be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court hearing the case may think probable.

(3) Any duplicate agreement or list of the crew made out, or statement or a change of the crew delivered under this Ordinance at the time of the last departure of the ship from Bangladesh, or a certificate purporting to be a certificate from a Bangladesh Consular Officer at any port out of Bangladesh, stating that certain seamen or apprentices were shipped in the ship from the said port shall be, in the absence of proof to the contrary, sufficient proof that the seamen or apprentices therein named as belonging to the ship were on board at the time of the loss.

Property of
seamen dying in
Bangladesh

169. If a seaman or apprentice dies in Bangladesh and is at the time of his death entitled to claim from the master or owner of the ship in which he has served any effects or unpaid wages, the master, owner or agent shall pay and deliver or account for such property to the Shipping Master at the port where the seaman or apprentice was discharged or was to have been discharged or to such other Officer as the Government may direct.

Payment over of
property of
deceased
seamen by
Shipping Master

170. Where any property of a deceased seaman or apprentice is paid or delivered to a Shipping Master, the Shipping Master, after deducting for expenses incurred in respect of that seaman or apprentice or his property such sums as he thinks proper to allow, may-

- (a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the Shipping Master to be entitled thereto, and the Shipping Master shall thereby be discharged from all further liability in respect of the residue so paid or delivered; or
- (b) if he thinks fit so to do, require probate or letters of administration of a certificate under the Succession Act, 1925 (XXXIX of 1925), to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

Disposal of
unclaimed
property of
deceased
seamen

171. (1) Where no claim to the property of a deceased seaman or apprentice received by a Shipping Master is substantiated within one year from the receipt thereof by such Shipping Master, the Shipping Master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money had been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the Shipping Master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established, it shall be rejected and the claimant may thereupon apply by petition to the Supreme Court which shall, after taking evidence either orally or on affidavit, make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the Shipping Master, no claim to such property shall be entertained by the Shipping Master without the sanction of the Government.

172. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter. Power to make rules

CHAPTER 14

DISTRESSED SEAMEN

173. This Chapter shall apply to apprentices as it applies to seamen. Application of Chapter to apprentices

174. The Government may make rules with respect to the relief, maintenance, and return to a proper return port, of ship-wrecked seamen and of seamen found otherwise in distress at any place outside Bangladesh, and with respect to the circumstances in which, and the conditions subject to which, seamen may be relieved, and provided with passages, and generally for carrying out the purposes of this Chapter; and a distressed seaman 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 for in such rules. Power to make rules with respect to distressed seamen

175. (1) The Bangladesh Consular Officer at or near the place outside Bangladesh where a seaman is in distress shall, on application being made to him by or on behalf of the distressed seaman, provide, in accordance with rules made in this behalf, for the return of the seaman to a proper port and also for his necessary clothing and maintenance until his arrival at such port. Relief and maintenance of distressed seamen

(2) Where any expenses other than excepted expenses are incurred by or on behalf of the Government on account of a distressed seaman either for his maintenance, necessary clothing, conveyance to a proper return port, or in case of death, for his burial, or otherwise in accordance with this Ordinance, those expenses, together with the wages, if any, due to the seaman, shall be a charge upon the ship, whether a Bangladesh ship or not, to which the distressed seaman belonged, and shall be a debt due to the Government from the master of the ship, 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 the ship has been transferred to some person not being a citizen of Bangladesh, 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, and also, if the ship be a ship other than a Bangladesh ship, from the person, whether principal or agent, who engaged the seamen for service in the ship.

(3) All excepted expenses incurred by or on behalf of the Government in accordance with the provisions of this Ordinance shall constitute a debt due to the Government for which the seaman in respect of whom they were incurred and the owner or agent of the ship to which that seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall be jointly and severally liable; and the owner or agent shall be entitled to recover from the seaman any amount paid by the owner or agent to the Government in settlement or part settlement of such debt, and may apply to the satisfaction of claim so much as may be necessary to any wages due to the seaman.

(4) All excepted expenses incurred in accordance with the provisions of this Ordinance in respect of any distressed seaman by the owner or agent of the ship to which the seaman belonged at the time of his discharge or other event which resulted in his becoming a distressed seaman shall constitute a debt due to the owner or agent for which the seaman shall be liable; and the owner or agent may apply to the satisfaction of his claim so much as may be necessary of any wages due to the seaman, but shall not be entitled to recover from the seaman any repatriation expenses other than excepted expenses.

(5) In any proceedings for the recovery of any expenses which in terms of sub-section (2) or sub-section (3) are a debt due to the Government, the production of an account of the expenses and proof of payment thereof by or on behalf of or under the direction of the Government shall be *prima facie* evidence that the expenses were incurred in accordance with the provisions of this Ordinance by or on behalf of the Government.

(6) Any debt which may be due to the Government under this section may be recovered by any Officer authorised by it in writing in this behalf from the person concerned in the same manner in which wages may be recovered by seamen.

(7) For the purpose of this section, “excepted expenses” are expenses incurred in cases where the certificate of the proper authority obtained on leaving a seaman behind states, or the Government is otherwise satisfied, that the cause of the seaman being left behind is desertion, or disappearance, or imprisonment for misconduct, or discharge from the ship on the ground of misconduct, or otherwise due to the fault of the seamen.

176. (1) A seaman may be sent to a proper return port by any reasonable route either by sea or land or if necessary by air or partly by anyone and partly by any other of these modes.

Mode of
providing for
return of seamen
to proper return
port

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

(3) Where the master of a ship is required under this Chapter to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seamen’s passage or the expenses of his journey or of providing the seaman with means to pay his passage or those expenses, deposit with the Bangladesh Consular Officer such sum as that Officer considers sufficient to defray the expenses of the return of the seaman to a proper return port.

Receiving
distressed
seamen on ships

177. (1) The master of a Bangladesh ship shall receive on board his ship and afford passage and maintenance to all distressed seamen whom he is required by the Bangladesh Consular Officer to take on board his ship, and shall, during the passage, provide every such distressed seaman with accommodation equal to that normally provided for the crew of the ship and subsistence proper to the rank or rating of the said distressed seaman:

Provided that the master of the ship shall not be required to receive on board his ship a distressed seaman in terms of this section if the Bangladesh Consular Officer is satisfied that accommodation is not and cannot be made available for such seaman.

(2) If the master of any such ship, when required so to do under sub-section (1), fails or refuses to receive on board his ship, or to give a passage of subsistence to, or to provide for, a distressed seaman, he shall, for each offence be punishable with fine which may extend to five thousand Taka.

Bangladesh
Consular
Officer to
decide return
port to which or
route by which
seaman is to be
sent

178. If in any case, any question arises as to what return port a seaman is to be sent to or as to the route by which he should be sent, it shall be decided by the Bangladesh Consular Officer supervising the repatriation, and in deciding any such question, regard shall be had both to the convenience of the seaman and to the expense involved, and also where that is the case, to the fact that a Bangladesh ship which is in want of men to make up its complement is about to proceed to a proper return port.

Provisions as to
taking distressed
seaman on ships

179. (1) Where a distressed seaman is for the purpose of his return to a proper port placed on board a Bangladesh ship, the Bangladesh Consular Officer by whom the seaman is so placed shall endorse on the agreement with the crew of the ship particulars of the seaman so placed on board.

(2) On the production of a certificate signed by the Bangladesh Consular Officer by whose directions distressed seamen were received on board, specifying the number and the names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master stating the number of days during which each distressed seaman has received subsistence, the full complement of his crew and the actual number of seamen employed on board his ship and every

variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid in respect of the subsistence and passage of every seaman so conveyed and provided for by him, exceeding the number, if any, wanted to make up the complement of his crew, such sum for each day as the Government may, by rules made in this behalf, allow.

180. In any proceeding under this Chapter, a certificate of the Government or of such officer as the Government may specify in this behalf to the effect that the seaman named therein is distressed shall be conclusive evidence that such seaman is a distressed seaman within the meaning of this Ordinance.

What shall be evidence of distress

CHAPTER 15

PROVISIONS AND ACCOMMODATION FOR SEAMEN AND THEIR HEALTH

181. (1) All Bangladesh ships and all ships for which seamen have been engaged in Bangladesh shall have on board sufficient provisions and water of good quality and fit for consumption of the crew on the scale specified in the agreement with the crew.

Ships to have sufficient provisions and water

(2) If any person making an inspection under section 191 finds that provisions or water are of bad quality and unfit for human consumption or deficient in quantity, he shall signify it in writing to the master of the ship, and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for human consumption, 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 human consumption, he shall, for each offence, be punishable with fine which may extend to two thousand Taka.

(4) The person making the inspection shall enter a statement of the result of the inspection in the official log book, and shall, if he is not the Shipping Master, send a report thereof to the Shipping Master and that report shall be admissible in evidence in any legal proceeding.

(5) If the inspection was made in pursuance of a request by members of the crew and the person making the inspection certified in the statement of the result of the inspection that there was no reasonable ground for the request, every member of the crew who made the request shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

(6) If a master fails to furnish provisions to a seaman in accordance with the agreement entered into by him, and the Court considers the failure to be due to the neglect or default of the master, or if a master furnishes to a seaman provisions which are bad in quality or unfit for human consumption, such master shall, for each offence, be punishable with fine which may extend to five thousand Taka.

(7) Nothing in sub-section (6) shall affect any claim for compensation under section 182.

Allowance for
short or bad
provisions

182. (1) Where, during the voyage, the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, or where it is shown that any of those provisions are or have, during the voyage, been bad in quality or unfit for human consumption, the seaman shall receive by way of compensation for such reduction or bad quality calculated with reference to the duration of its continuance such sums as may be prescribed; and the compensation shall be in addition to, and be recoverable as, wages.

(2) 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 modify or refuse the compensation as the justice of the case requires:

Provided that, if the amount of compensation claimed does not exceed five hundred Taka in respect of any one seaman, the Shipping Master may, on application of either party, settle the compensation as if it were a dispute submitted to him under section 148 and the decision of the Shipping Master in the matter shall be final.

183. (1) Every Bangladesh foreign-going ship going to sea from any port or place in Bangladesh shall be provided with and carry a duly qualified cook.

Bangladesh foreign-going ships to carry duly certificated cooks

(2) A cook shall not be deemed to be duly qualified within the meaning of this section unless he is a qualified cook according to the provisions of an order made in this behalf under section 81.

184. (1) All Bangladesh ships shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as the Government may, from time to time, by notification in the *official Gazette*, fix in respect of a ship or class of ships.

Medicines to be provided and kept on board certain ships

(2) Every such ship shall also carry such medical guide containing instructions for dispensing the medicines and using the appliances as may be approved by the Government.

(3) The Government may, by notification in the *official Gazette*, make rules for the proper maintenance and care of medicine chests, their contents, and their regular inspection.

(4) The master of a ship in respect of which the provisions of this section or of any rules made there under are contravened shall, for each offence, be punishable with fine which may extend to two thousand Taka.

185. (1) Every foreign-going ship carrying one hundred persons including the crew, or upwards shall have on board as part of her complement a Medical Officer possessing such qualifications as may be prescribed.

Certain ships to carry Medical Officers

(2) If any such ship does not carry on board a duly qualified Medical Officer, the ship shall be detained until such Medical Officer is provided.

(3) Nothing in this section shall apply to a special trade passenger ship.

186. (1) The master of a 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 witnesses whenever dispute arises about the quantities.

Weights and measures on board

(2) If the master of a ship fails, without reasonable cause, to comply with sub-section (1), he shall, for each offence, be punishable with fine which may extend to two thousand Taka.

Expenses of
medical
attendance in
case of illness

187. (1) If the master of, or a seaman or apprentice belonging to, a Bangladesh ship, receives any hurt or injury or suffers from any illness, not being a hurt, injury or illness due to his own wilful act or default or to his own misbehaviour, resulting in his being discharged or left behind at a place other than his proper return port, the expenses of providing the necessary surgical and medical advice, attendance and treatment and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured, or dies, or is brought back to the port from which he was shipped or other port agreed upon after receiving the necessary medical treatment, and of his conveyance to that port, and in case of death, the expenses, if any, of his burial or cremation shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) If the master, seaman or apprentice is, on account of any illness or injury, temporarily removed from his ship, at a port other than his proper return port, for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expenses of removal and of providing the necessary surgical and medical advice, attendance and treatment and medicine and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expenses of all medicines, surgical and medical advice, attendance and treatment, given to a master, seaman or apprentice while on board his ship, shall be defrayed in like manner.

(4) In all other cases, any reasonable expenses duly incurred by the owner for any master, seaman or apprentice in respect of illness, shall, if proved to the satisfaction of the Bangladesh Consular Officer or a Shipping Master, be deducted from the wages of the master, seaman or apprentice, as the case may be.

(5) Where any expenses referred to in sub-sections (1), (2) and (3) have been paid by the master, seaman or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid by the Government, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Government.

188. (1) The Government may, by notification in the *official Gazette*, make rules with respect to the crew accommodation to be provided in ships; and different provisions may be made for different classes of ships and different classes of persons.

Power to make rules with respect to crew accommodation, etc.

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

- (a) the minimum space for each person which must be provided in any ship to which the rules apply by way of sleeping accommodation for seamen and apprentices and the maximum number of persons by whom any specified part of such sleeping accommodation may be used;
- (b) the position in any such ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
- (c) the submission to such authority as may be specified in this behalf of plans and specifications of any works proposed to be carried out for the provision or alteration of any such accommodation and the empowering of that authority to inspect any such works;
- (d) the maintenance and repair of any such accommodation and the prohibition or restriction of the use of any such accommodation for purposes other than those for which it is designed; and
- (e) the manner as to how ships registered or under construction at the commencement of any such rules may be dealt with after such commencement.

(3) If any person making an inspection under section 189 finds that the crew accommodation is insanitary or is not in accordance with the provisions of this Ordinance, he shall signify it in writing to the master of the ship and may, if he thinks fit, detain the ship until the defects are remedied to his satisfaction.

Explanation.- In this section, the expression “crew accommodation” includes sleeping rooms, mess room, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen, not being accommodation which is also used by or provided for the use of, passengers.

(4) The Government may exempt any ship or class of ships from the requirements of any rules made under this section either absolutely or subject to such conditions as it may consider fit.

Inspection of crew accommodation when a ship is registered or re-registered

189. Whenever a ship to which the rules made under section 188 apply is registered or re-registered in Bangladesh or the crew accommodation of a ship has been substantially altered or reconstructed, or a complaint in respect of crew accommodation has been made in accordance with the rules, and on such other occasion as may be required under the rules, a Surveyor shall inspect the crew accommodation and satisfy himself that the requirements of crew accommodation have been duly complied with.

Bedding, towels, etc. to be provided

190. (1) The owner of every Bangladesh foreign-going ship, home-trade ship, coasting ship and of every Bangladesh passenger ship shall supply or cause to be supplied to every seaman for his personal use such clothing, bedding, towels, mess utensils and other articles of such quality and according to such scales as may be prescribed.

(2) If any requirement of sub-section (1) is not complied with in the case of any ship, the owner thereof shall be punishable with fine which may extend to two thousand Taka, unless he proves that the non-compliance was not caused by his inattention, neglect or wilful default.

Inspection of provisions, water, medicines, etc.

191. (1) For the purpose of ascertaining whether a ship is provided as is required by or under this Ordinance with the provisions and water, the medicines and appliances, the weights and measures and the crew accommodation, a Shipping Master, Surveyor, Seaman’s Welfare Officer, Port Health Officer, Bangladesh Consular Officer or other Officer empowered in this behalf by the Government at any port, may, at any time, in

the case of a Bangladesh ship or any ship upon which seamen have been shipped at that port, and shall, in the case of the master or not less than three of the crew of a Bangladesh ship making a request for the purpose, enter on board and inspect the ship.

(2) If the person making an inspection under sub-section (1) finds that the matters referred to therein have not been provided in accordance with the requirements of this Ordinance, he shall signify it in writing to the master and the ship may be detained until the deficiencies are supplied and defects are remedied.

192. The master of every Bangladesh ship while at sea shall, at least once in a week, cause an inspection to be made of the provisions and water provided for the use of the seamen and apprentices and the crew accommodation, for the purpose of ascertaining whether the same are being maintained in accordance with the requirements of this Ordinance and the person making the inspection shall enter a statement of the result of the inspection in a separate book kept for the purpose.

Inspection by master of provisions, water and accommodation at sea

193. Without prejudice to any other power to make rules contained in this Chapter, the Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

Power to make rules

CHAPTER 16

DISCIPLINE OF SEAMEN AND APPRENTICES

194. (1) The master's authority on the ship shall be absolute, and no seaman or other person on board shall, at any time, challenge or otherwise question or undermine such authority.

Master in overall command, etc.

(2) The master shall have the power and authority to give any command or order to any seaman or other person on board which he considers to be necessary for the maintenance of discipline among seamen and on board generally or for any other purpose, and every such command or order shall be obeyed and carried out by the person to whom it is given.

(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, the master may arrest, detain or confine in a reasonable manner and for a reasonable time any person on board his ship if he has reasonable cause to believe that such arrest, detention or confinement is necessary for the preservation of order and discipline, for the navigation or safety of the vessel, or for safety of the person or property on board.

(4) The master while in command of a Bangladesh ship shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

(5) In a case where the master has died or left the vessel or is incapacitated, the mate next in seniority to the master shall function as master until a master is duly appointed, and all the provisions of this section shall apply to such mate as they apply to the master.

(6) The master of any Bangladesh ship who, during the progress of voyage, is removed or for any reason quits the ship and is succeeded in the command by some other person, shall deliver to his successor all documents relating to the navigation of the ship, including the information required to be carried under section 302 and the crew thereof which are in his custody; and such successor shall, immediately on assuming the command of the ship, enter in the official log book a list of the document so delivered to him.

(7) The master of a ship who fails to deliver the documents as required by sub-section (6) shall be punishable with fine which may extend to ten thousand Taka.

Misconduct,
endangering life
or ship

195. If a master, seaman or apprentice belonging to a Bangladesh ship, by wilful breach of duty or by neglect of duty or by reason of drunkenness,-

- (a) does any act tending to the immediate loss, destruction or serious damage to 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, for each offence, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand Taka, or with both.

196. If a seaman lawfully engaged, or an apprentice, commits any of the following offences, he shall notwithstanding anything in the Code of Criminal Procedure, 1898 (Act V of 1898), be liable to be tried in a summary manner and to be punished as follows, namely:-

Desertion and absence without leave from Bangladesh ships

- (a) if he deserts from his ship, he shall be guilty of the offence of desertion, and shall be punishable with imprisonment for a term which may extend to ¹[five years] and with fine, which may extend to ²[ten lakh taka] and shall also 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 also, if the desertion takes place at any place not in Bangladesh, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to Bangladesh, and to satisfy any excess of wages paid by the master or owner of the ship which he abandons to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be repaid to him and he shall also be liable to refund the actual cost of his repatriation and the said amount shall be realised as a public demand;
- (b) if he neglects or refuses without reasonable cause to join his ship or proceed to sea in his ship or is absent without leave at any time within twenty-four hours of 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 shall be

¹ The words "five years" were substituted for the words "two years" by section 4 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

² The words "ten lakh taka" were substituted for the words "ten thousand taka" by section 4 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

punishable with imprisonment which may extend to ¹[three years] and with fine, which may extend to ²[fifty thousand taka] and shall also be liable to forfeit out of his wages a sum not exceeding one month's pay and, in addition, for every twenty-four hours of absence, either a sum not exceeding seven day's pay, or any expenses properly incurred in hiring a substitute.

Desertion and absence without leave from foreign ships

197. If a Bangladeshi seaman or apprentice lawfully engaged on a foreign ship deserts or goes absent without leave from the ship in any port, he shall be deemed to have committed the same offence as laid down in section 196 and shall, on summary conviction, be liable to the same punishment in the same manner as laid down in that section.

Measures to prevent desertion from Bangladesh and foreign ships

³**197A.** (1) Whenever it becomes necessary, the Shipping Master shall-

- (a) take a bond the binding the guarantors of the seamen to pay 5 (five) lakh taka compensation, in the case of desertion by the seaman and it shall be payable to the concerned person or authority who incurred loss due to the desertion;
- (b) cancel the seamen's book of a deserted seaman;
- (c) enforce a ban on deserted seaman from entering into seafaring profession;
- (d) enforce a ban on the deserted seaman from entering into any Government service in Bangladesh.

(2) The state may forfeit the properties of a deserted seaman excluding the inherited properties.]

Conveyance of deserter or imprisoned seaman or apprentice on board ship

198. (1) If a seaman or apprentice 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 or the owner may convey him on board his ship, and may, for that

¹ The words "three years" were substituted, for the words "one year" by section 4 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

² The words "fifty thousand taka" were substituted, for the words "two thousand taka" by section 4 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

³ Section 197A was inserted by section 5 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

purpose, use such force including police force as may be necessary; and every police officer shall render all such assistance as may be required of him.

(2) If the seaman or apprentice so requires, he shall first be taken before a Court competent to take cognizance of the case to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient ground, the Court may punish the master, mate or owner, as the case may be, with a fine which may extend to ten thousand Taka; and such punishment shall be a bar to any action for false imprisonment against the master, mate or owner.

(4) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and his services are required on board his ship during his imprisonment but before the expiration of the period of his engagement, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment has not terminated, 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 or his agent, to be by them so conveyed.

199. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave and the master, or the owner or his agent so requests, the Court may, instead of committing the seaman or apprentice to prison, cause him 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 the owner or his agent, 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 conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or may, by virtue of his then existing engagement, afterward earn.

Power of Court to order offender to be taken on board ship

General
offences against
discipline

200. If a seaman or an apprentice commits any of the following offences, in this Ordinance referred to as offences against discipline, he shall, notwithstanding anything in the Code of Criminal Procedure, 1898 (Act V of 1898), be liable to be tried in a summary way and to be punished as follows, namely:-

- (i) 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;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be punishable with imprisonment for a term which may extend to two months, and shall also be liable to forfeit out of his wages a sum not exceeding seven day's pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding twenty-one days' pay or any expenses which may have been properly incurred in hiring a substitute;
- (iv) if he assaults the master or any mate or engineer of the ship, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand Taka or with both;
- (v) 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 punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to ten thousand Taka or with both;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of, or wilfully damages, any of her stores or cargo, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to ten thousand Taka or with both, and shall also be liable to forfeit out of his wages a sum equal to the loss thereby sustained;

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

201. (1) Whenever any seaman not shipped in Bangladesh deserts or otherwise absents himself in Bangladesh without leave from a Bangladesh ship ¹[or a foreign ship] in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the Shipping Master or to such other Officer as the Government may appoint in this behalf, unless in the meantime the deserter or absentee returns.

Report of
desertions and
absence without
leave

(2) Any master ²[on Bangladeshi ships and Bangladeshi masters on foreign ships] who wilfully neglects to comply with the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to ³[fifty thousand] Taka, or with both.

202. (1) In every case of desertion from a Bangladesh ship whilst she is at any place outside Bangladesh, the master shall make in the official log-book entry of the desertion which shall be signed by him and also by a mate and one of the crew and shall produce the entry ⁴[to the shipping master who shall thereupon make and certify a copy of the entry prior to departure from the port].

Entries and
certificates of
desertion abroad

¹ The words “or a foreign ship” were inserted by section 6 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

² The words “on Bangladeshi ships and Bangladeshi masters on foreign ships” were inserted by section 6 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

³ The words “fifty thousand” were substituted, for the words “five thousand” by section 6 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

⁴ The words “to the shipping master who shall thereupon make and certify a copy of the entry prior to departure from the port” were substituted, for the words “to the Bangladesh Consular Officer who shall thereupon make and certify a copy of the entry” by section 7 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

¹[(2) The copy of the official log book certified by the master shall constitute as prima facie evidence of desertion in any legal proceeding.]

(3) Such copy, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion, be admissible in evidence.

Facilities for proving desertion in proceeding for forfeiture of wages or effects

203. (1) Whenever a question arises whether the wage or effects of any seaman or apprentice are forfeited for desertion from a 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 either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in Bangladesh and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(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 reasons for leaving his ship.

Application of forfeitures

204. (1) Where any wages or effects are forfeited under this Ordinance for desertion from a ship, they shall be applied towards reimbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that reimbursement, shall be paid into the public treasury and credited to the account of the Government.

(2) For the purposes of such reimbursement, the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

¹ Sub-section (2) was substituted by section 7 of the Bangladesh Merchant Shipping (Amendment) Act, 2004 (Act No. VIII of 2004).

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

Decisions on questions of forfeiture and deduction in suits for wages

206. (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:-

Payment of fines imposed under agreement to Shipping Master

(a) if the offender is discharged at any port or place in Bangladesh and the offence and such entries in respect thereof as aforesaid are proved to the satisfaction of the Shipping Master before whom the offender is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and

(b) if the seaman is discharged at any port or place outside Bangladesh and the offence and such entries as aforesaid are proved to the satisfaction of the Bangladesh Consular Officer by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book and signed by such officer and on the return of the ship to Bangladesh the master or owner shall pay over such fine to the Shipping Master before whom the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall, for each offence, be punishable with fine which may extend to six times the amount not so paid over by him.

207. 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 desert from his ship, or otherwise to absent himself from his duty, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Penalty for enticing to desert

208. If a person wilfully harbours or secrets a seaman or apprentice who has wilfully neglected or refused to join or has

Penalty for harbouring deserters

deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion

209. (1) If a person secrets himself and goes to sea in a ship without the consent of the master, or of the person in charge of the ship, he shall be punishable with imprisonment for a term which may extend to six months, and also be liable to fine, which may extend to five thousand Taka.

(2) Every person who goes to sea in a ship without such consent as aforesaid and every sea-faring person whom the master of a ship is under this Ordinance or any other law compelled to take on board and convey, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement as, the crew.

(3) The master of any Bangladesh ship arriving at any port or place in or outside Bangladesh and the master of any ship other than a Bangladesh ship arriving at any port or place in Bangladesh shall, if any person has gone to sea on that ship without the consent referred to in sub-section (1), report the fact in writing to the Shipping Master or the Bangladesh Consular Officer as soon as may be after the arrival of the Ship.

Procedure where seaman or apprentice not shipped in Bangladesh is imprisoned on complaint of master or owner

210. (1) If any seaman or apprentice who is not shipped in Bangladesh is imprisoned on complain made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month then-

- (a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Government or of such officer as it may specify in this behalf, engage any citizen of Bangladesh to serve as substitute for such seaman on board such ship; and
- (b) the Government or such officer as it may specify in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and may, if such master or owner, without

assigning reasons satisfactory to the Government or to such officer as aforesaid, refuses to receive on board the seaman or apprentice so tendered, require the master or owner to deposit in the local Shipping Office-

- (i) the wages due to such seaman or apprentice and his money and effects; and
- (ii) such sum as may, in the opinion of the Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand Taka, or with both.

(3) If any master or owner refuses or neglects to deposit any wages, money, effects or sum when so required under clause (b) of sub-section (1), he shall be punishable with fine which may extend to five thousand Taka.

211. If any seaman or apprentice who is not shipped in Bangladesh is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and his services are required on board his ship during his imprisonment but before the expiration of the period of his engagement, any Magistrate may, on the application of the master or owner or his agent, notwithstanding that the period of his imprisonment has not terminated, cause the seaman or apprentice to be conveyed on board the 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 or his agent to be by them so conveyed.

Power to send on board seaman or apprentice not shipped in Bangladesh who is undergoing imprisonment

212. (1) Where it appears to the Government that due facilities are or will be given by the Government of any country outside Bangladesh for recovering and apprehending seamen or apprentices who desert from Bangladesh ships in that country, the Government may, by notification in the *official Gazette*, stating that such facilities are or will be given, declare that this section shall apply to seamen belonging to ships of such country, subject to such limitations or conditions as may be specified in the notification.

Deserters from foreign ships

(2) Where this section applies to seamen or apprentices belonging to ships of any country and a seaman or apprentice deserts from any such ship, when within Bangladesh, any Court that would have had cognizance of the matter if the seaman or apprentice had deserted from a Bangladesh ship shall, on the application of a Consular Officer of that country, aid in apprehending the deserter and for that purpose may, on information given on oath, issue a warrant for his apprehension and on proof of the desertion order him to be conveyed on board his ship or delivered to the master or mate of his ship or to the owner of the ship or his agent to be so conveyed and any such warrant or order may be executed accordingly.

Power to make rules

213. Without prejudice to any other power to make rules contained in this Chapter, the Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

CHAPTER 17

LITIGATION AGAINST SEAMAN

Definitions

214. (1) In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) "Court" means a Civil, Revenue or a Marine Court.
- (b) "Proceeding" includes any suit, appeal or application; and
- (c) "Shipping Master" means-
 - (i) in the case of a seaman, the Shipping Master for the port at which the serving seaman entered into or is believed to have entered into an agreement, or where there is no such agreement, for the port to which the serving seaman has returned or is expected to return on the completion of his last voyage; and
 - (ii) in the case of masters and apprentices referred to in section 222, the Shipping Master for the port at which the agreement with the crew of the ship was opened.

(2) For the purposes of this Chapter, a seaman shall be deemed to be a serving seaman during any period commencing the day on which he enters into an agreement and ending thirty days after the day on which he is finally discharged from such agreement.

(3) The Shipping Master or any Officer authorised by the Government in this behalf or a Police Officer not below the rank of Inspector of Police may report any offence against this Ordinance or any rule made there under to a Magistrate having local jurisdiction to try the offence and thereupon he shall take cognizance of the offence:

Provided that in the case of any offence relating to or arising out of any agreement entered into with any seaman, master or owner of the ship concerned or any other person duly authorised by him in that behalf, shall have the power to make a report under this sub-section.

214A. Notwithstanding any provision contained in this Ordinance or of any other law for the time being in force, any seaman who contravenes any provision of any agreement signed by, or entered into by or with, him under any provision of this Ordinance or commits any offence relating to such agreement shall be tried for such contravention or offence in the place where the governing agreement was signed or entered into.

Place of trial of the offender

215. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is a serving seaman, he shall make a statement accordingly in the plaint, application or appeal.

Particulars to be furnished in plaints, etc.

216. If any District Magistrate has reason to believe that any seaman who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein or is a serving seaman, the District Magistrate may certify the facts in the prescribed manner to the Court.

Power of District Magistrate to intervene in case of unrepresented seaman

217. (1) If a District Magistrate has certified under section 216 or if a Court has reason to believe that a seaman who is a party to any proceeding before the Court is unable to appear

Notice to be given in case of unrepresented seaman

therein or is a serving seaman, the Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the Shipping Master:

Provided that nothing in this sub-section shall be deemed to require the Court to suspend the proceeding-

- (a) if the proceeding is one instituted or made by the seaman, alone or conjointly with others, with the object of enforcing a right of pre-emption, or
- (b) if the interests of the seaman in the proceeding are, in the opinion of the Court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(2) If it appears to the Court before which any proceeding is pending that a seaman though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof in the prescribed manner to the Shipping Master.

Postponement
of proceedings

218. (1) If, on receipt of a notice under section 217, the Shipping Master certifies to the Court in the prescribed manner that the seaman is a serving seaman, the Court shall postpone the proceeding in respect of the seaman for the prescribed period or, if no period has been prescribed, for such period as it thinks fit:

Provided that if, by reason of the continued absence of the seaman, the question of any further postponement of the proceedings in respect of the seaman arises, the Court shall, in deciding the question, have regard to the purposes of this Chapter.

(2) If the Shipping Master either certifies that the seaman is not for the time being a serving seaman or fails within two months from the date of the receipt of the notice under section 217 to certify that the seaman is a serving seaman, the Court may, if it thinks fit, continue the proceeding.

Power to set
aside decrees
and orders
passed against
serving seaman

219. (1) Where in any proceeding before a Court a decree or order has been passed against any seaman while he was a serving seaman, the seaman or if he dies while he is a serving seaman, his legal representatives, may apply to the Court to have the decree or order set aside, and if the Court, after giving

an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside, as against the seaman, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may, if it appears that any opposite party in the proceeding has failed to comply with the provisions of section 215, award, subject to such conditions as may be prescribed, damages against such opposite party.

(2) The period of limitation for an application under sub-section (1) shall be sixty days from the date on which the seaman first ceases to be a serving seaman after the passing of the decree or order, or where the summons or notice was not duly served on the seaman in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order, whichever is later; and the provisions of section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to such applications.

(3) Where the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the seaman only, it may be set aside as against all or any of the parties against whom it was made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

220. In computing the period of limitation provided in section 219 or in the Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, for any suit, appeal or application to a Court to which a seaman is a party, the period or periods during which the seaman has been a serving seaman, and, if the seaman has died while he was a serving seaman, the period from the date of his death to the date on which his next of kin was first informed of his death by the Shipping Master or otherwise shall be excluded:

Modification of
law of limitation
where seaman is
a party

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption except in such areas and in such circumstances as the Government may, by notification in the *official Gazette* specify in this behalf.

Reference in matters of doubt to shipping Masters

221. If any Court is in doubt whether, for the purposes of section 219 or section 220, a seaman is or was at any particular time or during any particular period a serving seaman, it may refer the question to the Shipping Master, and the certificate of the Shipping Master shall be conclusive evidence on the question.

Provisions of this Chapter to apply to masters and apprentices

222. The provisions of this Chapter shall apply to a master and an apprentice as they apply to a seaman, except that-

- (a) a master shall be deemed to be a “serving seaman” during any period commencing the day on which he assumes command of the ship and ending thirty days after the date on which he finally relinquishes such command; and
- (b) an apprentice shall be deemed to be a “serving seaman” during any period commencing the day on which he joins the ship and ending thirty days after the date on which he leaves such ship.

Power to make rules

223. (1) The Government, after consultation with the Supreme Court, may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter.

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

- (a) the manner and form in which any notice or certificate under this Chapter shall be given;
- (b) the period for which proceedings or any class of proceedings shall be postponed under sub-section (1) of section 218;
- (c) the conditions subject to which damages may be awarded under sub-section (1) of section 219, and the amount of such damages; and
- (d) any other matter which is to be or may be prescribed.

CHAPTER 18

MISCELLANEOUS

Uniforms

224. (1) The Government may, by notification in the *official Gazette*, make rules prescribing the uniforms, hereinafter referred to as the Standard Uniform, which a person employed on a Bangladesh Ship shall be entitled to wear; and a different Standard Uniform may be prescribed for persons of different positions or ranks.

Uniform to be prescribed

(2) A person entitled to wear a Standard Uniform shall, if so required by the rules but subject to the provisions of this Chapter, wear the Standard Uniform appropriate to his position or rank.

225. A person holding a Certificate of Competency issued under this Ordinance and a citizen of Bangladesh holding a Certificate of Competency recognised under section 88, being temporarily unemployed, shall be entitled to wear on such occasions as the Government may direct, the Standard Uniform appropriate to the rank in which he was last employed.

Certificated officers may wear uniforms while unemployed

226. A person entitled to wear the Standard Uniform shall not wear it while he is employed ashore other than as Commandant or Nautical or Engineering Instructor in the Marine Academy.

Uniforms when not to be worn

227. A person entitled to wear the Standard Uniform shall not, when on board a Bangladesh ship in port or on shore, be dressed partly in uniform and partly not in uniform.

Persons not to be dressed partly in uniform

228. (1) If any person who is required to wear the Standard Uniform does not so wear it, he shall be punishable with fine which may extend to one thousand Taka.

Penalties

(2) If any person, not being so entitled, wears the Standard Uniform or any part thereof or any dress having the appearance or bearing any of the distinctive marks of the Standard Uniform, he shall be punishable with fine which may extend to two thousand Taka.

(3) If a person wears the Standard Uniform in such a manner or under such circumstances as to be likely to bring contempt on the uniform, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand Taka:

Provided that nothing in this sub-section shall apply to the wearing of such uniform in the course or for the purpose of a stage play or representation or any other performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

(4) If any person entitled to wear the Standard Uniform when on board a Bangladesh Ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand Taka, or both.

Complaints by seamen and apprentices

Facilities for
making
complaints

229. (1) If a seaman or apprentice, whilst on board a ship, states to the master that he desires to make a complaint against him or any of the crew, when in Bangladesh, to the Shipping Master or a Magistrate, and when outside Bangladesh, to a Bangladesh Consular Officer or a Bangladesh Naval Officer not below the rank of a Lieutenant Commander, the Master shall, so soon as the service of the ship may permit,-

- (a) if the ship is then at a place where there is an authority to whom the complaint is sought to be made, after such statement, and
- (b) if the ship is not then at such a place, after her first arrival at such a place,

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

(2) If any master fails, without reasonable cause, to comply with the provisions of this section, he shall for each offence, be punishable with fine which may extend to five thousand Taka.

Protection of seamen and apprentices from imposition

230. Subject to the provisions of this Ordinance, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

Assignment or sale of salvage invalid

231. A debt incurred by any seaman after he has been engaged to serve shall not be recoverable until the service agreed for is concluded.

Debts not recoverable till the conclusion of agreed service

232. A Shipping Master, Seamen's Welfare Officer or any officer duly authorised in this behalf may, at any time, inspect any place where seamen may be lodged and either prohibit such lodging or require that persons of improper character be excluded from such lodging, or that the accommodation, sanitary conditions and other matters connected with the proper maintenance of such lodging be brought up to a prescribed standard.

Inspection of seamen's lodging houses

233. (1) No person shall, while a ship is at any port or place in Bangladesh-

Prohibition against solicitation by lodging-house keepers

- (a) solicit a seaman or apprentice to become a lodger at the house of any person letting lodgings for hire; or
- (b) take out of the ship any property of the seaman or apprentice except under the direction of the seaman or apprentice and with the permission of the master.

(2) Whoever contravenes the provisions of this section shall, for each offence, be punishable with fine which may extend to five thousand Taka.

234. (1) If a person receives or takes into his possession or under his control any money or other property 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 deduction of such amounts as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise, absconds therewith, he shall, for each offence, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand Taka, or with both.

Seaman's property not to be detained

(2) Any Court imposing a fine under sub-section (1) may direct the amount of such money or the value of the property itself to be forthwith paid or delivered to the seaman or apprentice.

Ship not to be boarded without permission before seaman Leave

235. Where a ship has arrived at a port or place in Bangladesh at the end of a voyage and any person, not being in the service of the Government or not being duly authorised by law for the purpose, goes on board the ship without the permission of the master before the seaman lawfully leave the ship at the end of their engagement or are discharged, whichever happens last, the master of the ship may take such person into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Ordinance.

Rescission of Contracts

Power of Court to rescind contract between master, owner or agent and seaman or apprentice

236. Where a proceeding is instituted in any Court in relation to any dispute between the master, owner or agent 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, thinks it just to do so, may rescind any contract between the master, owner or agent and the seaman or apprentice upon such terms as the Court may deem fit; and this power of the Court shall be in addition to any power it may have in the exercise of any other jurisdiction.

Maritime Advisory Committee

Constitution and functions of Maritime Advisory Committee

237. (1) The Government may, by notification in the *official Gazette*, constitute a Maritime Advisory Committee, consisting of such representatives of ship-owners, seamen and the Government as it may deem fit.

(2) The functions of the Committee shall be-

- (a) to prevent and adjust differences between ship-owners and seamen;
- (b) to advise the Government on the improvements to be made in the system of recruitment of seamen;

- (c) to advise the Government on the improvements or modifications to be made in the terms and conditions of employment of seamen, such as, standardisation of their rates of wages, hours of work, manning scale, and similar other matters;
- (d) to advise the Government on the steps to be taken for ameliorating unemployment among seamen; and
- (e) to advise the Government on any other matter relating to seamen which may be referred to it.

238. The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Chapter. Power to make rules

PART V

PASSENGER SHIPS

CHAPTER 19

SURVEY OF PASSENGER SHIPS

239. (1) This Part applies to power driven sea-going passenger ships. Application

(2) Notwithstanding anything contained in sub-section (1), Government may declare that all or any of the provisions of Chapter 20 shall apply to sailing ships, or any class of sailing ships, carrying more than fifteen un-berthed passengers.

240. (1) No ship shall take on board, or carry between ports or places in Bangladesh or to or from any port or place in Bangladesh from or to any port or place outside Bangladesh, more than twelve passengers unless she has a Passenger Ship Safety Certificate under this Chapter in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. No ship to carry passengers without a Passenger Ship Safety Certificate

(2) Nothing in sub-section (1) shall apply to any ship having a Passenger Ship Safety Certificate deemed to have been granted by the Government before the commencement of this Ordinance and in force immediately before such commencement, unless it appears from the Certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or

unless there is reason to believe that the ship has, since the grant of the Certificate, sustained damage or been found unseaworthy or otherwise inefficient.

No
port-clearance
until Passenger
Ship Safety
Certificate
produced

241. The Collector of Customs shall not grant a clearance, and a pilot shall not be assigned, to any ship for which a Passenger Ship Safety Certificate is required by this Chapter until after the production by the owner or master thereof of such Certificate in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to detain
ship not having
Passenger Ship
Safety
Certificate

242. If any ship for which a Passenger Ship Safety Certificate is required by this Chapter leaves or attempts to leave any port without a Certificate, the Collector of Custom and Surveyor may, at any reasonable time, go on board a ship, and detain her until she obtains a Certificate.

Owner or agent
responsible for
survey

243. The owner or agent of every passenger ship for which a Passenger Ship Safety Certificate is required under this Chapter shall cause it to be surveyed in the prescribed manner.

Powers of
Surveyor

244. (1) For the purposes of a survey under this Chapter, any Surveyor, may at any reasonable time, go on board a ship, and may inspect the ship and any part thereof, and the machinery, equipment or articles on board the ship:

Provided that the Surveyor shall not, except to the extent necessary for the purposes of this sub-section, hinder the loading or unloading of the ship or detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the ship shall afford to the Surveyor all reasonable facilities for a survey of the ship, and shall furnish all such information respecting the ship and her machinery and equipment as the Surveyor may reasonably require.

Fees in respect
of surveys

245. Before a survey under this Chapter is commenced, the owner or master of the ship to be surveyed shall pay to such officer as the Government may appoint in this behalf-

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

- (b) such additional fee, in respect of the expenses, if any, of the journey of the Surveyor to the ship, as the Government may, by notification in the *official Gazette*, direct.

246. When a survey under this Chapter is completed, the Surveyor making it shall, if satisfied that he can with propriety do so forthwith, give to the Principal Officer a declaration of survey in the prescribed form containing the following particulars, namely:-

Declaration of survey

- (a) that the hull and machinery of the ship are sufficient for the service intended and in good condition;
- (b) that the equipment of the ship is in such condition and the Certificates of the master, mate or mates, and engineer or engineers and of the radio-operators, are such as are required by this Ordinance and by any other law for the time being in force and applicable to the ship;
- (c) the time, if less than one year, for which the hull, machinery and equipment of the ship will be sufficient;
- (d) the voyages or class of voyages on which, as regards construction, machinery and equipment, the ship is in the Surveyor's judgement fit to ply;
- (e) the number of passengers which the ship is, in the judgement 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; and number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires; and
- (f) any other prescribed particulars.

247. Upon the receipt of a declaration of survey, the Principal Officer shall, if satisfied that the provisions of this Chapter have been complied with, cause a Certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the ship was surveyed as the Principal Officer may specify in this behalf, to the owner or master of the ship surveyed, on his applying and paying the sums, if any, prescribed as payable prior to delivery of a Certificate.

Grant of
Passenger Ship
Safety
Certificate

Power of Government to order a second survey

248. (1) If the Surveyor or Surveyors making a survey under this Chapter refuse to give a declaration of survey under section 246 with regard to any ship, or give a declaration with which the owner, agent or master of the ship surveyed is dissatisfied, the Government may, on the application of the owner, agent or master, and on payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Government may require, direct any other Surveyor or Surveyors to survey the ship.

(2) The Surveyor or Surveyors directed under sub-section (1) shall forthwith survey the ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems proper; and the decision of the Surveyor or Surveyors shall, subject to the other provisions of this Chapter, be final.

Ships with Passenger Ship Safety Certificate or certificates of partial survey granted outside Bangladesh

249. (1) When a ship is required to be furnished with a Passenger Ship Safety Certificate under this Chapter and the Government is satisfied by the production of a certificate of partial survey-

- (a) that the ship has been officially surveyed at a port in a country outside Bangladesh,
- (b) that the requirements of this Ordinance are proved by that survey to have been substantially complied with, and
- (c) that Passenger Ship Safety Certificate granted under this Chapter are accepted in such country in lieu of the corresponding certificates required under the laws in force in that country,

the Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a Certificate which shall have the same effect as a Certificate given after survey under this Chapter.

(2) When the Government has, by notification in the *official Gazette*, declared that it is satisfied that an official survey at a port in a country outside Bangladesh specified in the declaration is such as to prove that the requirements of this Ordinance have been substantially complied with, any person

authorised by the Government in this behalf may exercise the power of the Government under sub-section (1) to dispense with a survey and to give a Certificate.

(3) The provisions of sub-section (1) shall be applicable in the case of ships furnished with valid certificates of partial survey including docking certificates, as if they were ships furnished with like certificates granted at ports in countries outside Bangladesh and the powers of the Government under the said sub-section may also be exercised by any person authorised by it in this behalf.

250. A Passenger Ship Safety Certificate granted under this Chapter shall not be in force-

- (a) after the expiration of one year from the date thereof; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipment have been stated in the Certificate to be sufficient; or
- (c) after notice has been given by the Government to the owner, agent or master of the ship to which the Certificate relates that the Government has cancelled or suspended it.

Duration of
Passenger Ship
Safety
Certificate

251. Any Passenger Ship Safety Certificate granted under this Chapter may be cancelled or suspended by the Government if it has reason to believe-

- (a) that the declaration by the Surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipment of the ship has been fraudulently or erroneously made; or
- (b) that the Certificate has otherwise been issued upon false or erroneous information.

Cancellation or
suspension of
Passenger Ship
Safety
Certificate by
Government

252. (1) The owner, agent or master of a ship in respect of which a Passenger Ship Safety Certificate has been granted under this Chapter and is in force shall, as soon as possible after any alteration is made in the ship's hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the ship, give written notice to such person as the Government may direct containing full particulars of the alteration.

Alterations in
ships
subsequent to
grant of
Passenger Ship
Safety
Certificate, and
additional
surveys

(2) If the owner, agent or master of a ship, without reasonable cause, fails to give the notice required by sub-section (1), he shall be punishable with a fine which may extend to twenty thousand Taka.

(3) If the Government has reason to believe that since the making of the last declaration of survey in respect of a ship-

- (a) any such alteration as aforesaid has been made in the hull, equipment or machinery of the ship; or
- (b) the hull, equipment or machinery of the ship have sustained any injury or are otherwise insufficient,

the Government may require the ship to be again surveyed to such extent as it may think fit, and, if such requirement is not complied with, may cancel any Passenger Ship Safety Certificate issued under this Chapter in respect of the said ship.

Delivery of expired or cancelled Certificates

253. (1) Every Passenger Ship Safety Certificate granted or deemed to have been granted under this Chapter which has expired, or has been cancelled or suspended, shall be delivered up to such persons as the Government may direct.

(2) If the owner, agent or master of a ship, without reasonable cause, neglects or refuses to deliver up a Certificate as required by sub-section (1), he shall be punishable with fine which may extend to five thousand Taka.

Passenger Ship Safety Certificate to be affixed in conspicuous part of ship

254. (1) The owner, agent or master of every ship for which a Passenger Ship Safety Certificate has been granted under this Chapter shall forthwith, on the receipt of the Certificate, cause one of the duplicates thereof to be affixed and kept affixed so long as the Certificate remains in force and the ship is in use, on some conspicuous part of the ship where it may be easily read by all persons on board the ship.

(2) If the Certificate is not so kept affixed, the owner, agent and master shall each be punishable with fine which may extend to ten thousand Taka.

Ship not to carry passengers in contravention of this Ordinance

255. (1) No ship on any voyage or excursion shall carry or attempt to carry passengers in contravention of section 240, or shall have on board or in any part thereof a number of passengers

which is greater than the number set forth in the Passenger Ship Safety Certificate as the number of passengers which the ship or the part thereof is fit to carry on that voyage.

(2) The owner, agent and master of a ship in respect of which the provisions of sub-section (1) are contravened shall each be punishable with fine which may extend to twenty thousand Taka, and also with an additional fine which may extend to five hundred Taka for each passenger above the number set forth in the Passenger Ship Safety Certificate:

Provided that if the ship is a Special Trade Passenger Ship and has on board a valid Special Trade Passenger Ship Certificate and a valid Special Trade Passenger Ship Space Certificate, reference to the number set forth in the Passenger Ship Safety Certificate shall, on all Special Trade voyages, be a reference to the lesser of the two numbers contained in each of the aforementioned Special Trade Certificates applicable to the voyage being undertaken.

256. (1) If, in the case of a ship for which a Passenger Ship Safety Certificate has been granted under this Chapter, any person-

Offences in connection with passenger ships

- (a) being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employment and, after having the amount of his fare, if he has paid it, returned or tendered to him, nevertheless persists in attempting to enter the ship; or
- (b) being drunk or disorderly on board the ship is requested by the owner or any person in his employment to leave the ship at any place in Bangladesh at which he can conveniently do so and after having the amount of his fare, if he has paid it, returned or tendered to him, does not comply with the request; or
- (c) on board the ship after warning by the master or other officer thereof, molests or continues to molest any passenger; or
- (d) having gone on board the ship at any place and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship, before it has departed from that place and having had the amount of his fare, if he has paid it, returned or tendered to him, does not comply with the request; or

- (e) travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof; or
- (f) on arriving in the ship at the place for which he has paid his fare knowingly and wilfully refuses or neglects to quit the ship; or
- (g) on board the ship, fails when requested by the master or other officer thereof either to pay his fare or to produce such ticket or other receipt, if any, showing the payment of his fare as is usually given to a person travelling by and paying fare for the ship,

he shall be punishable with fine which may extend to two thousand Taka but such punishment shall not prejudice the recovery of the fare, if any, payable by him.

(2) If any person on board any such ship wilfully does or causes to be done anything in such a manner as to interfere with or damage any part of the machinery or tackle of the ship or to obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship, he shall be punishable with fine which may extend to five thousand Taka but such punishment shall not prejudice the recovery from him, by way of damages, of all losses and expenses suffered or incurred by the ship on account of his conduct.

(3) Without prejudice to the provisions of sub-section (1) and sub-section (2), the master or other officer of any such ship and all persons called by him to his assistance may, without warrant, detain any person who commits any offence there under and whose name and address are not known to the master or officer and convey him with all convenient despatch before the nearest Magistrate to be dealt with according to law.

Power to
exclude drunken
passengers from
passenger ship

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

258. (1) The master of every ship, whether a Bangladesh ship or a foreign ship which carries any passenger to a place in Bangladesh from a place out of Bangladesh or from any place in Bangladesh to any place out of Bangladesh, shall furnish to such person and in such manner as the Government directs, a return giving the total number of passengers so carried, distinguishing, if so directed by the Government, the total number of any class of passengers so carried, and giving, if the Government directs, such particulars with respect to passengers as may for the time being be required.

Return to be furnished

(2) Every passenger shall furnish the master of the ship with any information required of him for the purpose of the return.

(3) If the master of a ship fails to make a return as required by this section, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or gives any false information for the purpose, the master or as the case may be, the passenger shall be liable for each offence to a fine not exceeding five thousand Taka.

259. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter.

Power to make rules

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

- (a) the times and places at which, and the manner in which, surveys are to be held;
- (b) the requirements as to construction, machinery, equipment and marking of subdivision load lines, which are to be fulfilled before a declaration of survey may be granted;
- (c) survey of ships by two or more surveyors;

- (d) the duties of the Surveyor making a survey, and where two or more Surveyors are employed, the respective duties of each of the Surveyors employed;
- (e) the form in which the declarations of survey, Passenger Ship Safety Certificates, Special Trade Passenger Ship Certificates and Special Trade Passenger Ship Space Certificates under this Chapter are to be made, and the nature of the particulars which are to be stated therein; and
- (f) the rates according to which the fees payable in respect of surveys are to be calculated.

CHAPTER 20

SPECIAL PROVISIONS RELATING TO SPECIAL TRADE PASSENGER SHIPS

Ships not to proceed on voyage from any place not designated by Government

260. (1) A special trade passenger ship shall not depart or proceed on a voyage from, or embark or disembark special trade passengers at, any port or place within Bangladesh other than a port or place designated in this behalf by the Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so designated, no special trade passenger shall be received on board except at some other port or place so designated.

Notice to be given about day of departure

261. (1) The owner, agent or master of a special trade passenger ship intending to depart or proceed on a voyage from a port or place designated under section 260 shall give notice to an officer appointed in this behalf by the Government, hereinafter called the Certifying Officer, stating that the ship is to carry special trade passengers and also specifying her destination and the time at which it is proposed to depart or proceed.

(2) The notice under sub-section (1) shall be given not less than 24 hours before the time of the ship's departure from the first port in Bangladesh at which passengers are embarked.

(3) The owner, agent and master of a ship in respect of which the provisions of sub-section (1) are not complied with shall each be punishable with a fine which may extend to ten thousand Taka.

262. (1) After receiving the notice under section 261, the Certifying Officer or a person authorised by him may at all times board the ship and inspect her and her fittings and the provisions and stores on board.

Power to board
and inspect ship

(2) If the Certifying Officer or the person so authorised finds that any of the rules concerning accommodation for special trade passengers has not been complied with or that any of the fittings is in disrepair or that the ship is not provided with the required provisions, water and stores for special trade passengers, he shall communicate his findings to the Principal Officer, who shall cause the aforementioned items to be resurveyed and the Special Trade Passenger Ship Safety Certificate or the Special Trade Passenger Ship Space Certificate, or both, may be withdrawn until the deficiencies are rectified.

(3) If a person impedes or refuses to allow any entry or inspection under sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to ten thousand Taka, or with both.

263. (1) The provisions of Chapter 19 apply to special trade passenger ships as they apply to other passenger ships and no special trade passenger ship shall proceed on any voyage unless she has, in addition to the Passenger Ship Safety Certificate prescribed in Chapter 19, a Special Trade Passenger Ship Safety Certificate, together with a Special Trade Passenger Ship Space Certificate, both of which shall be issued in duplicate, by the Principal Officer on receipt of a declaration of survey stating that a special trade passenger ship complies with the applicable requirements relating to special trade passenger ships.

Certification
and survey

(2) The Certifying Officer or person so authorised by sub-section (1) of section 262 to inspect the ship, shall, if he is satisfied that he can with propriety do so, grant to the master a certificate for clearance, that is to say, a certificate stating that all the requirements of this Part have been duly complied with and that in his opinion the ship is in all respects fit for the intended voyage and that the special trade passengers are in a fit state to proceed and that, if the ship is a pilgrim ship, the master's bond has been executed.

(3) A special trade passenger ship attempting to go to sea may be detained until the certificates required by this section are produced to the Collector of Customs.

(4) The Special Trade Passenger Ship Safety Certificate and the Special Trade Passenger Ship Space Certificate may be combined in one document and shall be issued for a period not exceeding one year.

Special power
to make rules

264. Without prejudice to the powers to make rules under section 259, the Government may, by notification in the *official Gazette*, make rules relating to requirements for special trade passenger ships which may provide for all or any of the following matters, namely:-

- (a) the accommodation space required to be provided, which shall include the location of such accommodation and space in the ship, provision of bunks and specifications thereof, number of hospitals, lavatories, supply of light and ventilation and the provision of airing spaces and awnings;
- (b) provision for the separation of different categories of passengers;
- (c) the number of persons to be carried on a special trade passenger ship;
- (d) the seasons of fair weather during which periods passengers may be accommodated on the weather deck;
- (e) the seasons of foul weather during which periods passengers may not be accommodated on the weather deck except for the use of the deck as airing space as may be required to be provided in the rules made under this section;
- (f) the classification of voyages with reference to the distance between the port of departure and the port of destination, the duration of the voyage, or any other consideration which the Government may think fit to take into account for the purpose;
- (g) the prohibition or regulation of the carriage of cargo in any space reserved for passengers;

- (h) the disposal of baggage of passengers on board the ship and the provision of separate space in between the decks for the storage of light baggage;
- (i) the licensing, supervision and control of persons engaged in assisting persons to obtain special trade passenger accommodation in ships departing or proceeding from any port or place in Bangladesh and the prohibition of unlicensed person from being so engaged; and
- (j) any other matter which is to be made or may be prescribed under this Chapter.

265. Special trade passengers shall not be permitted to cook food on board.

Cooking food prohibited

266. The provisions of section 254 shall, *mutatis mutandis*, apply to Special Trade Passenger Ship Safety and Space Certificates as they apply to Passenger Ship Safety Certificates.

Applicability of section 254 to certain certificates

267. (1) The master of every special trade passenger ship departing or proceeding on a voyage from any port or place in Bangladesh shall sign a statement in duplicate in the prescribed form specifying the total number, indicating the number of each sex, of all special trade passengers embarked and the number of crew, and such other particulars as may be prescribed, and shall deliver both copies to the Certifying Officer, who shall thereupon, after first having satisfied himself that the entries are correct, countersign and return to the master one of the copies.

List of departing special trade passenger

(2) If, at any time after the passenger list has been signed and delivered as aforesaid, any additional special trade passenger is taken on board, the master shall add to his copy of the list, and also enter on an additional list signed by him, the prescribed particulars of every such additional passenger.

(3) The master's amended copy of the list shall be signed by the Certifying Officer at the time at which he delivers the additional list to that officer.

(4) The foregoing requirements are in addition to, and not in substitution for, the passenger returns required by section 258.

List of arriving
special trade
passenger

268. (1) The master of every special trade passenger ship arriving at any port or place in Bangladesh at which it is intended to disembark special trade passengers, shall, before any such passenger is landed, deliver to the Certifying Officer appointed thereat a statement signed by him specifying the total number, indicating the number of each sex, of all the special trade passengers on board and the number of other passengers and the number of crew and such other particulars as may be prescribed.

(2) The foregoing requirements of this section are in addition to, and not in substitution for, the passenger returns required by section 258.

Deaths on
Board

269. The master of every special trade passenger ship, in addition to recording in the official log-book every case of death happening on board, shall note on the copy of the statement returned to him under section 267 and on any additional list signed by him, the date and supposed cause of death of any special trade passenger who dies on board, and shall, when the ship arrives at her destination and before any such passengers are disembarked, produce the statement,-

- (a) where such destination is in Bangladesh, to the Collector of Customs;
- (b) where such destination is outside Bangladesh, to the Bangladesh Consular Officer.

Medical
Officers and
attendants

270. (1) Every special trade passenger ship which has on board more than one hundred persons, which number shall include special trade passengers, cabin passengers and crew, shall have on board a Medical Officer possessing such qualifications as may be prescribed. If the number of such persons exceeds one thousand, two such Medical Officers shall be carried and if the number exceeds two thousand, three such Medical Officers shall be carried. In addition to the aforementioned Medical Officers there shall also be carried such attendants as may be prescribed.

(2) The services of all such Medical Officers and attendants shall be provided without charge to all special trade passengers on board.

(3) Any person who charges a special trade passenger for the services of a Medical Officer or attendant shall, for each offence, be punishable with fine which may extend to two thousand Taka.

(4) Every such Medical Officer shall keep diaries and submit reports or other returns as may be prescribed.

(5) If Medical Officers and attendants are not carried on a special trade passenger ship in accordance with the provisions of sub-section (1), the master and owner shall each be liable to a fine not exceeding twenty thousand Taka.

271. The master of a special trade passenger ship shall, if he fails to comply with any of the requirements of sections 267, 268 or 269 as to the statements concerning special trade passengers, or wilfully makes any false entry in any such statement, for each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand Taka, or with both.

Penalty for non-compliance with requirements as to statements concerning special trade passengers

272. (1) If the master of a special trade passenger ship, or any contractor employed by him for the purpose, should, without reasonable cause, the burden of proving which shall lie upon him, omit to supply to any special trade passenger the prescribed allowance of food and water, he shall be punishable with fine which may extend to twenty thousand Taka for every special trade passenger who has not been supplied with such allowance.

Penalty for failing to supply special trade passengers with prescribed provisions

(2) Where, under the terms of the ticket issued to him, a special trade passenger is not entitled to the supply of food as aforesaid, sub-section (1) shall have effect in relation to such passenger as if reference therein to "food" were omitted.

273. (1) If a special trade passenger ship departs or proceeds on a voyage from or lands special trade passengers at any port or place within Bangladesh in contravention of the provisions of this Chapter, or if a person is received as a special trade passenger on board any such ship in contravention of any such provision, the master or owner shall, for every special trade passenger carried in the ship, or for every special trade passenger so landed or received on board, be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to five thousand Taka, or with both:

Penalty for ship unlawfully departing or receiving passengers on board

Provided that the aggregate term of imprisonment awarded under this section shall not exceed two years.

(2) The Collector of Customs, if he has reasonable grounds to believe that the master or owner of a ship has incurred any penalty under sub-section (1), may seize and detain the ship, whenever found in any port or place within Bangladesh, until the penalties so incurred have been adjudicated and the payment of the fines, if any, imposed on the master or owner, with all costs, has been enforced.

Penalty for fraudulent alteration in ship after certificate obtained

274. If the master or a special trade passenger ship after having obtained any of the certificates mentioned in this Chapter fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, or her special trade passengers, or other matters to which the certificate relates, he shall be punishable with imprisonment for a term which may extend to one year, or with a fine which may extend to twenty thousand Taka, or with both.

Penalty for landing special trade passenger at a port or place other than that contracted for

275. If the master of a special trade passenger ship lands any special trade passenger at any port or place other than the port or place contracted for by the passenger, except with his previous consent, or except when the landing is made necessary by perils of the sea or an unavoidable accident, the master shall, for each offence, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to twenty thousand Taka, or with both.

Forwarding of passengers by Bangladesh Consular Officers

276. (1) If any special trade passenger from a ship which is on a voyage from any port or place in Bangladesh finds himself, without any neglect or default of his own at any port or place outside Bangladesh other than the port or place for which the ship was originally bound, or at which he has contracted to be landed, the Bangladesh Consular Officer at or near that port or place may forward the passenger to his intended destination, unless the master, owner or agent of the ship gives to that officer, within forty-eight hours of the arrival of the passenger, a written undertaking to forward the passenger within six weeks thereafter to his original destination and forwards him accordingly within that period.

(2) A passenger so forwarded by a Bangladesh Consular Officer shall not be entitled to the return of his passage-money or to any compensation for loss of passage.

277. (1) All expenses incurred under section 276 by a Bangladesh Consular Officer in respect of the forwarding of a passenger to his destination, including the cost of maintaining the passenger until he is forwarded to his destination, shall be a debt due to the Government jointly and severally from the owner, charterer, agent and master of the ship on board which the passenger had embarked.

Recovery of expenses incurred in forwarding passengers

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of the Bangladesh Consular Officer and stating the circumstances of the case and the total amount of the expenses shall be *prima facie* evidence of the amount of the expenses and of the fact that the same were duly incurred.

278. (1) The officer appointed by the Government in this behalf at any port or place within Bangladesh at which a special trade passenger ship touches or arrives shall send any particulars which he may deem important respecting the special trade passenger ship, and the special trade passengers carried therein, to the officer so appointed at the port or place from which the ship commenced her voyage, and to the officer appointed at any other port or place within Bangladesh where the special trade passengers or any of them embarked or are to be disembarked.

Information to be sent to ports of embarkation and disembarkation

(2) The officer aforesaid may go on board any such ship and inspect her in order to ascertain whether the provisions of this Chapter as to the number of special trade passengers and other matters have been complied with.

279. In any proceeding for the adjudication of any penalty incurred under this Chapter, any document purporting to be particulars sent under sub-section (1) of section 278, or a copy of the proceedings of any Court duly authenticated, and also any like document purporting to be made and signed by a Bangladesh Consular Officer shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Chapter is held.

Information sent under section 278, etc. to be admissible in evidence

Additional provisions for special trade passenger ships carrying pilgrims

280. (1) Special trade passenger ships carrying pilgrims shall, in addition to complying with the foregoing provisions of this Chapter, comply with sections 281 to 294.

(2) Sections 281 to 293 shall not apply to special trade passenger ships not carrying pilgrims.

Bond where special trade passenger ship is to carry pilgrims on outward voyage

281. (1) Port-clearance shall not be granted from any port in Bangladesh to any special trade passenger ship carrying pilgrims unless the master, owner or agent and two sureties resident in Bangladesh have executed, in favour of the Government, a joint and several bond for the sum of fifty lakh Taka covering all voyages which may be made by the ship in the current pilgrimage season on the conditions that-

- (a) the master and medical officer or officers, if any, shall comply with the provisions of this Chapter and the rules made there under, and
- (b) the master, owner or agent, as the case may be, shall pay any sum claimed by the Government under section 288.

(2) A bond may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such case the amount of the bond shall be one lakh Taka for each ship covered.

Medical inspection and permission required before embarkation of pilgrims

282. (1) No pilgrim shall be received on board any special trade passenger ship at any port or place in Bangladesh unless and until he has been medically inspected at such time and place and in such manner as the Government may fix in this behalf nor until the Certifying Officer has given permission for the embarkation of pilgrims to commence.

(2) So far as may be practicable, and subject to any rules made in this behalf, the medical inspection of female pilgrims shall be carried out by female medical officers.

(3) No pilgrim shall be received on board any special trade passenger ship unless he produces medical certificates signed by persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates showing that the pilgrim has been, inoculated and vaccinated against such diseases and quarantined for such period, as may, from time to time, be prescribed.

(4) If, in the opinion of the officer making an inspection under this section any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(5) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a special trade passenger ship, be disinfected, under the supervision of a medical officer appointed by the Government for the purpose, in such manner as may be prescribed.

(6) If the master of any ship knowingly receives on board any pilgrim or contaminated articles in contravention of any of the provisions of this section, he shall be punishable with fine which may extend to ten thousand Taka for each such pilgrim or one thousand Taka for each such article, or with imprisonment for a term which may extend to one year, or with both.

283. (1) If, in the case of a special trade passenger ship, after all the pilgrims have been received on board, there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Government may direct.

Medical inspection after embarkation in certain cases

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be punishable with fine which may extend to ten thousand Taka for each such pilgrim or one thousand Taka for each such article, or with imprisonment for a term which may extend to one year, or with both.

Return passage
to be secured

284. No pilgrim shall be received on board any special trade passenger ship at any port or place in Bangladesh unless he-

- (a) is in possession of a return ticket, or
- (b) has deposited in the prescribed manner such sum for the purpose of defraying the cost of a return ticket as the Government may, by notification in the *official Gazette*, specify:

Provided that the officer authorised in this behalf by the Government may, if he is satisfied that it is inexpedient in the special circumstances of the case to enforce all or any of the above requirements, exempt any pilgrim from the same.

Issue or
production of
tickets

285. (1) Every pilgrim travelling on a special trade passenger ship shall be entitled, on payment of his passage-money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner:

Provided that a pilgrim who has not been exempted under the proviso to section 284 shall not be given a ticket other than a return ticket unless he has made deposit required by that section.

(2) Any ticket issued to a pilgrim for a voyage on a special trade passenger ship shall entitle him to receive food and water on the scale and of the quality prescribed and necessary medicines and medical treatment free of further charge throughout the voyage.

Refund of
deposits and
passage-money

286. (1) Every pilgrim prevented from embarking under section 282, or removed from the ship under section 283, or otherwise prevented from proceeding, shall be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made under section 284.

(2) Any pilgrim who, within three months of his sailing from Bangladesh, satisfies the Bangladesh Consular Officer at Jeddah that he intends to remain in the Hedjaz or to return to Bangladesh by a route other than the route by which he came from Bangladesh, shall be entitled to a refund of any deposit made by him under section 284 or, if he is in possession of a return ticket, to a refund of half the passage-money paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in the prescribed manner, or, if no person has been so nominated, his legal representative, shall be entitled to a refund of any deposit made by such pilgrim under section 284, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim.

(4) Where any pilgrim fails to return to Bangladesh from the Hedjaz within six months of his departure from Bangladesh, or returns to Bangladesh by a route other than the route by which he came from Bangladesh, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 284, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim, except where such deposit or passage-money has already been refunded under this section.

(5) Refunds under sub-sections (1), (2), (3), and (4) of deposits shall be subject to such conditions and of passage-money to such deductions and conditions as may be prescribed.

287. (1) All deposits made under section 284, which have been unclaimed for the prescribed period shall vest in the Government.

Unclaimed deposits and passage-money to vest in Government

(2) If any pilgrim entitled to a refund of passage-money under sub-section (1) of section 286, does not claim such refund within the prescribed period, or if any pilgrim who has purchased a return ticket does not, on the basis of such ticket, obtain a return passage from the Hedjaz within the prescribed period and half the passage-money has not been refunded under sub-section (2) or sub-section (3) or sub-section (4) of section 286, such passage-money or, as the case may be, half the passage-money shall vest in the Government.

(3) Unclaimed deposits and passage-money vesting in the Government under sub-section (1) or sub-section (2) shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Government may, by general or special order, designate in this behalf.

Cost of return journey of pilgrims on ships other than those for which return ticket is available

288. (1) The master, owner or agent of a special trade passenger ship carrying pilgrims shall make all arrangements for ensuring the return from Jeddah, within a period of ninety days after the Hajj day in the year, of all pilgrims in possession of return tickets issued in Bangladesh who are carried to the Hedjaz by such ship:

Provided that for the purpose of computing the said period of ninety days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah, having been declared by proper authority to be infected, or by reason of war disturbance, or any other cause not arising from any act or default of the master, owner or agent.

(2) Where any such pilgrim who has notified the authority in the prescribed manner his desire to embark for the return voyage is, owing to his inability to obtain accommodation within the period of ninety days as aforesaid, detained at Jeddah beyond that period, the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall reimburse to the Government in respect of such pilgrim the actual expenditure incurred for his repatriation, together with a sum of one hundred Taka for each day after the expiry of the period aforesaid during which the pilgrim has been detained at Jeddah.

(3) A certificate of such detention purporting to be made and signed by the Bangladesh Consular Officer at Jeddah shall be received in evidence in any Court in Bangladesh without proof of the signature or of the official character of the person who has signed the same.

Notice of proceeding of special trade passenger ship carrying pilgrims on voyage

289. (1) The master, owner or agent of any ship which is intended to proceed on a voyage as a special trade passenger ship carrying pilgrims from any port or place in Bangladesh shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrims by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer, hereinafter referred to as the Port Hajj Officer, at the port or place from which the ship is to commence the voyage and at each port or place in Bangladesh at which she is to touch for the purpose of receiving pilgrims on board, full particulars

as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to depart or proceed on a voyage from that port or place, the ports, if any, at which she is to touch, the destination of the ship, and the probable date of her arrival thereat.

(2) The master, owner or agent shall supply to the Port Hajj Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) The master, owner or agent of a ship intending to carry pilgrims shall at such time, not being less than ten days preceding the date of departure or proceeding on voyage of the ship from any port or place in Bangladesh as may be prescribed, advertise at such port or place in the prescribed manner-

- (a) the destination of the ship,
- (b) the proposed date of departure or proceeding on voyage from that port or place which shall be the date communicated to the Port Hajj Officer under sub-section (1), and
- (c) the price of each class of passage ticket, which shall not be in excess of the price communicated to the Port Hajj Officer under sub-section (1).

(4) The master, owner or agent of a ship shall be punishable with a fine which may extend to twenty thousand Taka, if he-

- (a) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by, or under, this section required to supply, or supplies false particulars or information, or
- (b) advertises any ship for the conveyance of pilgrims or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for the conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section, or

- (c) advertises a date of departure or proceeding on voyage from any port or place other than the date communicated to the Port Hajj Officer at that port or place under sub-section (1), or advertises a price for passage tickets at that port or place in excess of the price so communicated, or
- (d) offers to convey pilgrims by any ship from any port or place in Bangladesh or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having advertised as required by sub-section (3), the matters specified in that sub-section, or
- (e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Port Hajj Officer under sub-section (1).

Compensation
for delay in
departing or
proceeding on
voyage

290. (1) If a ship fails to depart or proceed on voyage from any port or place on the date advertised under sub-section (3) of section 289, the master, owner or agent shall be liable to pay as compensation to each pilgrim who has paid his passage-money on or before that date the sum of fifty Taka for each completed day during which the departure or proceeding on voyage of the ship is delayed after that date:

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, the burden of proving which shall lie on the master, owner or agent:

Provided further that, where compensation has been paid or has become payable to any pilgrim in respect of delay in the departure or proceeding on voyage of the ship from any port or place and the departure or proceeding on voyage of the ship from any other port or place is thereafter delayed, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure as is referred to in sub-section (1), the master, owner or agent shall be bound forthwith to inform the Port Hajj Officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised date of departure or proceeding on voyage.

(3) Any sum payable to the pilgrims as compensation under sub-section (1) shall be paid to the Port Hajj Officer at the port or place at which the delay occurs by the master, owner or agent on receipt by him of a notice from that Officer specifying the sum payable; and the Port Hajj Officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention:

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided:

Provided further that if, for any reason, the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority as is referred to in sub-section (3) of section 287.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Port Hajj Officer notice of his objection, together with a statement of the grounds thereof, and the Port Hajj Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (3), or refer the objection for decision to a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed; and the decision of the Magistrate on such reference shall be final.

(5) If the Magistrate decides on a reference under sub-section (4) that any sum held in deposit is not payable as compensation under sub-section (1), such sum shall be refunded to the master, owner or agent, as the case may be.

(6) On the failure of any ship carrying pilgrims to depart or proceed on a voyage from any port or place on the date advertised under sub-section (3) of section 289, the Port Hajj Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port-clearance to ships thereat, and such officer shall refuse port-clearance to the ship until the master, owner or agent produces to him a certificate of the Port Hajj Officer that all sums payable by way of compensation under this section up to the day on which the ship is to depart or proceed on voyage have been paid.

(7) Nothing in this section or in section 289 shall apply to any advertisement made before the time prescribed under sub-section (3) of section 289, and intended to give the public information of the approximate date of the departure or proceeding on voyage of a ship carrying pilgrims, where such advertisement clearly states that the date so advertised is approximate only and that the correct proposed date will be advertised later.

Substitution of ships

291. Notwithstanding anything contained in section 289 or 290, where any ship which has been advertised under sub-section (3) of section 289, for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of departure or proceeding on voyage, the owner or agent may, with the permission in writing of the Government, substitute for it any other ship which is capable of carrying not less than the same number of each class, and where the ship is substituted with such permission, the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

Sanitary taxes payable by the Master

292. The amount of the sanitary taxes imposed in respect of the pilgrims by any lawful authority at the ports visited by a ship shall be paid by the master thereof.

293. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter.

Power to make rules

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

- (a) the basic scale on which, and the manner in which, food and water are to be supplied to pilgrims, and the quality of such food and water;
- (b) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the basic scale;
- (c) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency;
- (d) the form of the statements to be furnished by the master under sections 267 and 268 and the particulars to be entered therein;
- (e) the appointment of Medical Officers and other attendants in cases where they are required by this Chapter to be carried;
- (f) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;
- (g) the manner in which deposits shall be made for the purposes of section 284, and any matter in respect of which provision is, in the opinion of the Government, necessary or expedient for the purpose of giving effect to the provisions of that section;
- (h) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon;
- (i) the refund of deposits and passage-money under section 286 and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund;

- (j) the period after which unclaimed passage-money and deposits liable to be refunded shall vest in the Government and the purposes to which sums so vested shall be applied;
- (k) the manner in which the proposed date of departure or proceeding on voyage shall be advertised under section 289, and manner in which payment shall be made under section 290 to pilgrims and to the Port Hajj Officer; and the procedure to be followed by masters, owners or agents and by Port Hajj Officers and Magistrates in proceedings under that section;
- (l) the local limits within which, and the time and mode at and in which, pilgrims shall be received on board or disembarked at any port or place appointed under this Chapter in that behalf.

(3) If the master or a Medical Officer, if any, of a ship carrying pilgrims, without reasonable cause, the burden of proving which shall lie upon him, contravenes, or omits or neglects to comply with, any rule under this Chapter, he shall, for each offence, be punishable with a fine which may extend to twenty thousand Taka.

Compliance
with
International
Health
Regulations

294. The Special Trade Passenger Ships shall comply with the International Health Regulations (1969) having regard to the circumstances and the nature of the voyage within the meaning of the said Health Regulations.

PART VI

SAFETY

CHAPTER 21

CONSTRUCTION OF SHIPS AND SAFETY EQUIPMENTS, ETC.

Countries to
which the
Safety and
Load-Line
Convention
apply

295. (1) Where the Government is satisfied-

- (a) that the Government of any country has accepted or denounced the Safety Convention or the Load-Line Convention, or
- (b) that the Safety Convention or the Load-Line Convention extends or has ceased to extend to any territory,

it may, by notification in the *official Gazette*, make a declaration to that effect.

(2) Any declaration made in any form whatsoever to the effect mentioned in sub-section (1) and in force immediately before the commencement of this Ordinance shall be deemed to have been made under that sub-section.

296. (1) The Government may, by notification in the *official Gazette*, make rules prescribing the requirements to be complied with in respect of the hull, equipment and machinery of Bangladesh passenger ships.

Construction of passenger ships

(2) The rules made under sub-section (1) shall include such requirements as appear to the Government necessary to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of passenger ships except so far as those provisions are implemented by the rules for life saving and fire appliances, the radio rules, the rules for direction finders, muster rules, pilot ladder rules or the Collision Regulations.

(3) The powers under this section shall be in addition and without prejudice to the powers conferred by any other provisions to prescribe the requirements which the passenger ships may be required to comply with.

297. (1) Every sea-going Bangladesh ship, not being a passenger ship, shall be constructed in accordance with such specifications, and shall be surveyed to such extent, in such manner and at such intervals, as may be prescribed.

Construction of cargo ships

(2) The provisions of this section shall apply, in the same manner as they apply to a Bangladesh ship, to every other ship while she is within any port or place in Bangladesh, unless there is produced in respect of such ship-

- (a) a valid Safety Convention Certificate equivalent to a Cargo Ship Safety Construction Certificate; or
- (b) two valid Safety Convention Certificates, one of which is equivalent to a Qualified Cargo Ship Safety Construction Certificate and the other to a corresponding Exemption Certificate.

Power to make rules with respect to the construction and survey of cargo ships, etc.

298. (1) The Government may, by notification in the *official Gazette*, make rules prescribing the requirements for the hull, equipment and machinery of ships to which section 297 applies, and the requirements of survey thereof.

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

- (a) the extent of surveys and the manner in which and the intervals at which surveys are to be made;
- (b) the requirements as to construction, machinery and equipment;
- (c) the form and manner in which declarations of surveys are to be issued and transmitted and the particulars which are to be stated therein;
- (d) the fees that may be charged for surveys made under these rules; and
- (e) such other matters as may be necessary for carrying out the purposes of section 297.

Rules as to life-saving and fire appliances, etc.

299. (1) The Government may, by notification in the *official Gazette*, make rules prescribing the life-saving appliances and fire appliances to be carried by every Bangladesh ship going to sea.

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

- (a) the arranging of ships into classes, having regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried;
- (b) the number, description, mode of construction of the boats, life-rafts, line-throwing appliances, life-jackets, life-buoy and buoyant apparatus to be carried by ships according to the classes in which the ships are arranged;

- (c) the equipment to be carried by any such boats and rafts and the method to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
- (d) the provision in ships of a proper supply of lights and smoke signals inextinguishable in water and fitted for attachment to life-buoys;
- (e) the position and means of securing the boats, life-rafts, life-jackets, life-buoys and buoyant apparatus;
- (f) the marking of boats, life-rafts and buoyant apparatus so as to show their dimensions and the number of person authorised to be carried on them;
- (g) the manning of life-boats and the qualifications and certificates of life-boatmen;
- (h) the provision to be made for mustering the persons on board and for embarking them in the boats, including provisions for the lighting of, and the means of ingress to and egress from, different parts of the ship;
- (i) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;
- (j) the assignment of specific duties to each member of the crew in case of emergency;
- (k) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;
- (l) the provision in ships of plans and other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks 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 periodical examination and maintenance of any appliances or equipment required by any rules made under this Ordinance to be carried by ships;
- (q) the manner in which a notice given under sub-section (2) of section 300 shall be communicated to the Collector of Customs; and
- (r) the charging of fees for the grant of the certificate referred to in sub-section (3) of section 300, the amount of such fees, and the manner in which they shall be recoverable.

Inspection of life-saving appliances, etc.

300. (1) A Surveyor may, at any reasonable time, inspect any ship to which the provisions of sections 296, 298 and 299, apply for the purpose of seeing that the ship complies with the requirements of the rules as to life-saving appliances and fire appliances.

(2) If the Surveyor finds that the ship fails to comply with the aforementioned requirements, he shall give to the master or owner notice in writing pointing out in what respect the ship fails to comply with them and what in his opinion is required to be done for compliance with them.

(3) Every notice so given shall be communicated in the prescribed manner to the Collector of Customs of any port or place at which the ship may seek to obtain port-clearance, and the ship shall be detained until a certificate signed by the Surveyor to the effect that the ship complies with the requirements of the rules as to life-saving appliances and fire appliances is produced.

Control of water-tight openings

301. The Government may, by notification in the *official Gazette*, make rules in respect of ships for which a Passenger Ship Safety Certificate is required by Part V to regulate all or any of the following matters, namely:-

- (a) the closing and keeping closed of openings in ships' hulls and in water-tight bulkheads;
- (b) the securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid;

- (c) the operation of mechanisms of contrivances for closing any such openings as aforesaid and drills in connection with the operation thereof;
- (d) the exhibition of plans and other information relating to the boundaries of water-tight compartments, the openings therein, the means of closing such openings and the arrangements for correcting any list due to flooding; and
- (e) the entries to be made in the official log-book or other record to be kept of any of the matters aforesaid.

302. (1) There shall be carried on board every Bangladesh ship whose keel was not laid before the first day of May, 1955, such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship, and, in the case of a passenger ship, also in maintaining sufficient stability to enable the ship to withstand damage.

Stability
information and
damage control

(2) The aforesaid information shall be in such form as may be approved by the Government and shall be based on the determination of the ship's stability by means of an inclining test of the ship:

Provided that the Government may allow the information to be based on a similar determination of the stability of a sister ship:

Provided further that in the case of a ship specifically designed for the carriage of liquids or ore in bulk, or, of any class of such ships, the Government may allow the inclining test to be dispensed with if it is satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.

(3) Whenever the accuracy of the information provided under sub-section (1) is materially affected by alterations made to the ship, such information shall be replaced by fresh information of the nature specified in that sub-section; and, in any such case, the Government may require a fresh inclining test of the ship.

(4) When any information under this section is provided for any ship, the owner shall send, for approval, two copies thereof to such officer as may be authorised by the Government in this behalf who shall, after endorsing them, send a copy to the owner and retain the other for his record.

(5) If any such ship proceeds or attempts to proceed to sea without having on board such information as aforesaid, the owner or the master of the ship shall be punishable with fine which may extend to five thousand Taka.

CHAPTER 22

RADIO INSTALLATION AND RADIO SERVICE

Requirements of
radio-telegraph
and
radio-telephone
apparatus

303. (1) Every sea-going Bangladesh passenger ship of whatever tonnage and every other Bangladesh ship of sixteen hundred tons gross or upwards shall be provided with a radio-telegraph apparatus, and every Bangladesh ship of three hundred tons gross or upwards but under sixteen hundred tons gross shall be provided with either a radio-telegraph apparatus or a radio-telephone apparatus:

Provided that the Government may, by notification in the *official Gazette*, exempt from the operation of this section any ship or class of ships, if it is of opinion that, having regard to the nature of the voyages on which the ship or ships are engaged, or other circumstances of the case, the provision of a radio-telegraph apparatus or a radio-telephone apparatus, as the case may be, is unnecessary or unreasonable.

(2) The master or owner of any such ship in respect of which the provisions of sub-section (1) are not complied with shall be punishable with fine which may extend to twenty thousand Taka.

Requirements as
to radio
direction-finding
apparatus

304. (1) Every Bangladesh ship of sixteen hundred tons gross and upwards shall be provided with a radio direction-finding apparatus:

Provided that the Government may exempt from the operation of this section any ship of less than three thousand

five hundred tons gross, not being a passenger ship, if it is of opinion that, having regard to the nature of the voyages on which the ship is engaged, the provision of a radio direction-finding apparatus is unnecessary or unreasonable.

(2) The master or owner of any such ship in respect of which the provisions of sub-section (1) are not complied with shall be punishable with fine which may extend to twenty thousand Taka.

305. (1) Every ship compulsorily equipped under the provisions of section 303 with radio installation shall maintain in the radio room a radio log in which shall be entered such particulars relating to the operation of the radio installation and the maintenance of the radio service as may be prescribed.

Radio log

(2) The provisions of section 381 shall apply to the radio log kept under sub-section (1) as if it were an official log-book.

306. (1) A Radio Inspector may inspect any ship for the purpose of seeing that she is properly provided with radio installation and certificated Radio Officers in conformity with this Chapter, and for this purpose may go on board any ship at all reasonable times and do all things necessary for such inspection and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for the purposes of the provisions of this Chapter relating to radio installation and radio service, including the production of any certificate granted under this Part in respect of the installation and of the certificates of the Radio Officers on the ship:

Inspection, etc.

Provided that if a valid Safety Convention Certificate is produced in respect of any ship such Certificate shall be accepted unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that Certificate.

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

(3) Every notice given under sub-section (2) shall be communicated, in the prescribed manner, to the Collector of Customs of any port or place at which the ship may seek to obtain port-clearance; and the Collector of Customs to whom a notice is so communicated shall order that the ship be detained until a certificate under the hand of a Radio Inspector is produced to the effect that the ship is properly provided with radio installation and certificated Radio Officers in conformity with this Chapter.

(4) The provisions of this section shall apply in relation to such portable radio apparatus as boats or life-rafts may be required to carry by rules made under section 299 as they apply in relation to radio installation of a ship.

Application of Chapter to foreign ships

307. The provisions of this Chapter shall apply to ships other than Bangladesh ships while such ships are in any port or place in Bangladesh in the same manner as they apply to Bangladesh ships.

Power to make rules

308. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter.

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

- (a) the nature of the radio installation to be provided and of the radio service to be maintained, the form of the radio log and the particulars to be entered therein, and the number, grades and qualifications of certificated Radio Officers to be carried;
- (b) the requirements for such portable radio apparatus as boats and life-rafts may be required to carry by the rules made under section 299;
- (c) the manner in which a notice given under sub-section (2) of section 306 shall be communicated to the Collector of Customs;
- (d) the charging of fees for the grant of the certificate referred to in sub-section (3) of section 306, the amount of such fees and the manner in which they shall be recoverable.

CHAPTER 23

SAFETY CONVENTION CERTIFICATES

309. (1) Upon the receipt of a declaration of survey granted under Part V in respect of a passenger ship for which a Passenger Ship Safety Certificate is required by that Part, the Government shall, if it is satisfied-

Qualified
Passenger Ship
Safety
Certificates

- (a) that the ship complies fully with the requirements of the rules made under section 296 and with the provisions of this Ordinance and the rules made under sections 299 and 308 applicable to such ship and is properly provided with lights, shapes and means of making fog signals required by the Collision Regulations, cause Passenger Ship Safety Certificate to be prepared under section 247 in respect of the ship, or
- (b) that there is in force in respect of the ship an Exemption Certificate granted under section 313 and that the ship complies with all the requirements of clause (a) other than those from which the ship is exempt under that Certificate, cause a Qualified Passenger Ship Safety Certificate to be prepared in respect of the ship, and the same to be delivered to the owner or master of the ship through the Principal Officer or such other officer as the Government may appoint in this behalf.

(2) The Passenger Ship Safety Certificate shall be in the form to be prescribed under section 259 and shall state that the ship complies with the requirements of the Safety Convention.

(3) The Qualified Passenger Ship Safety Certificate shall be in the prescribed form and shall state in what respects the ship complies with the requirements of the Safety convention.

310. (1) If the Government is satisfied in respect of Bangladesh ship other than a passenger ship that the ship complies with the requirements of the rules made under section 299 applicable to such ship, and that the ship is properly provided with lights, shapes and means of making fog signals required by the Collision Regulations, the Government shall, on an application by the owner or master of the ship, cause to be issued-

Cargo Ship
Safety
Equipment
Certificates and
Qualified Cargo
Ship Safety
Equipment
Certificates

- (a) if the ship complies fully with the aforesaid requirements, a Cargo Ship Safety Equipment Certificate; and

- (b) if there is in force in respect of the ship an Exemption Certificate granted under section 313 and if the ship complies with all the aforesaid requirements other than those from which the ship is exempt under that Certificate and is properly provided with lights, shapes and means of making fog signals required by the Collision Regulations, a Qualified Cargo Ship Safety Equipment Certificate.

(2) The Cargo Ship Safety Equipment Certificate shall be in the prescribed form and shall state that the ship complies with all the requirements of the Safety Convention as to equipment and that she is provided with lights and means of making fog signals as required by the Collision Regulations.

(3) The Qualified Cargo Ship Safety Equipment Certificate shall be in the prescribed form and shall state in what respects the ship complies with the requirements of the Safety Convention as to equipment and that the ship is provided with lights, shapes and means of making fog signals required by the Collision Regulations.

Cargo Ship
Safety
Radio-telegraphy
Certificates, etc.

311. (1) If the Government is satisfied in respect of a Bangladesh ship, other than a passenger ship, which is required by the provisions of section 303 to be provided with radio installation and which is intended to ply on voyages from or to any port or place in Bangladesh to or from any port or place outside Bangladesh that the ship complies with all the provisions as to radio installation and radio service applicable to such ship under Chapter 22, the Government shall, on an application by the owner or master of the ship, cause to be issued through the Principal Officer or such other officer as it may appoint in this behalf-

- (a) if the ship is provided with radio-telegraph equipment, a Cargo Ship Safety Radio-telegraphy Certificate;
- (b) if the ship is provided with radio-telephone equipment, a Cargo Ship Safety Radio-telephony Certificate; or
- (c) if there is in force in respect of the ship referred to in clause (a), an Exemption Certificate granted under section 313 and if the ship complies with all the aforesaid requirements other than those from which the ship is exempt under that Certificate, a Qualified Cargo Ship Safety Radio-telegraphy Certificate.

(2) The Cargo Ship Safety Radio-telegraphy Certificate shall be in the prescribed form and shall state that the ship complies with such of the requirements of the Safety Convention as to radio-telegraphy and radio direction-finding equipment as are applicable to the ship.

(3) The Cargo Ship Safety Radio-telephony Certificate shall be in the prescribed form and shall state that the ship complies with the requirements of the Safety Convention as to radio-telephone equipment and radio service.

(4) The Qualified Cargo Ship Safety Radio-telegraphy Certificate shall be in the prescribed form and shall state in what respect the ship complies with requirements of the Safety Convention as to radio installation.

312. (1) If the Government or a person authorised by it in this behalf is satisfied, on receipt of a declaration survey in respect of a Bangladesh ship to which section 297 applies that the ship complies with all the provisions of the rules made under section 298 and applicable to such ship and to such voyages as she is to be engaged on, the Government or such person shall, on the application of the owner, cause to be issued in respect of the ship-

Cargo Ship
Safety
Construction
Certificates

- (a) if the ship is of not less than five hundred tons gross, a Cargo Ship Safety Construction Certificate, and in any other case, a certificate showing that she complies with the said rules; or
- (b) if there is in force in respect of the ship an Exemption Certificate granted under section 313 and the ship complies with the aforesaid requirements other than those from which the ship is exempt under that Certificate, a Qualified Cargo Ship Safety Construction Certificate.

(2) The Cargo Ship Safety Construction Certificate shall be in the prescribed form and shall state that the ship complies with such of the requirements of the Safety Convention as to hull, equipment and machinery as are applicable to the ship.

(3) The Qualified Cargo Ship Safety Construction Certificate shall be in the prescribed form and shall state in what respects the ship complies with the requirements of the safety Convention as to hull, equipment and machinery.

Exemption
Certificates

313. The Principal Officer or an officer authorised by the Government in this behalf shall, on an application by the owner or master of any Bangladesh ship in regard to which the Government has made an order of exemption under the proviso to sub-section (1) of section 303 or under the proviso to sub-section (1) of section 304 or which is exempt from any of the provisions of the rules made under sections 296, 298, 299 or 308 issue in the prescribed form an Exemption Certificate in respect of such ship.

Duration of
Certificates

314. (1) A Passenger Ship Safety Certificate, a Cargo Ship Safety Radio-telegraphy Certificate, a Cargo Ship Safety Radio-telephony Certificate or an Exemption Certificate stating that a ship is wholly exempt from the provision of the Safety Convention relating to radio installation shall be in force for one year, and a Cargo Ship Safety Equipment Certificate shall be in force for two years, and a Cargo Ship Safety Construction Certificate shall be in force for five years, from the date of issue, or for such shorter period as may be specified in the Certificate:

Provided that the Government may, by notification in the *official Gazette*, authorise the issue of a Cargo Ship Safety Construction Certificate to remain in force for a period not exceeding six years.

(2) Notwithstanding anything contained in sub-section (1), no Certificate shall remain in force after notice is given by the authority issuing the certificate to the owner or master of the ship in respect of which it has been issued that, that authority has cancelled or suspended the Certificate.

(3) An Exemption Certificate issued in respect of a ship other than a certificate stating that the ship is wholly exempt from the provisions of the Safety Convention relating to radio installation, shall be in force for the same period as the Qualified Passenger Ship Safety Certificate, the Qualified Cargo

Ship Safety Equipment Certificate or the Qualified Cargo Ship Safety Radio-telegraphy Certificate or the Qualified Cargo Ship Safety Construction Certificate issued in respect of the ship.

(4) The Government, or any person authorised by it in this behalf, may grant an extension of any Certificate issued under this Chapter in respect of a Bangladesh ship for a period not exceeding one month from the date on which the Certificate would, but for such extension, have expired, or, if the ship is absent from Bangladesh on that date, for a period not exceeding five months from that date.

(5) Without prejudice to the powers of extension conferred by sub-section (4), where a Cargo Ship Safety Construction Certificate is in force in respect of a ship and the Certificate was issued for a period shorter than five years, the Government or any person authorised by it for the purpose may, if satisfied on receipt of a declaration of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it was previously extended under this sub-section, the longest period for which it could have been issued in pursuance of a notification under the proviso to sub-section (1).

315. If the ship, in respect of which a Passenger Ship Safety Certificate is in force, or a Special Trade Passenger Ship Certificate and Special Trade Passenger Ship Space Certificate together with a Passenger Ship Safety Certificate are in force, has on board in the course of a particular voyage a total number of persons which is less than the number for which life-saving appliances on the ship provide and less than the number stated in the Special Trade Passenger Ship Space Certificate, the owner or master of the ship may obtain from the authority who issued the certificate a memorandum to be attached to the Special Trade Passenger Ship Certificate or the Passenger Ship Safety Certificate stating the total number of persons carried on the ship on that voyage and the modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the relevant certificate.

Modification of
Passenger Ship
Safety
Certificates in
respect of life-
saving
appliances

Acceptance of
Certificates
issued outside
Bangladesh

316. (1) For the purpose of the provisions of this Ordinance, the expression “a valid Safety Convention Certificate” means a Certificate or Certificates complying with such of the rules made under sub-section (4) as are applicable in the circumstances.

(2) Where there is produced in respect of any ship other than a Bangladesh ship a valid Convention Certificate, such Certificate shall, subject to the rules referred to in sub-section (4), be accepted as having the same force as the corresponding Certificate issued in respect of a Bangladesh ship.

(3) Where a valid Safety Convention Certificate is produced in respect of a passenger ship other than a Bangladesh ship and there is attached to the Certificate a memorandum which-

- (a) has been issued by or under the authority of the Government of the country to which the ship 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 certificates with respect to life-saving appliances, the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

(4) With a view to determining the validity in Bangladesh of certificates purporting to have been issued in accordance with the Safety Convention in respect of ships other than Bangladesh ships, the Government shall make such rules as appear to it to be necessary.

Issue of
Certificates to
ships of foreign
countries

317. The Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate Safety Convention Certificate to be issued in respect of a ship of that country if it is satisfied in like manner as in the case of a Bangladesh ship that such Certificate can properly be issued, and, where a Certificate is issued at such a request, it shall contain a statement that it has been issued at such request.

318. (1) The Government may request the Government of a country to which the Safety Convention applies to issue in respect of a Bangladesh ship any Certificate, the issue of which is authorised under this Chapter, and a Certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for purposes of this Ordinance as if it had been issued by the Government.

Issue by foreign Governments of Certificates of Bangladesh ships

(2) Where the Government requests the Government of a country to issue any such certificate as aforesaid, and that Government is willing to issue, in pursuance of that request, an appropriate Qualified Certificate, but is not willing to issue the corresponding Exemption Certificate, the Government may issue that Exemption Certificate.

319. (1) No Bangladesh passenger ship shall proceed to sea, except on voyages between ports or places situated within Bangladesh, unless there is in force in respect of the ship either-

Prohibition on proceeding to sea without certificates

- (a) a Passenger Ship Safety Certificate issued under section 309, or
- (b) a Qualified Passenger Ship Safety Certificate issued under that section and Exemption Certificate issued under section 313,

being a certificate or certificates which by the terms thereof is or are 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.

(2) No sea-going Bangladesh ship of five hundred tons gross or upwards other than a passenger ship shall proceed to sea, except on voyages between ports or places situated within Bangladesh, unless there is in force in respect of the ship-

- (a) such certificate or certificates as would be required in her case by the provisions of sub-section (1) if she were a passenger ship, or
- (b) such certificates as are required in her case by the provisions of sections 310, 311, 312 and 313,

being a certificate or certificates which by the terms thereof is or are 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.

(3) No sea-going ship as aforesaid, being of less than five hundred but not less than three hundred tons gross, shall proceed to sea, except on voyages between ports or places situated within Bangladesh, unless there are in force in respect of the ship such certificates as are required in her case by the provisions of sections 311 and 313, being certificates which by the terms thereof, are 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.

(4) No Bangladesh ship shall proceed on any voyage between ports or places situated within Bangladesh unless there is in force in respect of the ship such certificate or certificates as may be prescribed being a certificate or certificates which by the terms thereof is or are 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.

(5) The master of every ship to which this section applies shall produce, to the Collector of Customs from whom a port-clearance for the ship is sought, the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and port-clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

(6) If any ship to which this section applies proceeds or attempts to proceed to sea in contravention of any of the foregoing provisions of this section, the master or owner shall, without prejudice to any other liability under this Ordinance, for each offence, be punishable, in the case of a passenger ship, with fine which may extend to twenty thousand Taka and, in the case of any other ship, with fine which may extend to fifteen thousand Taka.

(7) Where an Exemption Certificate issued under section 313 in respect of any ship to which this section applies specifies any conditions on which the Certificate is issued and any of those conditions is contravened, the master or owner of the ship shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

320. The Government may, by order in writing, authorise any person to perform all or any of the functions assigned to it by sections 309, 310, 311, 312 and 317 in respect of any ship or class of ships.

Government may authorise persons to perform certain functions

321. (1) The master of every ship other than a Bangladesh ship, being a passenger ship or being any other ship of five hundred tons gross or upwards, belonging to a country to which the Safety Convention applies, shall produce a valid Safety Convention Certificate to the Collector of Customs from whom a port-clearance for the ship is sought in respect of a voyage from a port or place in Bangladesh to a port or place outside Bangladesh, and port-clearance shall not be granted and the ship may be detained until such a certificate is so produced.

Production of certificates by ships other than Bangladesh ships

(2) Where any such ship, other than a passenger ship, as is referred to in sub-section (1), is of less than five hundred but not less than three hundred tons gross, the master shall be required to produce only a valid Safety Convention Certificate equivalent to those issued under section 311 and the other provisions of sub-section (1) shall apply accordingly.

(3) Where a valid Safety Convention Certificate is produced in respect of a ship other than a Bangladesh ship, the ship shall not be deemed to be unsafe for the purposes of section 359, by reason of the defective condition of her hull, equipment or machinery unless it appears that the ship cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

322. The provisions of sections 251, 252, 253 and 254, shall apply to and in relation to every certificate issued under sections 309, 310, 311, 312 and 313 and under sub-section (4) of section 319, in the same manner as they apply to and in relation to a Passenger Ship Safety Certificate.

Application of sections 251, 252, 253 and 254 to Certificates

323. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter.

Power of Government to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe the form of the Certificates referred to in sections 309, 310, 311, 312 and 313 and in sub-section (4) of section 319, the charging of fees for the grant of such Certificates, the amount of such fees, and the manner in which they shall be recoverable.

CHAPTER 24**LOAD LINES**

Power to
exempt ships
from provisions
of this Chapter

324. (1) The Government may, on such conditions, not inconsistent with the rules made under section 325, as it may think fit, exempt from the provisions of this Chapter-

- (a) any ship plying between the near neighbouring ports of two or more countries if the Government and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply such provisions to ships so plying;
- (b) any ship plying between near neighbouring ports of the same country if the Government is satisfied as aforesaid;
- (c) any Bangladesh ship of less than 150 tons gross, the keel of which was laid before the commencement of this Chapter, or any Bangladesh ship less than 79 feet (24 metres) in length, the keel of which was laid after such commencement;
- (d) any Bangladesh ship, other than a ship referred to in clause (c), which normally plies between ports within Bangladesh but which is in exceptional circumstances, required to undertake a single voyage between a port in Bangladesh and a port outside Bangladesh; and
- (e) any Bangladesh ship of not less than 150 tons gross, the keel of which was laid before the commencement of this Chapter, or any Bangladesh ship not less than 79 feet (24 metres) in length, the keel of which was laid after such commencement, if in the opinion of the Government, that ship embodies features such that, if such ship had to comply with all the requirements of this Chapter relating to load lines and the rules made under section 325, the development of these features might be seriously impeded.

(2) Notwithstanding anything contained in this section or in the rules made under section 325, the Government may, by order, exempt a ship under 80 tons register engaged solely in the coasting trade or class of any such ships as may be specified in the order from the provision of this Chapter.

325. (1) The Government may, by notification in the *official Gazette*, make rules, hereinafter referred to as the “Load Line Rules”, to carry out the purposes of this Chapter.

Power to make rules as to load lines

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

- (a) survey and periodical inspection of ships;
- (b) determination of free-board deck in relation to any ship and marking on each side of the ship to indicate the position of that deck by a mark, hereinafter referred to as a “deck line”;
- (c) determination in relation to a ship, by reference to her deck line and free-boards, of the position in which each side of the ship is to be marked with lines, hereinafter referred to as “load lines”, to indicate the maximum depths to which the ship may be loaded in various circumstances;
- (d) conditions, hereinafter referred to as the “conditions of assignment”, on which load lines may be assigned;
- (e) requirements, relevant to the assignment of free-boards, in respect of hull, superstructures, fittings and appliances;
- (f) particulars to be recorded in relation to matters referred to in clauses (d) and (e) and the manner in which they shall be recorded;
- (g) the circumstances in which a ship, during the continuance of the assignment of free-boards assigned to her, if any, shall be deemed, for the purposes of the provisions of this Chapter, to comply with the conditions of assignment;
- (h) the form in which an International Load Line Certificate, a Bangladesh Load Line Certificate, an International Load Line Exemption Certificate and a Bangladesh Load Line Exemption Certificate shall be issued;
- (i) the period during which an exemption certificate shall remain in force;
- (j) the extension and termination of the period for which an exemption certificate was issued;

- (k) the manner in which endorsements relating to periodical inspection of a ship or to an extension of the period for which an exemption certificate was issued shall be made on the certificate; and
- (l) the fees payable for the issue or extension of a certificate referred to in clause (h) and the rates according to which the fees payable in respect of the surveys and periodical inspections shall be calculated.

(3) The load line rules shall also include provisions requiring such information relating to the stability of any ship to which free-boards are assigned thereunder, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the rules to be provided for the guidance of the master of the ship in such manner as may be so determined.

Marking of deck
line and load
lines

326. (1) No Bangladesh ship, being a ship, the keel of which is laid after the commencement of this Chapter and not being exempt from the provisions of this Chapter, shall proceed to sea unless-

- (a) she has been surveyed in accordance with the Load Line Rules;
- (b) she complies with the conditions of assignment; and
- (c) she is marked with a deck line and with load lines in accordance with the Load Line Rules.

(2) No Bangladesh ship, being a ship of which the keel was laid before the commencement of this Chapter and not being exempt from the provisions of this Chapter, shall proceed to sea unless-

- (a) she has been surveyed in accordance with the Load Line Rules or the corresponding rules in force immediately before such commencement;
- (b) she complies with the conditions of assignment or with such lesser related requirements as were applicable to her immediately before such commencement; and
- (c) she is marked with a deck line and with load lines in accordance with the Load Line Rules and the deck line and load lines have been marked in the position required by the rules in force immediately before such commencement.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section the master and owner thereof shall, for each offence, be punishable with fine which may extend to twenty thousand Taka.

(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 shall be deemed to be unsafe for the purpose of section 353.

327. A Bangladesh ship, not being exempt from the provisions of this Chapter, shall not be so loaded that 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, is submerged if the ship is in salt water and has no list or would be submerged if the ship were in salt water and has no list.

Submersion of load lines

328. Where a Bangladesh passenger ship has been marked with sub-division load line, that is to say, load lines indicating the depth to which the ship may be loaded having regard to the extent to which the ship is sub-divided and the space for the time being allotted to passengers, and when the appropriate sub-division load line, that is to say, the sub-division load line appropriate to the space for the time being allotted to passengers on the ship, is lower than the load line indicating the maximum depth to which this ship is for the time being entitled under the provisions of this Chapter to be loaded, the ship shall not be so loaded that the appropriate sub-division load line on each side of the ship is submerged if the ship is in salt water and has no list or would be submerged if the ship were in salt water and had no list.

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

329. (1) If any ship is loaded in contravention of section 327 or section 328, the owner and master thereof shall, for each offence, be punishable with fine which may extend to twenty thousand Taka, and with such additional fine not exceeding the amount mentioned in sub-section (2), 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:

Penalty for submersion of load lines and sub-division load lines

Provided that it shall be a defence for a person charged with an offence under this sub-section to prove that the contravention was due solely to deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(2) The aforesaid additional fine shall not exceed ten thousand Taka for every inch or fraction of an inch by which the appropriate load line or sub-division load line, as the case may be, on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had no list.

(3) Without prejudice to any proceedings under the foregoing provisions of this section, any ship which is loaded in contravention of section 327 or section 328 may be detained until the ship ceases to be so loaded.

Offences in
relation to
marks

330. If-

- (a) the owner or master of a Bangladesh ship which has been marked in accordance with the foregoing provisions of this Chapter, fails, without reasonable cause, to keep the ship so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Chapter, except with the authority of a person entitled under the Load Line Rules to authorise the alteration of the mark, or except for the purpose of escaping capture by an enemy or by a foreign man of war in the exercise of some belligerent right;

he shall, for each offence, be punishable with fine which may extend to fifteen thousand Taka.

Inspection of
ships with
respect to load
lines

331. Any Surveyor authorised in this behalf by the Government may inspect any Bangladesh ship for the purpose of seeing that the provisions of this Chapter have been complied with, and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper

inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship.

CHAPTER 25

LOAD LINE CERTIFICATES

332. (1) Where a Bangladesh ship has been surveyed and marked in accordance with the provisions of Chapter 24 and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee-

Issue and duration, etc., of Load Line Certificates

- (a) in the case of a ship of not less than 150 tons gross, the keel of which was laid before the commencement of this Chapter, and in the case of a ship not less than 79 feet (24 metres) in length, the keel of which was laid after such commencement, a certificate to be called an International Load Line Certificate; and
- (b) in the case of any other ship, a certificate to be called a Bangladesh Load Line Certificate:

Provided that no certificate under this sub-section shall be issued in respect of a ship before the expiry of the similar certificate last issued.

(2) Every such certificate shall be issued either by the Government or by a person authorised by it in this behalf and shall be in such form and manner as may be prescribed by the Load Line Rules.

(3) The Government may request the Government of a country to which the Load Line Convention applies, to issue a certificate in the form of an International Load Line Certificate under that Convention in respect of a Bangladesh 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 Chapter as if it had been issued by the Government.

(4) Where in respect of a ship, a certificate issued under sub-section (3) and for the time being in force is produced-

- (a) the ship shall be deemed to have been surveyed in accordance with the Load Line Rules; and
- (b) if lines are marked on the ship corresponding in number and description to the deck line and load lines as required by the Load Line Rules and the position of those lines so marked corresponds with the position of the deck line and load lines specified in the certificate, the ship shall be deemed to be marked as required by those Rules.

(5) Every Load Line Certificate issued by or under the authority of the Government shall, unless it is extended in accordance with the provisions of sub-section (6), expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

(6) 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 extended by the Government or by a person authorised by it to issue a Load Line Certificate, for such period not exceeding five months as the Government or the person extending the certificate thinks fit:

Provided that no certificate in respect of a ship shall be extended if there have been such alterations in the structure, equipment, arrangements, materials or scantlings as affect the free-board originally assigned to the ship.

(7) An extension of a certificate under sub-section (6) shall be endorsed on the certificate in the manner provided by the Load Line Rules.

(8) The Government may cancel any such Load Line Certificate in force in respect of a ship if it has reason to believe that-

- (a) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load lines; or

- (b) the fittings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as they were when the certificate was issued; or
- (c) the markings of the deck line and load line on the ship have not been properly maintained.

(9) The owner of a ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be periodically inspected in such manner and at such intervals as may be prescribed by the Load Line Rules; and, if the ship is not caused to be so inspected, the Government shall cancel the certificate.

(10) Where any such Load Line Certificate has expired or been cancelled, the Government may require the owner or master of the ship to which the certificate relates, to deliver up the certificate to such authority as it directs, and the ship may be detained until such requirement has been complied with, and if the owner or master fails, without reasonable cause, to comply with such requirement, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

(11) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed.

333. (1) Where an exemption is granted under section 324 to a Bangladesh ship, there shall be issued to the owner of the ship, on payment of the prescribed fee,-

Issue and duration, etc., of Exemption Certificates

- (a) in the case of a ship referred to in clause (a), (d) or (e) of sub-section (1) of that section, an exemption certificate to be called an International Load Line Exemption Certificate, and
- (b) in the case of any other ship, an exemption certificate to be called a Bangladesh Load Line Exemption Certificate.

(2) An exemption certificate under sub-section (1) shall be issued by the Government or an officer authorised by it in this behalf in such form and manner and shall remain in force for such period as may be prescribed.

(3) The owner of a ship in respect of which any such exemption certificate is issued shall, so long as the certificate remains in force, cause the ship to be periodically inspected in such manner and at such intervals as may be prescribed.

(4) The Government shall cancel any such exemption certificate if the ship in respect of which it was issued is not caused to be inspected as required by sub-section (3) or if any of the conditions on which the exemption was granted under section 324 has been violated or if the exemption has ceased to be in force.

(5) Where any such exemption certificate in respect of a ship has ceased to be in force or been cancelled or been withdrawn, the owner or master shall deliver up the certificate to the Government; and the ship may be detained until the certificate is so delivered up.

(6) The owner or master of a ship, if he fails, without reasonable cause, to deliver up the exemption certificate as required by sub-section (5), shall be punishable with fine which may extend to five thousand Taka.

Ships not to
proceed to sea
without
Certificate

334. (1) No Bangladesh ship, except a ship exempt by an order under sub-section (2) of section 324 from the provisions of this Chapter, shall proceed to sea unless there is in force in respect of the ship a Load Line Certificate issued under section 332 or a Load Line Exemption Certificate issued under section 333.

(2) The master of every Bangladesh ship shall produce to the Collector of Customs, from whom a port-clearance for the ship is sought, the certificate which is required by sub-section (1) to be in force when the ship proceeds to sea, and port-clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

(3) The master of any ship which proceeds or attempts to proceed to sea in contravention of this section shall, for each offence, be punishable with fine which may extend to twenty thousand Taka.

335. (1) When a Load Line Certificate has been issued in pursuance of the foregoing provisions of this Chapter in respect of a Bangladesh ship, other than a home-trade ship, not exceeding two hundred tons gross-

Publication of
Load Line
Certificate and
particulars
relating to
depth of
loading

- (a) the owner of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and 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 or cause to be entered therein the particulars as to the position of the deck line and load lines specified in the certificate.

(2) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall-

- (a) enter or cause to be entered in the official log-book such particulars relating to the depth to which the ship is for the time being loaded, as the Government may, by rules made in this behalf, prescribe; and
- (b) cause a notice, in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the Government may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (b).

(3) If the owner or master of any ship fails to comply with the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Insertion of particulars as to load lines in agreements with crew

336. (1) Before an agreement with the crew of any ship, in respect of which a Load Line Certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load lines specified in the certificate, and if he fails to do so, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

(2) In the case of a ship required by this Ordinance to engage its crew before a Shipping Master, the Shipping Master shall not proceed with the engagement of 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 agreement with the crew.

CHAPTER 26

SPECIAL PROVISIONS RELATING TO LOAD LINES AS TO FOREIGN SHIPS

Load Line Certificates of ships other than Bangladesh ships

337. (1) The Government may, at the request of a country to which the Load Line Convention applies, issue an International Load Line Certificate in respect of a ship of that country if it is satisfied in like manner as in the case of a Bangladesh ship that it can properly issue the certificate, and where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

(2) An International Load Line Certificate issued in respect of any ship other than a Bangladesh ship by the Government of the country to which the ship belongs shall, subject to the rules referred to in sub-section (3), have the same effect in Bangladesh as a Load Line Certificate issued in respect of a Bangladesh ship under this Part.

(3) With a view to determining the validity in Bangladesh of certificate purporting to have been issued in accordance with the Load Line Convention in respect of ships other than Bangladesh ships, the Government shall make such rules as appear to it to be necessary.

338. (1) Any Surveyor authorised in this behalf by the Government may, at any reasonable time, go on board any ship other than a Bangladesh ship belonging to a country to which the Load Line Convention applies, being a ship of 150 tons gross or upwards, the keel of which was laid before the commencement of this Chapter, or a ship not less than 79 feet (24 metres) in length, the keel of which was laid after such commencement, when such ship is within any port or place in Bangladesh, for the purpose of demanding the production of any Load Line Certificate for the time being in force in respect of the ship.

Inspection and control of foreign ships belonging to countries to which the Load Line Convention applies

(2) If a valid International Load Line Certificate is produced to the Surveyor on such demand, the Surveyor's powers of inspecting the ship with respect to load line 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;
- (d) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crews' quarters have been maintained on the ship in as effective a condition as they were when the certificate was issued.

(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 the provisions of section 359 shall apply.

(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 clauses (c) and (d) of sub-section (2) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 359:

Provided that where the ship has been detained, the Government shall order the ship to be released as soon as it is satisfied that the ship is fit to proceed to sea without danger to human life.

(6) If a valid International Load Line 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 relating to load lines have been complied with, as if the ship were a Bangladesh 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.

Certificate of ship other than Bangladesh ship to be produced to Customs

339. The master of every ship other than a Bangladesh ship belonging to a country to which the Load Line Convention applies, being a ship of 150 tons gross or upwards, the keel of which was laid before the commencement of this Chapter, or a ship not less than 79 feet (24 metres) in length, the keel of which was laid after such commencement, shall produce to the Collector of Customs from whom a port-clearance for the ship is sought-

- (a) in a case where port-clearance is sought in respect of a voyage to a port or place outside Bangladesh, a valid International Load Line Certificate or a valid International Load Line Exemption Certificate; and
- (b) in a case where port-clearance is sought in respect of any other voyage, a valid International Load Line Certificate or International Load Line Exemption Certificate or a valid Bangladesh Load Line Certificate or Bangladesh Load Line Exemption Certificate and port-clearance shall not be granted and the ship may be detained until the certificate is so produced.

Marking of deck line and load lines of ships other than Bangladesh ships

340. The provisions of section 326 shall apply to ships other than Bangladesh ships proceeding or attempting to proceed to sea from ports or places in Bangladesh as they apply to Bangladesh ships subject to the following modifications,

namely:-

- (a) the said section shall not apply if a valid International Load Line Certificate or a valid International Load Line Exemption Certificate is produced in respect of the ship, and
- (b) subject to the provisions of clause (a), a ship which does not comply with the conditions of assignment to the extent required in her case by section 326 shall be deemed to be unsafe for the purpose of section 359.

341. The provisions of sections 327, 328 and 329 shall apply to ships other than Bangladesh ships while they are within any port or place in Bangladesh as they apply to Bangladesh ships subject to the following modifications, namely:-

Submersion of load line of ships other than Bangladesh ships

- (a) no ship belonging to a country to which the Load Line Convention applies being a ship of 150 tons gross or upwards, the keel of which was laid before the commencement of this Chapter or a ship not less than 79 feet (24 metres) in length, the keel of which was laid after such commencement, shall be detained, and no proceedings shall be taken against the owner or master thereof, by virtue of this said section except after an inspection by a Surveyor as provided by section 338; and
- (b) the expression “the appropriate load line”, in relation to any ship other than a Bangladesh ship, shall mean-
 - (i) in the case of a ship in respect of which there is produced on such an inspection as aforesaid a valid International Load Line 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;
 - (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.

342. The provisions of section 331 shall apply, in the same manner as they apply to Bangladesh ships, to all other ships while they are within any port or place in Bangladesh except ships to which the provisions of section 338 apply.

Inspection of ships belonging to non-Convention countries

Provisions relating to Load Line Certificates of ships other than Bangladesh ships

343. (1) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of Bangladesh Load Line Certificates shall apply to ships other than Bangladesh ships as they apply to Bangladesh ships subject to the following modifications, namely:-

- (a) any such certificate may be issued in respect of any such ship as in respect of a Bangladesh ship provided that any such certificate issued in respect of a ship of one hundred and fifty tons gross or upwards belonging to a country to which the Load Line Convention applies shall only be valid so long as the ship is not plying on voyages from or to any port or place in Bangladesh or from any port or place outside Bangladesh, and shall be endorsed with a statement to that effect and shall be cancelled by the Government if it has reason to believe that the ship is so plying; and
- (b) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the Government.

(2) If the Government is satisfied-

- (a) that provision has been made for the fixing, marking and certifying of load lines by the law in force in any country outside Bangladesh with respect to ships or any class or description of ship of that country and has also been so made or has been agreed to be so made for recognising Bangladesh Load Line Certificates as having the same effect in ports or places of that country as certificates issued under the said provisions; and
- (b) that the said provision for the fixing, marking and certifying of load lines is based on the same principles as the corresponding provisions of this Part relating to load lines and is equally effective,

it may, by notification in the *official Gazette*, direct that Load Line Certificates issued in pursuance of the said provision or in respect of ships of that class or description of ships of that country, shall have the same effect for the purpose of this Part as Bangladesh Load Line Certificates:

Provided that such direction shall not apply to ships of one hundred and fifty tons gross or upwards belonging to countries

to which the Load Line Convention applies, if such ships are engaged in plying on voyages from or to any port or place in Bangladesh to or from any port or place outside Bangladesh.

344. The master of every ship belonging to a country to which the Load Line Convention does not apply shall produce to the Collector of Customs from whom a port-clearance for the ship is sought, either a Bangladesh Load Line Certificate or a certificate having effect under this Ordinance as such a certificate, being a certificate for the time being in force in respect of the ship, and port-clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

Certificates to be produced to Customs by ships belonging to non-Convention countries

CHAPTER 27

CARRIAGE OF SPECIAL CARGOES

345. (1) The Government may, by notification in the *official Gazette*, make rules hereinafter referred to as “the deck cargo rules” prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a Bangladesh ship or any other ship within any port or place in Bangladesh; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

Power to make rules as to deck cargo

(2) If the load line rules provide, either generally or in particular cases or classes of cases, for assigning special free boards to ships which are to have effect only where a cargo of timber is so carried, then, without prejudice to the generality of the preceding sub-section, the deck cargo rules may prescribe special requirements to be complied with in circumstances where any such special free board has effect.

(3) If any provision of the deck cargo rules are contravened-

- (a) in the case of a Bangladesh ship, or
- (b) in the case of any other ship while the ship is within any port or at any place in Bangladesh,

the master or owner of the ship shall be guilty of an offence and liable to a fine not exceeding ten thousand Taka.

(4) Where a person is charged with an offence under the last preceding sub-section, it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(5) For the purpose of securing compliance with the deck cargo rules, any Surveyor authorised in that behalf by the Government may inspect any ship which is carrying cargo in any uncovered space on her deck.

Tonnage of spaces occupied by deck cargo to be added to registered tonnage

346. (1) If any ship, either Bangladesh or foreign, other than a coasting ship or home-trade 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 registered tonnage, and not exempted by regulations under this Ordinance, timber, stores or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage, the tonnage of the space occupied by those goods at the time at which the goods become 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 include the goods.

(3) The tonnage of the space shall, for the purpose of this section, be ascertained by an officer of the Customs and when so ascertained shall be entered by him in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce that memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default, shall be liable to pay the same penalty as if he had failed to produce the said certificate or document.

Carriage of dangerous goods

347. (1) The Government may, by notification in the *official Gazette*, make rules for regulating, in the interests of safety, the carriage of dangerous goods in ships, or adopt, with or without modification, any rules, regulations or codes relating

to the carriage of such goods made by any other country or any international organisation and the provisions of the rules, regulations or codes so adopted shall have effect as if they were rules made under this sub-section.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the classification of such goods, the packing, marking and stowing of such goods or any class of such goods, and the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships.

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

(4) A Surveyor may inspect the ship for the purpose of ensuring that the rules made under this section are complied with.

(5) If any of the rules made under this section is not complied with in relation to any ship, the owner or master of the ship shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand Taka, or with both, and the ship shall be deemed for purposes of this Part to be an unsafe ship.

Explanation.- In this section, the expression “dangerous goods” means goods which by reason of the nature, quantity or mode of stowage are either singly or collectively liable to endanger the life or the health of person on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression “explosives” as defined in the Explosives Act, 1884 (IV of 1884), and any other goods which the Government may, by notification in the *official Gazette*, specify as dangerous goods, but shall not include any fog or distress signals or like equipment required to be carried by the ship under this Ordinance or the rules or regulations made thereunder.

348. (1) Where grain is loaded on board any Bangladesh ship or is loaded on board any ship within any port or place in Carriage of grain

Bangladesh, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions are not taken, the owner or the master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with grain shall be punishable with fine which may extend to five thousand Taka, and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(2) Where any ship which is loaded with grain outside Bangladesh without all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port or place in Bangladesh so laden, the owners or the master of the ship shall be punishable with fine which may extend to Taka ten thousand, and the ship shall be deemed for the purpose of this Part to be unsafe by reason of improper loading:

Provided that this sub-section shall not apply to a ship which would not have entered any such port or place but for stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

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

- (a) the draught of water and free-board of the said ship after the loading of the cargo was completed at the final port of loading; and
- (b) the following particulars of the grain carried, namely:-
 - (i) the kind of grain and 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.

(4) If the master fails to deliver the notice required by sub-section (3), or if in any such notice makes any statement that he knows it to be false in a material particular, or recklessly makes a statement that is false in a material particular, he shall be punishable with fine which may extend to five thousand Taka.

(5) A Surveyor or any other person authorised in this behalf by general or special order of the Government may, for securing the observance of the provisions of this section, inspect a ship carrying a cargo of grain and the mode in which such cargo is stowed therein.

(6) The Government may make rules prescribing in relation to loading of ships generally or of ships of any class the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression “necessary and reasonable precautions”.

(7) In this section, the expression “grain” includes wheat, maize, oats, rye, barley, rice, pulses and seeds and processed forms thereof whose behaviour is similar to that of grain in its natural state.

349. (1) The Government may make rules in relation to the loading of bulk cargoes, other than grain as defined in sub-section (7) of section 348 and oil in bulk, on any Bangladesh ship or in any ship within any port or place in Bangladesh.

Carriage of bulk cargoes other than grain, etc.

(2) The owner or master of a ship in respect of which the provisions of any of the rules made under sub-section (1) are contravened shall be punishable with fine which may extend to ten thousand Taka.

CHAPTER 28

UNSEAWORTHY AND UNSAFE SHIPS

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

Unseaworthy ships

Unseaworthy
ship not to be
sent to sea

351. (1) Every person who sends or attempts to send a Bangladesh ship to sea from any port or place in Bangladesh in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to 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, be punishable with imprisonment which may extend to two years, or with fine which may extend to forty thousand Taka, or with both.

(2) Every master of a Bangladesh ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances reasonable and justifiable, be punishable with imprisonment which may extend to two years, or with fine which may extend to forty thousand Taka, or with both.

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

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

Obligation of
owner to crew
with respect to
seaworthiness

352. (1) In every contract of service, express or implied, between the owner of a Bangladesh ship and the master or any seaman thereof, and in every contract of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

(2) For the purpose of seeing that the provisions of this section have been complied with, the Government may, either at the request of the owner or otherwise, arrange for a survey of the hull, equipment or machinery of any sea-going ship by a Surveyor.

353. (1) Where a Bangladesh ship in any port or place to which the Government may specially extend this section 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 under-manning or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows, namely:-

Power to detain unsafe ship and procedure for detention

- (a) the Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed;
- (b) a written statement of the grounds of such detention shall be forthwith served on the master of such ship;
- (c) when the Government orders that a ship be provisionally detained, it shall either refer the matter to the Court of Survey for the Port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving the report, may either order the ship to be released or, if in its 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, as the Government thinks necessary for the protection of human life;
- (d) before an 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 such service, the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained;

- (e) where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; if the Surveyor and assessor agree that the ship should be detained or released, the Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no right of appeal; if the Surveyor and assessor differ in their report, the Government may act as if the requisition had not been made, and the owner or master shall have a right of such appeal touching the report of the Surveyor as is hereinbefore provided in this section;
- (f) where a ship has been provisionally detained, the Government may, at any time, if it thinks fit expedient, refer the matter to the Court of Survey for the port where the ship is detained; and
- (g) the Government may, at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either with or without any conditions.

(2) A Principal Officer or any other person appointed by the Government for the purpose, in this Ordinance referred to as a Detaining Officer, shall have the same power as the Government has under this section of ordering that a ship be provisionally detained for the purpose of being surveyed, and of appointing a person to survey her; and, if he thinks that a ship so detained by him is not unsafe, a Detaining Officer may order her to be released.

(3) A Detaining Officer shall forthwith report to the Government any order made by him for the detention or release of a ship.

(4) A ship detained under this section shall not be released by reason of her ceasing to be a Bangladesh ship subsequent to her detention.

(5) A Detaining Officer may, for the purpose of this Part,-

- (a) go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipment and cargo on board thereof, and require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;
- (b) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, examine such persons, and, by a like summons, require returns in writing to any inquiries he thinks fit to make;
- (c) require and enforce the production of all books, papers or documents which he considers important; and
- (d) administer oaths, or, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

354. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner or the master, for the provisional detention of a ship, the Government 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.

Liability of Government for cost and damages to a ship wrongly detained

355. If a ship is finally detained under this Chapter, or if it appears that a ship provisionally detained was at the time of such detention unsafe or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event occurs, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship; and the ship shall not be released until such costs are paid.

Liability of ship-owner for costs when ship rightly detained

356. For the purposes of this Ordinance, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the Surveyor or any person appointed to represent the Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship:

Method of calculating costs of detention and survey

Provided that, 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 Government or the Detaining Officer frivolous or vexatious, such security shall not be required; and the Government or the Detaining Officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Chapter.

Power to require from complainant security for costs, etc.

357. When complaint is made to the Government or a Detaining Officer that a Bangladesh ship is unsafe, it shall be in the discretion of the Government or the Detaining Officer, as the case may be, to require the complainant to give security to the satisfaction of the Government or the Detaining Officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three, of the seaman belonging to the ship, and is not in the opinion of the Government or the Detaining Officer frivolous or vexatious, such security shall not be required; and the Government or the Detaining Officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Chapter.

Costs, etc., payable by Government to be recovered from complainant

358. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Application to ships other than Bangladesh ships of provisions as in detention

359. When a ship other than a Bangladesh ship is in a port in Bangladesh and is, whilst at that port, unsafe by reason of the defective condition of her hull, equipment or machinery, or by reason of over loading or improper loading or by reason of under-manning, the provisions of this Chapter with respect to detention of ships shall apply to that ship as if she were a Bangladesh ship, with the following modifications, namely:-

- (a) a copy of the order for the provisional detention of the ship shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;

- (b) the Consular Officer, at the request of the owner or master of the ship, may require that the person appointed by the Government 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 Government shall cause the ship to be detained or released accordingly; but, if they differ, the Government may act as if the requisition had not been made, and the owner and master shall have the like right of appeal to a Court of Survey touching the report of the Surveyor as is hereinbefore provided in the case of a Bangladesh ship; and
- (c) where the owner or master of the ship appeals to the Court of Survey, the Consular Officer, at the request of the owner or master, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a Bangladesh ship, would be appointed otherwise than by the Government.

360. Where any ship other than a Bangladesh Ship is detained under this Part in any case to which the provisions of section 359 do not apply, or where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Detention, etc., of foreign ships in cases to which section 359 does not apply

PART VII

NAVIGATION, COLLISIONS AND ACCIDENTS

CHAPTER 29

NAVIGATION

361. (1) No person on any Bangladesh 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.

Method of giving helm orders

(2) Any person who contravenes the provisions of this section shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Duty to report dangers to navigation

362. (1) The master of a Bangladesh ship on meeting with-

- (a) dangerous ice;
- (b) a dangerous derelict;
- (c) a tropical storm;
- (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of the ship;
- (e) winds of force 10 or above on the Beauford scale for which no storm warning has been received; or
- (f) any other direct danger to navigation;

shall send information accordingly by all means of communication at his disposal, and in accordance with such rules as the Government may make in this behalf to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

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

(2) If the master of a ship fails to comply with the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Speed to be moderate when in vicinity of ice

363. When ice is reported on or near his course, the master of every Bangladesh ship shall at night proceed at a moderate speed or alter his course so as to pass well clear of the danger zone.

Obligation to render assistance on receiving signal of distress

364. (1) The master of a Bangladesh ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress 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 from such obligation under the provisions of sub-section (3) or sub-section (4).

(2) Where the master of any ship in distress has requisitioned any Bangladesh 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 unless he is released from the obligation under the provisions of sub-section (4).

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

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

(5) If the master of any Bangladesh ship on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress 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 or, if there is no official log-book, cause other record to be kept of his reasons for not going to the assistance of those persons; and if he fails to do so he shall be punishable with fine which may extend to ten thousand Taka.

(6) The master of every Bangladesh ship for which an official log is required shall enter or cause to be entered in the official log-book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(7) Any master failing to comply with the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand Taka, or with both.

(8) The Government may, by notification in the *official Gazette*, make rules prescribing-

- (a) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated;
- (b) the signals which shall be signals of distress and of urgency, respectively;
- (c) the circumstances in which, and the purposes for which, any such signal is to be used, and the circumstances in which it is to be revoked; and
- (d) the speed at which any message sent by radio-telegraphy in connection with such signal is to be transmitted.

Ships to carry certain navigational instruments, etc.

365. (1) Every Bangladesh ship shall be provided with such navigational and meteorological instruments, equipment and publications as the Government may by rules prescribe, and such rules may also prescribe the manner in which such instruments and equipment shall be maintained.

(2) The Principal Officer or Surveyor may go on board any ship and inspect the instruments, equipment and publications maintained under sub-section (1) with a view to satisfying himself that the provisions of that sub-section have been duly complied with.

(3) If the Principal Officer or Surveyor is of the opinion that the requirements under sub-section (1) are not being complied with by any Bangladesh ship, he may detain the ship until such time as those requirements have been duly complied with.

Signalling lamps

366. (1) Every Bangladesh ship, being a ship of over one hundred and fifty tons gross, shall, when proceeding to sea from any port or place in Bangladesh, be provided with an efficient daylight signalling lamp of a type approved by the Government.

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master thereof shall, for each offence, be punishable with fine which may extend to five thousand Taka.

367. (1) Every Bangladesh Ship shall make meteorological observations at such intervals and record the same in such meteorological log as may be prescribed. Meteorological observations to be recorded, etc.

(2) Any Bangladesh ship or ships required by the Government to do so shall transmit meteorological reports at such times and to such authorities as may be appointed in this behalf.

(3) The master of a ship in respect of which the provisions of sub-section (1) or sub-section (2) are contravened shall be punishable with fine which may extend to five thousand Taka.

(4) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this section.

CHAPTER 30

COLLISIONS AND ACCIDENTS

368. (1) The Government may, by notification in the *official Gazette*, make regulations for the prevention of collisions at sea, and may thereby regulate the lights and shapes to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed by Bangladesh ships, and by sailing vessels and fishing vessels registered in Bangladesh. Collision Regulations

(2) The Collision Regulations, together with the provisions of sections 369 and 370, shall also be observed, while within Bangladesh Jurisdiction, by all ships other than Bangladesh ships and by all sailing vessels and fishing vessels not registered in Bangladesh, and, in any case arising in any Court in Bangladesh concerning matters arising within Bangladesh jurisdiction, such ships and vessels shall, for the purpose of application of the Collision Regulations and the said provisions, be treated as if they were Bangladesh ships, or sailing vessels or fishing vessels registered in Bangladesh, as the case may be.

369. (1) The owner or master of every ship and the owner, master or skipper of every sailing vessel or fishing vessel shall observe the Collision Regulations and shall not carry or exhibit any lights or shapes, or use any fog signals, other than those required by the said Regulations. Observance of Collision Regulations

(2) Any person who contravenes the provisions of sub-section (1) shall, for each offence, be punishable with fine which may extend to twenty thousand Taka.

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

Inspection of
lights and
shapes, etc.

370. (1) A Surveyor, or such other person as may be appointed by the Government in this behalf, may inspect any ship whether a Bangladesh ship or not, and any sailing vessel or fishing vessel whether registered in Bangladesh or not, for the purpose of seeing that the ship or vessel is properly provided with lights and shapes and the means of making for signals in conformity with the Collision Regulations, and, if the Surveyor or such other person finds that the ship or vessel is not so provided with, he shall give to the owner or to the master, or skipper, as the case may be, 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 prescribed manner to the Collector of Customs at any port or place from which such ship or vessel may seek to clear; and no Collector of Customs to whom such communication is made, shall grant such ship or vessel a port-clearance or allow her to proceed to sea without a certificate under the hand of a person appointed as aforesaid to the effect that the ship or vessel is properly provided with lights and shapes and with means of making fog signals in accordance with the said Regulations.

Saving for rules
of navigation in
harbour, etc.

371. Nothing in this Ordinance shall affect the operation of any rules concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any harbour, river or other inland navigation, made, whether before or after the commencement of this Ordinance, under any law for the time being in force.

372. (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-

Duty of master of ship to assist in case of collision

- (a) render to the other ship, her master, crew and passengers, if any, such assistance as may be practicable and may be necessary to save them from any danger caused by the collision and stay by the other ship until he has ascertained that she has 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 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 fails, without reasonable cause, to comply with this section, he shall, for each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka, or with both; and if he is a Certificated Officer, an inquiry into his conduct may be held, and his certificate may be suspended or cancelled.

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

Collision to be entered in official log

(2) If a master fails to comply with this section, he shall be punishable with fine which may extend to five thousand Taka.

374. [*Report to Government of accidents to ships.- Omitted by section 3 of the Bangladesh Merchant Shipping (Amendment) Act, 1988 (Act No. III of 1988).*]

375. (1) If the owner or agent of any Bangladesh ship has reason, owing to the non-appearance of the ship or to any other circumstances to apprehend that the ship has been wholly lost, he shall, within a reasonable time, send to the Government

Notice of loss of Bangladesh ship to be given

notice in writing of the loss and of the probable cause thereof stating the name of the ship, her official number, if any, and her port of registry.

(2) If the owner or agent fails, without reasonable cause, to comply with this section, he shall be punishable with fine which may extend to five thousand Taka.

Division of loss
in case of
collision

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

Provided that-

- (a) if having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- (b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed;
- (c) nothing in this section shall affect the liability of any person under any contract or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law or as affecting the right of any person to limit his liability in the manner provided by law.

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

Damages for
personal injury

377. (1) Whenever loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships concerned shall be joint and several.

(2) Nothing in this section shall be construed as depriving any person of any right of defence on which independently of this section, he might have relied in any action brought against him by the person injured or any person entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

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

Right of contribution

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

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

PART VIII

OFFICIAL LOGS

CHAPTER 31

OFFICIAL LOGS

379. (1) Except in the case of a coasting ship not exceeding 200 tons gross and a sailing vessel or fishing vessel, an official log in the prescribed form shall be kept in every Bangladesh ship.

Official logs to be kept and to be evidence

(2) The official log shall be kept distinct from the ordinary ship's log.

(3) Any entry required by this Ordinance in the 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.

(4) Every entry in the official log-book shall be signed by the master and by the senior mate available on board and also-

- (a) if it is an entry of illness, injury or death, by the surgeon or medical practitioner on board, if any;
- (b) if it is an entry of wages due to, or of the sale of the effects of a seaman or apprentice who dies, by some other member of the crew; and
- (c) if it is an entry of wages due to a seaman who enters service in the Bangladesh Navy, by the seaman or by the officer authorised to receive the seaman into that service.

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

Entries required to be made in official log-book

380. The master of every Bangladesh ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:-

- (1) every conviction by a Court or other authority of a member of his crew, and the punishment inflicted;
- (2) every offence committed by a member of his crew and, if the offence is one for which it is intended to prosecute or to enforce a forfeiture or to exact a fine, such statement concerning the reading over of that entry, and concerning the reply, if any, made to the charge as is by this Ordinance required;
- (3) every offence for which punishment is inflicted on board and the punishment inflicted;
- (4) a statement of the conduct, character and qualifications, and a report on the quality of work of each member of his crew, or a statement, with reasons, that he declines to give an opinion on those particulars;
- (5) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted, if any;

- (6) every case of death happening on board and the cause thereof;
- (7) every birth happening on board with the sex of the infant and the names of the parents;
- (8) every marriage taking place on board with the names and ages of the parties;
- (9) 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;
- (10) the wages due to any seaman or apprentice who dies, or otherwise ceases to be a member of the crew, during the voyage, and the gross amount of all deductions to be made therefrom;
- (11) the wages due to any seaman who enters service in Bangladesh Navy during the voyage and the gross amount of all deductions to be made therefrom;
- (12) the money or other property taken over of any seaman or apprentice who dies during the voyage and the sale of such effects, if any, indicating a statement of each article sold and of the sum received for it;
- (13) every disrating of seaman along with a statement of disrating and of the fact that a copy of the entry has been furnished to the seaman;
- (14) a statement of the effects left on board by a seaman who is left behind out of Bangladesh and the amount due to him on account of wages at the time he was left behind;
- (15) a record of examination of provisions and water and the result of such examination;
- (16) a record of inspection of crew accommodation and the result of such inspection;
- (17) every collision with any other ship and the circumstances under which the same occurred;

- (18) every fire or boiler explosion occurring on the ship and the circumstances under which the same occurred;
- (19) a statement of any damage sustained by the ship or cargo as a result of any fire, boiler explosion, perils of the seas or any other reason during the voyage;
- (20) a statement of the nature and amount of cargo jettisoned for the safety of the crew, passengers or the ship;
- (21) the time of closing and opening the hinged doors, portable plates, side scuttles, gangway, cargo and coaling ports and other openings which are required by any rules made under this Ordinance to be kept closed during navigation;
- (22) a record of all drills and inspections required by any rules made under this Ordinance with an explicit record of any defects disclosed; and, if boat-drill and fire-drill are not practised on board, the reasons why boat-drill and fire-drill were not practised as required by such rules;
- (23) the particulars as to the position of the deck line and load lines specified in the Load Line Certificate;
- (24) such particulars relating to the depth to which the ship is loaded before leaving any place for the purpose of proceeding to sea as may be required by any rules made under this Ordinance;
- (25) a statement, if any, stowaway is found on board;
- (26) the tonnage of the space, measured in accordance with any rules made under this Ordinance occupied by goods carried as deck cargo;
- (27) any order made by a Marine Board;
- (28) every signal of distress or message that a vessel, aircraft, or person is in distress at sea, received by the master;
- (29) any occasion when the master has been unable to go to the assistance of any vessel or aircraft or person in distress at sea together with his reasons for the inability;

(30) a list of documents delivered to him on taking command of the ship; and

(31) any other matter which may be prescribed for entry in the official log-book.

381. (1) If an official log-book is not kept in the manner required by this Ordinance, or if an entry required by this Ordinance to be made therein is not made at the time and in the manner required the master shall, if no other penalty is provided by this Ordinance, for each offence, be punishable with fine which may extend to five thousand Taka.

Offences in respect of official logs

(2) If any person makes or procures to be made or assists in making any entry in any official log-book 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 such arrival, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine which may extend to five thousand Taka.

382. (1) The master of every foreign-going ship for which an official log is required to be kept shall, within forty-eight hours after the ship's arrival at her final port of destination in Bangladesh or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the Shipping Master before whom the crew is discharged.

Delivery of official logs

(2) The master or owner of every home-trade ship, and of every coasting ship for which an official log is required to be kept shall, within twenty-one days of the thirtieth day of June and also of the thirty-first day of December every year, transmit or deliver to a Shipping Master in Bangladesh the official log-book for the next preceding half-year.

(3) If the master or owner of a ship fails, without reasonable cause, to comply with this section, he shall be punishable with fine which may extend to five thousand Taka.

Official log to be sent to Shipping Master in the case of transfer or loss of ship

383. (1) If, for any reason, the official log ceases to be required in respect of a ship, the master or owner of the ship shall, if the ship is then in Bangladesh, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the Shipping Master at the port or place where the crew was engaged, the official log-book, duly completed up to the time of the cessation.

(2) If a ship for which an official log is required to be kept is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the Shipping Master at the port or place where the crew was engaged the official log-book duly completed up to the time of the loss or abandonment.

(3) If the master or owner of the ship fails, without reasonable cause, to comply with the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Power to call for official logs

384. (1) The Government, or the Marine Board, or any Principal Officer, Surveyor, Shipping Master or Bangladesh Consular Officer may, by order in writing, at any time, call for the official log-book of a ship for the purpose of inspection of the entries made therein, and the master or owner of the ship shall, unless the official log-book has already been called under this section, produce the same at the time and place specified in the order.

(2) If the master or owner fails, without reasonable cause, to comply with an order made under sub-section (1), he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

Power to make rules

385. The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Part.

PART IX

FISHING AND SAILING VESSELS

CHAPTER 32

FISHING VESSELS

Application of Chapter

386. This Chapter applies to power driven sea-going fishing vessels only.

387. For the purpose of this Chapter, the tonnage of fishing vessels shall be such as may be ascertained, in accordance with the rules made for the ascertainment of tonnage under Part II.

Ascertainment
of tonnage

388. (1) Every fishing vessel to which this Chapter applies shall be registered in accordance with the provisions of this section.

Registration of
fishing vessels

(2) A fishing vessel registered at any time before the commencement of this Chapter at any port in Bangladesh under any law for the time being in force shall, for a period of six months from such commencement or for such further period as may be specified in this behalf by the Government, be deemed to be registered under this Chapter and be recognised as fishing vessel registered in Bangladesh and, if she is not registered under this Chapter within such period, shall be liable to be forfeited to the Government.

(3) The owner of every fishing vessel shall make an application in the prescribed form to the Registrar for the grant to him of a Certificate of Registry in respect of the vessel, and shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The Registrar may make such inquiry as he thinks fit with respect to the particulars contained in the application, and shall enter in a register, to be called the Fishing Vessels Register, the following particulars in respect of the vessel, namely:-

- (a) the name of the vessel, the place where she was built, and the port to which she belongs;
- (b) her tonnage ascertained as aforesaid;
- (c) type of engines;
- (d) the name, occupation and address of the owner;
- (e) the letter and number assigned to the vessel;
- (f) the mortgages, if any, effected by the owner in respect of the vessel;
- (g) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the Fishing Vessels Register under sub-section (4), the Registrar shall grant to the applicant a Certificate of Registry in the prescribed form on payment of a fee according to such scale as may be prescribed having regard to the tonnage of the vessel.

(6) A fishing vessel which is required to be registered under this Chapter but is not so registered shall be the Principal Officer, Surveyor or Collector of Customs until the Certificate of Registry is produced.

(7) The owner or master or skipper of every fishing vessel which is required to be registered under this Chapter but has not been so registered shall be liable to pay a fine which may extend to twenty thousand Taka.

Effect of
registration of
fishing vessels

389. (1) In all proceedings under this Ordinance against the owner or skipper of, or any person belonging to, any vessel entered in the Fishing Vessels Register, or for the recovery of damages for injury done by such vessel, the Register shall be conclusive evidence that the person entered therein at any date as owner of the vessel was at that date the owner thereof, and that the vessel is a Bangladesh sea-going fishing vessel.

(2) This section shall not prevent any proceedings being instituted against any person not so entered who is beneficially interested in the vessel nor shall it affect the rights of the owners among themselves if there be more than one owner, or the rights of any owner entered in the Register, against any person not so entered who is beneficially interested in the vessel.

(3) Save as aforesaid, entry in the Fishing Vessels Register shall not confer, take away, or affect any title to or interest in any such vessel.

Particulars
relating to
Fishing Vessels
to be painted

390. (1) The owner of a vessel registered under section 388 shall paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the vessel, the name by which the vessel has been registered, the letter and number assigned by the Registrar, and the port to which she belongs, and shall ensure that the vessel remains so painted.

(2) If the owner contravenes the provisions of sub-section (1), he shall be punishable with fine which may extend to five thousand Taka.

391. A change of name of a fishing vessel registered under section 388 shall not be effected except in accordance with the rules made for change of name under Part II, and when so effected, shall be entered in the Fishing Vessels Register.

Change of name

392. (1) No person shall transfer or acquire any fishing vessel registered under this Chapter or any interest therein without the previous approval in writing of the Government or an officer authorised by it in this behalf; and any transaction effected in contravention of this section shall be void.

Change of ownership

(2) Every change of ownership shall be reported, jointly by the registered owner and the new owner, to the Registrar in the prescribed form, and the Registrar shall make such inquiry as he thinks fit with respect to the change of ownership, and shall thereupon enter the name of the new owner in the Fishing Vessels Register and endorse the Certificate of Registry accordingly.

(3) Whoever contravenes any of the provisions of this section, shall, for each offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand Taka or with both.

393. (1) Every mortgage of a fishing vessel or of any interest therein effected after the commencement of this Chapter shall be registered with the Registrar.

Mortgages of fishing vessels

(2) Every mortgage of a fishing vessel or any interest therein effected before the commencement of this Chapter shall, if subsisting at such commencement, be registered with the Registrar within three months thereof unless it is earlier discharged.

(3) The Registrar shall enter every such mortgage in the Fishing Vessels Register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same fishing vessel or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have

priority according to the date on which each mortgage is registered with the Registrar and not according to the date of each mortgage itself:

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the commencement of this Chapter as between mortgages of the same vessel or interest therein effected before such commencement which are registered in accordance with the provisions of sub-section (2).

Registration of alterations

394. (1) When a fishing vessel is so altered as not to correspond with the particulars relating to her entered in the Certificate of Registry, the owner of such vessels shall make a report of such alteration to the Registrar of the port where the vessel is registered, and the Registrar shall either cause the alteration to be registered, or direct that the vessel be registered anew, in accordance with such rules as may be made in this behalf.

(2) If the owner fails to comply with the provisions of this section, he shall be punishable with fine which may extend to five thousand Taka.

Transfer of registry

395. The registry of a fishing vessel may be transferred from one port to another in Bangladesh on the application of the owner of the vessel in accordance with such rules as may be made in this behalf.

Entries in Register relating to vessel lost, etc.

396. (1) If a fishing vessel is lost, destroyed or rendered permanently unfit for service, the owner of such vessel shall, with the least practicable delay, report the fact to the Registrar of the port where the vessel is registered, and also forward to him along with the report the Certificate of Registry in respect of the vessel; and thereupon the Registrar shall make an entry to that effect in the Fishing Vessels Register and upon the making of such entry, the entries in the Register relating to the registration of the vessel shall be considered as closed, except so far as they relate to any unsatisfied mortgage entered therein.

(2) If the owner fails to comply with any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to four thousand Taka.

397. (1) No fishing vessel shall proceed to sea unless a Certificate of Inspection applicable to the intended voyage is in force. Certificate of inspection

(2) A Certificate of Inspection in respect of a fishing vessel shall specify-

- (a) the name and tonnage of the vessel;
- (b) the name, occupation and address of the owner;
- (c) the name of the skipper and engine driver;
- (d) the type of engine;
- (e) the minimum number of crew that may be carried;
- (f) the limits within which the vessel may be used for purposes of fishing;
- (g) the particulars of life-saving and fire appliances, and lights and shapes, and the means of making fog and distress signals carried on board,

and shall contain a statement to the effect that her hull, machinery and equipment are in good condition.

(3) A Certificate of Inspection shall be in force for one year or for such shorter period as may be specified therein.

(4) The Collector of Customs shall not grant a port-clearance until after the production of a Certificate of Inspection in respect of the vessel.

(5) Where at any time after the issue of a Certificate of Inspection in respect of a fishing vessel, the Government has reason to believe that the vessel is not fit to proceed to sea, or that the vessel has undergone material alteration or has met with an accident, it may, after giving the owner an opportunity of making a representation, cancel such certificate.

(6) A fresh Certificate of Inspection shall not be issued until the requirements of section 394 have been satisfied, nor unless the vessel has been inspected and the authority making the inspection is satisfied that the vessel is fit to proceed to sea.

Fraudulent use of Certificate of Registry or Certificate of Inspection, etc.

398. (1) No person shall use or attempt to use the Certificate of Registry or the Certificate of Inspection granted in respect of a fishing vessel for any purpose other than the lawful navigation of the vessel.

(2) No person shall use or attempt to use for the navigation of a fishing vessel a certificate of Registry or a Certificate of Inspection not granted in respect of that vessel.

(3) No person who has in his possession or under his control the Certificate of Registry or the Certificate of Inspection of a fishing vessel shall refuse or fail, without reasonable cause, to deliver such certificate on demand to the owner of the vessel.

(4) If any person contravenes any of the provisions of this section, he shall, for each offence, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand Taka or with both.

Life-saving appliances, etc.

399. Every fishing vessel shall be provided with such life-saving and fire appliances as may be required by rules made for the provisions of such appliances under Part VI, and shall be equipped with lights and shapes and the means of making fog signals in accordance with the Collision Regulations.

Skippers and engine drivers to be duly certificated

400. (1) No fishing vessel shall proceed to sea unless the skipper and the engine driver are duly certificated by the Government, nor shall any person not so certificated accept any such employment in respect of any such vessel:

Provided that a fishing vessel not less than seventy five gross registered tons shall carry at least one skipper, one second-hand and two engine drivers who are duly certificated by the Government.

(2) The Government may make rules providing for-

- (a) the manner in which and the conditions upon which such certificates shall be granted;
- (b) the suspension and cancellation of such certificate;
- (c) the inquiries and investigation into the conduct of the holders of such certificates.

(3) Any person who,-

- (a) having been engaged as a skipper, second-hand or engine driver goes to sea as such without being duly certificated, or
- (b) employs a person in contravention of sub-section (1), without ascertaining that the person is duly certificated,

shall, for each offence, be punishable with fine which may extend to five thousand Taka.

401. (1) Every owner or skipper of a sea-going fishing vessel shall maintain or cause to be maintained in the prescribed form a statement of the crew of the vessel.

Statement relating to crew to be maintained

(2) Every change of crew of the vessel shall be entered in the statement maintained under sub-section (1).

(3) A copy of such statement and of every change therein shall be communicated as soon as possible to the Registrar of the port where the vessel is registered.

(4) If the owner or skipper fails to comply with any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand Taka.

402. The Government may, by notification in the *official Gazette*, exempt any type of fishing vessel from the requirements of any of the provisions of this Chapter.

Power to exempt

403. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter,

Power to make rules

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

- (a) the form in which applications for Certificates of Registry shall be made and the particulars which such applications should contain;
- (b) the form in which Certificates of Registry and Certificates of Inspection may be issued;

- (c) the issue of duplicate copies of Certificates of Registry and Certificates of Inspection when the originals are destroyed, lost, mislaid, mutilated or defaced;
- (d) the manner in which, and the time within which, reports for the registration of alterations in the Certificates of Registry shall be made, the endorsements of the particulars of alteration on such certificates, the grant of provisional certificates where vessels are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registration of alterations;
- (e) the form and manner in which applications for the transfer of registry from one port to another in Bangladesh shall be made, and the procedure to be followed by the Registrar in connection with such transfer;
- (f) the form and manner in which change of ownership is to be reported, and the procedure to be followed in connection with such change;
- (g) the construction, equipment, machinery and other matters relating to the safety of the vessels;
- (h) the fees which may be levied for the issue or re-issue of Certificates of Registry or Certificates of Inspection and for any other purposes of this Chapter; and
- (i) any other matter which is to be or may be prescribed under this Chapter.

CHAPTER 33

SAILING VESSELS

Application of Chapter

404. Notwithstanding anything contrary contained in any other provisions of this Ordinance, this Chapter applies to every sea-going sailing vessel owned by a citizen of Bangladesh or a company which fulfils the conditions set out in sub-clause (b) of clause (3) of section 2.

Decision on question whether a vessel is a sailing vessel

405. Any question as to whether or not a vessel is a sailing vessel for the purpose of this Chapter shall be referred to the Government whose decision thereon shall be final.

406. (1) Every sailing vessel shall be registered in accordance with the provisions of this section.

Certificate of
Registry

(2) A sailing vessel registered at any time before the commencement of this Chapter at any port in Bangladesh under any law for the time being in force shall, for period of six months from such commencement or for such further period as may be specified in this behalf by the Government, be deemed to be registered under this Chapter and be recognised as a sailing vessel registered in Bangladesh and, if she is not registered under this Chapter within such period, shall be liable to be forfeited to the Government.

(3) The owner of every sailing vessel shall make an application in the prescribed form to the Registrar for the grant to him of a Certificate of Registry in respect of the vessel, and shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) Registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register, to be called the Sailing Vessels Register, the following particulars in respect of the vessel, namely:-

- (a) the name of the sailing vessel, place where she was built, and the port to which she belongs;
- (b) the rig, type and tonnage of the vessel;
- (c) the name, occupation and address of the owner;
- (d) the number assigned to the vessel;
- (e) the mortgages, if any, effected by the owner in respect of the vessel; and
- (f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the Sailing Vessels Register under sub-section (4), the Registrar shall grant to the applicant a Certificate of Registry in the prescribed form on payment of a fee according to such scale as may be prescribed having regard to the tonnage of the vessel.

(6) A sailing vessel which is required to be registered under this Chapter but is not so registered shall be detained by the Principal Officer, Surveyor or Collector of Customs until the Certificate of Registry is produced.

(7) The owner or master or skipper of every sailing vessel which is required to be registered under this Chapter, but has not been so registered shall be liable to pay a fine which may extend to ten thousand Taka.

Change of name
of sailing vessel

407. A change of name of a sailing vessel registered under section 406 shall not be effected except in accordance with the rules made under this Chapter, and when so effected, shall be entered in the Sailing Vessels Register.

Prevention of
overloading or
overcrowding

408. (1) The Government may, by notification in the *official Gazette*, make rules to regulate the carriage of cargo or passengers in sailing vessels and the protection of life and property on board such vessels.

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

- (a) the assignment of free-board to sailing vessels;
- (b) the marking of such free-board on such vessels and the maintenance of such markings;
- (c) the survey of the space allotted to passengers on board such vessels; and
- (d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to proceed to sea without free-board markings or any sailing vessel which has been so loaded as to submerge such markings may be detained by the Principal Officer, Surveyor or Collector of Customs, until free-board markings are made in accordance with the rules made under sub-section (1) or the vessel is so loaded that such markings are not submerged.

(4) Nothing in this section relating to survey of spaces allotted to passengers or the scale or type of accommodation to be provided for each passenger shall apply to any sailing vessel

which has been surveyed under Part V, nor shall anything in this section relating to free-board apply to any sailing vessel in respect of which a load line has been assigned under Part VI.

(5) If any sailing vessel arrives at a port or place in Bangladesh with a number of passengers in excess of the number which the vessel is certified to carry, or arrives at such port or place with the free-board markings submerged, the owner and skipper shall, for each offence, be punishable with fine which may extend to ten thousand Taka:

Provided that the fine shall not exceed an amount calculated at the rate of five hundred Taka for every passenger in excess as aforesaid or one thousand Taka for every inch by which the free-board markings are submerged.

409. (1) No sailing vessel shall proceed to sea unless a Certificate of Inspection applicable to the intended voyage is in force.

Certificate of
Inspection

(2) A Certificate of Inspection in respect of a sailing vessel shall specify-

- (a) the name and tonnage of the vessel;
- (b) the names of the owner and skipper of the vessel;
- (c) the minimum number of the crew and the maximum number of passengers that may be carried;
- (d) the limits within which the vessel may be used for the purposes of trading;
- (e) the particulars of the free-board assigned to the vessel;
- (f) the particulars of life-saving and fire appliances, and lights and shapes, and the means of making fog and distress signals carried on board,

and shall contain a statement to the effect that her hull, rigging and equipment, including auxiliary machinery, if any, are in good condition.

(3) A Certificate of Inspection shall be in force for one year or for such shorter period as may be specified therein:

Provided that the Government, or any person authorised by it in this behalf, may grant an extension of any certificate issued under this Chapter in respect of a Bangladesh ship of a period not exceeding one month from the date on which the Certificate would but for such extension, have expired, or if the ship is absent from Bangladesh on that date, for a period not exceeding five months from that date.

(4) The Collector of Customs shall not grant a port-clearance until after the production of a Certificate of Inspection in respect of the vessel.

(5) Where at any time after the issue of a Certificate of Inspection in respect of a sailing vessel, the Government has reason to believe that the vessel is not fit to ply or proceed to sea, it may, after giving the owner an opportunity of making a representation, cancel such certificate.

(6) Where at any time after the issue of a Certificate of Inspection a sailing vessel has undergone material alteration or has met with an accident or, where the Certificate of Inspection of a sailing vessel has been cancelled under sub-section (5) and an application is made for the re-issue of such certificate or for the grant of a fresh certificate, the Registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to proceed to sea or that her hull, rigging and equipment, including auxiliary machinery, if any, are defective, such certificate shall not be re-issued or issued until the vessel is, in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of such authority.

Inquiry into
jettisoning of
cargo

410. (1) If any owner or skipper of a sailing vessel in the course of her voyage has jettisoned or claims to have jettisoned the whole or any part of the cargo of the vessel on account of abnormal weather conditions or for any other reason, he shall immediately after arrival of the vessel at any port or place in Bangladesh give notice of such jettisoning to the Principal Officer at such port, or, where there is no such officer, to such other officer as may be appointed by the Government in this behalf; and such notice shall contain full particulars of the cargo jettisoned and the circumstances under which such jettisoning took place.

(2) When any such officer receives notice under sub-section (1) or has reason to believe that the cargo of any sailing vessel in his port has been jettisoned, he shall forthwith report in writing to the Government the information he has received and may proceed to make an inquiry into the matter.

411. (1) A sailing vessel not owned by a citizen of Bangladesh or a company which fulfils the condition set out in sub-clause (b) of clause (3) of section 2 shall not engage in the coasting trade of Bangladesh without the previous permission in writing of the Government.

Foreign sailing vessels not to engage in coasting trade without permission

(2) The Government may, when granting such permission, impose such terms and conditions as it thinks fit and may require the owner or other person in charge of the vessel to deposit such amount as it thinks necessary as security for the due fulfilment of such terms and conditions.

(3) The Collector of Customs shall not grant a port-clearance to a sailing vessel not registered under this Chapter which engages or attempts to engage in the coasting trade of Bangladesh until after the production by the owner or person in charge of the vessel of the permission under sub-section (1).

412. (1) The provisions of sub-section (5) of section 408 shall apply to any sailing vessel registered in any country other than Bangladesh which arrives in a port or place in Bangladesh in an overloaded condition.

Detention, etc. of overloaded foreign sailing vessels

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section-

- (a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or
- (b) in case where no such certificate has been issued in respect of the vessel, where the actual free-board of the vessel is less than the free-board which would have been assigned to her had she been registered under this Chapter.

(3) Any such vessel which is in an overloaded condition and is about to proceed from a port or place in Bangladesh may be detained until she ceases to be in an overloaded condition.

Application to sailing vessels of certain provisions relating to ships and fishing vessels

413. (1) The provisions of sections 389, 390, 392, 393, 394, 395, 396, 398, 399, 401 and 402 shall, *mutatis mutandis*, apply to sailing vessels as they apply to fishing vessels.

(2) The Government may, by notification in the *official Gazette*, direct that any other provisions of this Ordinance which do not apply to sailing vessels shall also apply to such vessels, subject to such conditions, exceptions and modifications, if any, as may be specified in the notification.

Power to make rules respecting sailing vessels

414. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may, besides providing for all or any of the matters specified in section 403, in so far as such matters relate to sailing vessels, provide for all or any of the following matters, namely:-

- (a) the manner in which the tonnage of sailing vessels shall be ascertained;
- (b) the manner in which free-board is to be assigned to sailing vessels and the free-board markings are to be made;
- (c) the form and manner in which applications for the change of name of sailing vessels shall be made and the procedure to be followed by the Registrar in connection with such change;
- (d) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading;
- (e) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers; and
- (f) any other matter which is to be or may be prescribed under this Chapter.

PART X
INQUIRIES AND INVESTIGATIONS
CHAPTER 34
SHIPPING CASUALTIES, EXPLOSIONS AND FIRES

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

Shipping casualties and report thereof

- (a) on or near the coasts of Bangladesh, including the territorial waters thereof, any ship is lost, abandoned, stranded or materially damaged;
- (b) any ship causes loss or material damage to any other ship on or near such coasts, or within such waters;
- (c) any loss of life ensues by reason of any casualty happening to or on board any ship on or near those coasts, or within such waters;
- (d) in any place, any such loss, abandonment, stranding, material damage or casualty as above-mentioned occurs to or on board any Bangladesh ship, and any competent witness thereof is found in Bangladesh;
- (e) any Bangladesh ship is lost or is supposed to have been lost, and any evidence is obtainable in Bangladesh as to the circumstances under which she proceeded to sea or was last heard of.

(2) In the cases mentioned in clause (a), (b) and (c) of sub-section (1), the master or other person in charge of the ship, or where two or more ships are concerned, in charge of each ship at the time of shipping casualty, shall give immediate notice of the shipping casualty to the officer appointed in this behalf by the Government; and if such officer is not the Principal Officer himself, he shall inform the nearest Principal Officer of the shipping casualty.

(3) In the case mentioned in clause (d) of sub-section (1), where the master of the ship concerned, or, except in the case of a loss, where the ship concerned proceeds to any place in Bangladesh from the place where the shipping casualty has occurred, the master of the ship shall, on arriving in Bangladesh, give immediate notice of the shipping casualty to the nearest Principal Officer.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be punishable with fine which may extend to twenty thousand Taka.

(5) Whenever any Principal Officer receives, by notice as aforesaid or otherwise, credible information that a shipping casualty has occurred, he shall forthwith communicate in writing the information to the Government.

Preliminary
inquiry into
shipping
casualties

416. (1) On receipt of information that a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty, and if the Government so directs, by general or special order, such inquiry shall be held-

- (a) where the shipping casualty occurs on or near the coast of Bangladesh, including the territorial waters thereof, by the Principal Officer at or near the place where the casualty occurs, or a Surveyor authorised by him; or
- (b) where the shipping casualty occurs elsewhere, by the Principal Officer to whom the casualty has been reported or a Surveyor authorised by him.

(2) Notwithstanding the provisions of sub-section (1), the Government may appoint any person to hold a preliminary inquiry respecting any shipping casualty.

(3) Any person holding an inquiry under this section-

- (a) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Ordinance apply, not unnecessarily detaining or delaying her from proceeding on any voyage;
- (b) may enter and inspect any premises the entry or inspection of which appears to him to be necessary for the purpose of the inquiry;
- (c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

- (d) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and
- (e) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(4) An officer making a preliminary inquiry under this section shall send report thereof to the Government.

417. (1) Where in any case it appears to the Government that a judicial inquiry should be held respecting a shipping casualty, whether a preliminary inquiry under section 416 respecting it has been held or not, it may direct an officer to make an application to a Court empowered under sub-section (2) to make a judicial inquiry into such casualty and upon the making of such application, the Court shall make such inquiry.

Judicial Inquiry by Court

(2) Magistrates of the first class specially empowered by the Government shall have jurisdiction to make judicial inquiries into shipping casualties under this Chapter.

418. (1) A Court making an inquiry under section 417 may inquire into any charge of incompetency or misconduct arising, in the Courts of the inquiry, against any master, mate or engineer, as also into any charge of a wrongful act or default on his part causing the shipping casualty.

Power of Court to inquire into charges against masters, mates and engineers

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arise against any master, mate or engineer, in the course of an inquiry, the Court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

419. (1) The Government, if it has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, including drunkenness or tyranny, otherwise than in the course of an inquiry under section 417, may-

Power of Government to direct inquiry into charges of incompetency or misconduct

- (a) if the master, mate or engineer holds a certificate under this Ordinance, in any case; and

- (b) if the master, mate or engineer holds a certificate under the law of a country other than Bangladesh, in a case where the incompetence or misconduct has occurred on board a Bangladesh ship,

transmit statement of the case to any Court having jurisdiction under section 417 which is at or nearest to the place where it may be convenient for the parties and witnesses to attend, and may direct that Court to make an inquiry into that charge.

(2) Notwithstanding the provisions of sub-section (1), the Government may, where it considers expedient so to do, appoint a person to hold the inquiry if it has reason to believe that any master, mate or engineer is due to incompetency or misconduct unfit to discharge his duties, or that, in the case of a collision, he has failed to render such assistance or give such information as is required by section 372; and transmit a statement of the case to such person.

(3) Before commencing an inquiry under this section, the Court or the person appointed under sub-section (2), shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Government.

(4) Where the inquiry is held by a person appointed under sub-section (2), that person, for the purpose of the inquiry, shall have all such powers as are specified in sub-section (3) of section 416, and shall give a report of the case to the Government:

Provided that no such inquiry shall be held without giving the master, mate or engineer concerned an opportunity of making a representation.

Person accused to be heard

420. For the purpose of an inquiry by a Court under this Chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Power of Court as to evidence and regulation of proceedings

421. For the purpose of any inquiry under this Chapter, the Court making the inquiry, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction.

422. (1) A Court making any such inquiry shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:

Assessors

Provided that, where the inquiry involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.

(2) The assessors shall attend during the inquiry and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Chapter or any other law for the time being in force shall rest with the Court.

(3) The assessors shall be chosen from a list to be prepared from time to time by the Government.

423. (1) If any Court making an inquiry under this Chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Government, to enter any vessel, and any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer of police or Customs or any other person.

Power to arrest witnesses and enter ships, etc.

(2) Where any officer of police or Customs or any person is called under sub-section (1), it shall be the duty of such officer or person to render all such assistance as may be required by the Court.

424. Whenever, in the course of any such inquiry it appears that any person has committed within the jurisdiction of any Court in Bangladesh an offence punishable under any law in force in Bangladesh, the Court making the inquiry may, subject to such rules consistent with this Ordinance as the Supreme Court may from time to time make, cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may for the purposes of this section, exercise all its powers as a Criminal Court.

Power to commit for trial and bind over witnesses

Report by Court
to Government

425. (1) The Court shall, in the case of all inquiries under this Chapter, transmit to the Government a full report of the conclusions at which it has arrived together with the evidence; and may make such recommendations as it may deem fit in regard to the various matters inquired into including a recommendation for the cancellation or suspension of any Certificate of Competency.

(2) Where the inquiry affects a master, mate or engineer of a ship other than a Bangladesh ship who holds a certificate under the law of a country other than Bangladesh, the Government may transmit a copy of the report together with the evidence to the proper authority in that country.

Investigation
into causes of
explosion or fire
on board ship,
etc.

426. (1) Whenever any explosion or fire occurs on board any ship on or near the coasts of Bangladesh, including the territorial waters thereof, or anywhere else on board any Bangladesh ship, an investigation into the causes of explosion or fire shall be made by such person or persons as the Government thinks fit.

(2) The person or persons referred to in sub-section (1) may go on board the ship on which the explosion or fire has occurred with all necessary workmen and labourers, and remove any portion of the ship, of the machinery thereof, for the purpose of the investigation, and shall report to the Government or the person duly appointed by it, as the case may be, what in his or their opinion was the cause of the explosion or fires.

Provisions of
this Chapter to
apply to certain
other vessels

427. The provisions of this Chapter relating to inquiries shall, *mutatis mutandis*, apply to fishing vessels as they apply to any other ship.

CHAPTER 35

MARINE BOARDS

Convening of
Marine Boards
outside
Bangladesh

428. Wherever, outside Bangladesh-

- (a) a complaint is made to a Bangladesh Consular Officer or a senior officer of any ship of the Bangladesh Navy in the vicinity, hereinafter referred to as "Naval Officer", by the master or any member of the crew of a Bangladesh ship, and such complaint appears to the Bangladesh Consular Officer or Naval Officer, as the case may be, to require immediate inquiry, or

- (b) the interest of the owner of a Bangladesh ship or of the cargo thereof appears to a Bangladesh Consular Officer or Naval Officer, as the case may be, to require such inquiry, or
- (c) an allegation of incompetency or misconduct is made to a Bangladesh Consular Officer or Naval Officer against the master, mate or engineer of a Bangladesh ship, or
- (d) any Bangladesh ship is lost, abandoned or stranded at or near the place where a Bangladesh Consular Officer or a Naval Officer may be, or whenever the crew or part of the crew of any Bangladesh ship which has been lost, abandoned or stranded arrives at that place, or
- (e) any loss of life or any serious injury to any person has occurred on board a Bangladesh ship at or near that place,

the Bangladesh Consular Officer or Naval Officer, as the case may be, may, in his discretion, convene a Marine Board to inquire into the said complaint or allegation or the matter affecting the said interests or the cause of the loss, abandonment or the stranding of the ship, or of the loss of life or of the injury to the person.

429. (1) A Marine Board shall consist of the officer convening the Board and two other members.

Constitution and procedure of a Marine Board

(2) The two other members of the Marine Board shall be appointed by the officer convening the Marine Board from among persons conversant with maritime or mercantile affairs.

(3) The officer convening the Marine Board shall be the presiding officer thereof.

(4) A Marine Board shall, subject to the provisions of this Ordinance, have power to regulate its own procedure.

430. Where there is a difference of opinion among members of the Marine Board, the decision of the majority of the members shall be the decision of the Board.

Decision of Marine Board to be by majority

Powers of
Marine Board

431. (1) While holding an inquiry under this Chapter, a Marine Board may exercise all or any of the powers specified in sub-section (3) of section 416, as may be necessary in the circumstances of the case.

(2) A Marine Board may, after inquiring into and hearing the case,-

- (a) if it is of opinion that the safety of a Bangladesh ship or her cargo or crew, or the interest of the owner of a Bangladesh ship or the owner of the cargo thereof, requires it, remove the master and appoint another qualified person to act in his stead;
- (b) if it is of opinion that any master, mate or engineer of a Bangladesh ship is incompetent or has been guilty of any act of misconduct, or in a case of collision has failed to render such assistance or give such information as is required by section 372, or that loss, abandonment or stranding of or serious damage to any ship, or loss of life or serious injury to any person, has been caused by the wrongful act or default of any master, mate or engineer of a Bangladesh ship, suspend the certificate of that master, mate or engineer for a specified period;
- (c) discharge a seaman from a Bangladesh ship and order the wages of any seaman so discharged or any part of those wages to be forfeited;
- (d) decide any questions as to wages, fines or forfeitures arising between any of the parties to the proceedings;
- (e) direct that any or all of the costs incurred by the master or owner of a Bangladesh ship, or on the maintenance of a seaman or apprentice while in prison outside Bangladesh, shall be paid out of, and deducted from, the wages of that seaman or apprentice, whether then or subsequently;
- (f) if it considers such a step expedient, order a survey to be made of any Bangladesh ship which is the subject of inquiry;
- (g) order the costs of proceedings before it, or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or unjustified complaint to pay compensation for any loss or delay

caused thereby; and any costs or compensation so ordered to be paid by any person shall be paid by that person accordingly, and may be recovered in the same manner in which wages of seaman are recoverable, or may be deducted from the wages due to that person:

Provided that no such certificate shall be suspended unless the master, mate or engineer concerned has been furnished with a statement of the case in respect of which an inquiry has been ordered, and he has also been given an opportunity of making a defence either in person or otherwise.

(3) All orders made by a Marine Board shall, whenever practicable, be entered in the official log-book of the ship which is the subject of inquiry, or of the ship on board whereof the casualty or occurrence of conduct inquired into took place, and be signed by the Presiding Officer of the Board.

(4) A Marine Board, shall, in the case of every inquiry under this Chapter, transmit to the Government a full report of the conclusions at which it has arrived, together with the evidence and any orders passed under this section.

432. If any person wilfully and without due cause obstructs the conduct of any hearing or enquiry by any Marine Board, he shall, for each offence, be punishable with imprisonment which may extend to six months, or with fine which may extend to ten thousand Taka, or with both.

Penalty for obstructing proceedings before Marine Board

433. The provisions of this Chapter shall apply to all Bangladesh ships whether registered or deemed to have been registered under this Ordinance or not so registered; and where they apply to such ships they shall apply to the owners, masters and crew of those ships.

Application of Chapter

CHAPTER 36

CANCELLATION AND SUSPENSION OF CERTIFICATES

434. Any certificate which has been granted by the Government under this Ordinance to any master, mate or engineer may be cancelled, or for a specified period suspended, by the Government in the following cases, that is to say,-

Power of Government to cancel or suspend certificate of master, mate or engineer

- (a) if, on receipt of a report under sub-section (4) of section 419, or under section 425, or under sub-section (4) of section 431, the Government considers cancellation or suspension necessary;

- (b) if the master, mate or engineer is proved to have been convicted-
 - (i) of any offence under this Ordinance or of any non-bailable offence committed under any other law for the time being in force in Bangladesh or an offence involving moral turpitude and so committed; or
 - (ii) of an offence committed outside Bangladesh which, if committed in Bangladesh, would be a non-bailable offence or an offence involving moral turpitude;
- (c) if it has reason to believe that any master, mate or engineer is, or has become, unfit to discharge his duties.

Delivery of cancelled or suspended certificates

435. (1) A master, mate or engineer whose certificate has been cancelled or suspended by the Government, or has been suspended by a Marine Board, shall deliver his certificate-

- (a) if suspended by a Marine Board, to that Board on demand;
- (b) if not so demanded or if it is cancelled or suspended by the Government, to the Government or to such officer as the Government may direct.

(2) if a master, mate or engineer fails to comply with this section, he shall, for each offence, be punishable with fine which may extend to two thousand Taka.

Effect of cancellation or suspension of certificate

436. The cancellation or suspension of a certificate by the Government, or the suspension of a certificate by a Marine Board shall-

- (a) if the certificate was issued under this Ordinance, be effective everywhere and in respect of all ships; and
- (b) if the certificate was issued outside Bangladesh, be effective-
 - (i) within Bangladesh and the territorial waters of Bangladesh, in respect of all ships; and
 - (ii) outside Bangladesh, in respect of Bangladesh ship only.

437. If the certificate of a master, mate or engineer is suspended under this part by the Government or by a Marine Board, no endorsement shall be made to that effect on the said certificate.

Suspended certificates not to be endorsed

438. (1) Notwithstanding anything contained in this Ordinance, the Government may, at any time, without any enquiry, cancel or suspend any certificate granted by it under this Ordinance other than a certificate granted to a master, mate or engineer, if, in its opinion, the holder is, or has become, unfit to act in the grade for which the certificate was granted to him:

Power of Government to cancel or suspend other certificates

Provided that no order under this section shall be passed by the Government unless the person concerned has been given an opportunity of making a representation against the order proposed.

(2) The provisions of clause (b) of sub-section (1) of section 435, and sub-section (2) of that section shall apply to certificates cancelled or suspended under this section as they apply to the delivery of cancelled and suspended certificates under that section.

439. (1) The Government may, either of its own motion or on receipt of an application from any person affected by an order under section 431, or section 434, or section 438, in respect of any case in which an inquiry has been held under this Part, order the case to be re-heard, either generally or as to any part thereof, by any person or persons or by any Court, specially appointed or empowered for the purpose and shall, in respect of every case, so order-

Re-hearing, etc.

- (a) if new and important evidence which could not be produced at the inquiry has been discovered; or
- (b) if, for any other reason, there has, in its opinion, been a miscarriage of justice.

(2) An application under sub-section (1) shall be made in such form, within such time and on payment of such fees and a case shall be re-heard in such manner, as may be prescribed.

(3) The provisions of sub-section (3) of section 416, section 420, section 421 and section 425, shall, so far as may be, apply to every case re-heard under this section as if the re-hearing were in inquiry referred to therein.

Power of Government to revoke cancellation, etc.

440. (1) The Government may, in any case ordered to be re-heard under section 439, on receipt of the report of re-hearing, and in any case not so ordered, at any time, if it thinks that the justice of the case so requires,-

- (a) revoke any order of cancellation or suspension made by it under section 434, or set aside any order of suspension made by a Marine Board under clause (b) of sub-section (2) of section 431; or
- (b) shorten or lengthen the period of suspension ordered by it under section 434, or by a Marine Board under the aforesaid clause; or
- (c) re-issue the certificate or grant in lieu thereof a certificate of a lower grade, in the case of any certificate cancelled or suspended by it under section 434, or suspended by a Marine Board under the aforesaid clause:

Provided that no order under clause (b) lengthening the period of suspension of a certificate shall be passed unless the person concerned has been given an opportunity of making a representation against the order proposed.

(2) A Certificate granted under clause (c) of sub-section (1) shall have the same effect as if it had been granted after examination.

Power of Government to censure master, mate or engineer

441. Where it appears to the Government that, having regard to the circumstances of the case, an order of cancellation or suspension under section 434 is not justified or where it revokes or sets aside an order of cancellation or suspension under clause (a) of sub-section (1) of section 440, it may pass an order censuring the master, mate or engineer in respect of his conduct.

Finality of orders

442. Subject to the foregoing provisions of this Chapter, all orders of a Marine Board under clause (b) of sub-section (2) of section 431, and all orders of the Government under this Chapter shall be final, and shall not be called in question in any Court.

CHAPTER 37

COURTS OF SURVEY AND SCIENTIFIC REFEREES

443. (1) if a Surveyor authorised to inspect a ship- Court of Survey

- (a) makes a statement in his report of inspection with which the owner or his agent or the master of the ship is dissatisfied, or
- (b) gives notice under this Ordinance of any defect in any ship, or
- (c) declines to give any certificate under this Ordinance,

the owner, master or agent, as the case may be, may, subject to the provisions of sub-section (2) of section 447, appeal to a Court of Survey.

(2) Whenever a Surveyor inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the Surveyor as to the statement made or the notice given by the Surveyor or the refusal by the Surveyor to give a certificate, there shall be no appeal to a Court of Survey from that statement, notice or refusal.

444. (1) A Court of Survey for a port shall consist of a Judge, sitting with two assessors. Constitution of Court of Survey

Explanation.- “Judge” means a District Judge, a Judge of Court of Small Causes, a Magistrate of the first class or other fit person appointed in this behalf by the Government, either generally or for any specified case.

(2) The assessors shall be persons of nautical, engineering or other special skill or experience.

(3) Subject to the provisions of Part VI as regards ships other than Bangladesh ships, one of the assessors shall be appointed by the Government either generally or for any specified case and the other shall be summoned by the Judge in the manner prescribed out of a list of persons prepared by the Government for the purpose from time to time, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

Powers and
procedure of
Court of Survey

445. (1) The Judge shall, on receiving notice of an appeal or a reference from the Government, immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall, for the purposes of this Ordinance have the same powers of inspection, and of enforcing the attendance of witness and the production of evidence, as are by this Ordinance conferred on a Detaining Officer.

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Government may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the Government in the manner prescribed, and each assessor shall either sign such report or report to the Government the reasons for his dissent.

Power of
Government to
make rules with
respect to Court
of Survey

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

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

- (a) the procedure before a Court of Survey;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs.

447. (1) If the Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be, from time to time, prepared by the Government as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between a person duly appointed by the Government in this behalf and the appellant, or in default of any such agreement by the Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Reference in difficult cases to scientific persons

(2) The Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

PART XI

WRECK AND SALVAGE

CHAPTER 38

WRECK

448. (1) The Government may, by notification in the *official Gazette*, appoint any person to be a Receiver of Wreck to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as may be specified in the notification.

Receivers of Wreck

(2) A Receiver of Wreck may, by order in writing, direct that all or any of his functions under this Part shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be discharged by such person as may be so specified, and any person while discharging any such functions shall be deemed to be a Receiver of Wreck for the purposes of this Ordinance.

Duty of Receiver where vessel is in distress

449. (1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Bangladesh including the territorial waters thereof, the Receiver of Wreck within the limits of whose jurisdiction the place is situated shall, upon being informed of the same forthwith proceed there, and upon his arrival shall take 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 its cargo and equipment:

Provided that the Receiver 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 the directions of the Receiver, he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

Power of Receiver in case of vessel in distress

450. (1) The Receiver of Wreck may, with a view to the preservation of ship-wrecked persons of the vessel, cargo or equipment,-

- (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;
- (c) demand the use of any vehicles or animals that may be near at hand.

(2) If any person refuses without reasonable cause to comply with any such requisition or demand, he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

Power to pass over adjoining lands

451. (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 equipment of the vessel, unless there is some public road equally convenient, pass and re-pass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so 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 accordance with the provisions of section 468, as in the case of salvage.

(3) If the owner or occupier of any land-

- (a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing, upon request, to open the same, or otherwise; or
- (b) impedes or hinders the deposit of any cargo or other articles recovered from the vessel as aforesaid on the land; or
- (c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of deposit;

he shall, for each offence, be punishable with fine which may extend to ten thousand Taka.

452. (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 ship-wrecked persons or of the cargo or equipment of the vessel, the Receiver of Wreck may take such steps and use such force as he may consider necessary for the suppression of any such plundering, disorder or obstruction, and may, for that purpose, command any person to assist him.

Power of Receiver to suppress, plunder and disorder by force

(2) If any person is killed, maimed, or hurt by reason of his Resisting the Receiver or any person acting under the orders of the Receiver in the execution of his duties under this Chapter, neither the Receiver 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.

Rules to be observed by persons finding wreck

453. (1) Any person finding and taking possession of any wreck within any local limits for which a Receiver of Wreck has been so appointed, or bringing within such limits any wreck which have been found and taken possession of elsewhere, shall, as soon as practicable,

- (a) if he be the owner thereof, give the Receiver of Wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;
- (b) if he be not the owner of such wreck, deliver the same to the Receiver of Wreck.

(2) Any person who fails to give notice of the finding of, or to deliver, any wreck to the Receiver of Wreck as required by sub-section (1) shall be punishable with fine which may extend to twenty thousand Taka, and, in the case of failure to deliver any wreck, shall, in addition to such fine, forfeit all claims to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

Investigation of certain matters in respect of vessels wrecked, etc.

454. (1) Whenever any vessel is wrecked, stranded or in distress as aforesaid, the Receiver of Wreck, within the local limits of whose jurisdiction the vessel is wrecked, stranded or in distress, may conduct an investigation into all or any of the following matters, that is to say,-

- (a) the name and description of the vessel;
- (b) the names of the master and of the owner of vessel;
- (c) the names of owners of the cargo;
- (d) the ports from and to which the vessel was bound;
- (e) the occasion of the wrecking, stranding or distress of the Vessel;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the vessel, the cargo or equipment, as the Receiver thinks necessary.

(2) The Receiver conducting an investigation under this section shall have all such powers as are specified in sub-section (3) of section 416.

(3) A record shall be kept of the investigation conducted and the Receiver shall, immediately after the conclusion of investigation, send to the Government a report relating thereto.

455. (1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Bangladesh, including the territorial waters thereof, 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.

Penalty for taking wreck at time of casualty

(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 or any person authorised by him to demand the same, he shall, for each offence be punishable with fine which may extend to twenty thousand Taka.

(3) The Receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

456. If any person takes into any foreign port any vessel, stranded, derelict, or otherwise in distress, found on or near the coasts of Bangladesh, including the territorial waters thereof, or any part of the cargo or equipment of the vessel, or anything belonging thereto, or any wreck found within those limits, without the permission in writing of the Government, he shall be punishable with imprisonment for a term which may extend to five years but shall not be less than three years, and with fine which may extend to twice the value of the vessel, cargo, equipment or wreck, as the case may be.

Taking wreck to foreign port

457. The Receiver of Wreck shall, as soon as may be after taking possession of any wreck, publish a notification, in such manner and at such place as the Government may, by general or special order, direct, containing a description of the wreck and the time at which and the place where the same was found.

Notice to be given by Receiver

458. A Receiver of Wreck may at any time sell any wreck in his custody if in his opinion-

Immediate sale of wreck by Receiver in certain cases

- (a) it is under the value of one thousand Taka, or
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or
- (c) it is not of sufficient value for warehousing,

and the proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Removal of
wreck by
harbour or
conservancy
authority

459. Where any vessel is sunk, stranded or abandoned in any harbour or tidal water under the control of a harbour or conservancy authority, or in or near any approach thereto, in such manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation, that authority may-

- (a) take possession of, and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy any such vessel or part until the raising, removal or destruction thereof; and
- (c) sell, in such manner as it thinks fit, any vessel or part so raised or removed or and also any other property, recovered by it in the course of the exercise of its powers under this section, and out of the proceeds of the sale, reimburse itself for the expenses incurred by it in relation thereto under this section, and the authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto; and if the proceeds of such sale are less than the expenses so incurred, the owners of the vessel at the time of the casualty or immediately before abandonment shall be liable to pay to the harbour or conservancy authority the amount by which the proceeds may fall short to meet the expenses incurred:

Provided that 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 by advertisement in some newspaper circulating in or near the area over which the authority has control:

Provided further that, 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 authority of the expenses incurred by the authority, to be ascertained by agreement between the authority and the owner, or failing agreement, by some person to be named for the purpose by the Government.

460. (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 within six months from the time at which the wreck came into the possession of the Receiver shall, upon paying the salvage and other charges, be entitled to have the wreck or the proceeds thereof delivered to him.

Claims of owners to wreck

(2) Where any articles belonging to or forming part of a vessel, other than a Bangladesh ship, which has been wrecked on or near the coasts of Bangladesh or belonging to and forming part of the cargo of such vessel, are found on or near the coasts of Bangladesh or are brought into any port or place in Bangladesh, the Consular Officer of the country in which the vessel is registered or, in the case of cargo, the country to which the owners of the cargo may have belonged to, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, with respect to the custody and disposal of the articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within six months from the date of sale, the said balance shall vest in the Government.

461. (1) 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 he does so, shall be liable to be removed from the vessel or repelled by the master of the vessel by force.

Interfering with wrecked vessel or wreck

(2) A person shall not-

- (a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near the coasts of Bangladesh, including the territorial waters thereof, or of any part of the cargo or equipment of the vessel, or of any wreck;
- (b) deface or obliterate any marks thereon; or
- (c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress, on or near such coasts or within those waters, or any part of the cargo or equipment of the vessel, or any wreck.

(3) If any person acts in contravention of this section, he shall, for each offence, be punishable with fine which may extend to twenty thousand Taka, and which may be imposed in addition to any other punishment to which he may otherwise be liable.

Search warrants where wreck is concealed

462. Where a Receiver of Wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to the nearest Magistrate for a search warrant, and that Magistrate shall have power to grant such warrant, and the Receiver of Wreck by virtue thereof may enter any house or other place wherever situated and also any vessel and search for, seize and detain any such wreck there found.

Right of Government to unclaimed wreck

463. The right to all unclaimed wrecks found anywhere in Bangladesh vests in the Government, except where it has granted to any other person the right thereto.

Notice of unclaimed wreck to be given to persons entitled

464. (1) Where any person, is entitled for his own use to unclaimed wreck found in any place within the jurisdiction of a Receiver of Wreck, he shall deliver to the Receiver a statement containing the Particulars of his title, and an address to which notices may be sent.

(2) When a statement has been so delivered and the title proved to the satisfaction of the Receiver, the Receiver shall, on taking possession of any wreck found in a place to which the statement refers, send, within forty-eight hours, to the address delivered a description of the wreck and of any marks by which it is distinguished.

Disposal of unclaimed wreck

465. Where no owner established a claim to any wreck found in Bangladesh and in the possession of a Receiver of Wreck within six months after it came into his possession, the wreck shall be dealt with as follows, that is to say,-

- (a) if the wreck is claimed by any person who has delivered a statement under section 464, to the Receiver and has proved to the satisfaction of the Receiver his title to receive unclaimed wreck found in the place where that wreck was found, the wreck, after payment of all expenses, costs, fees, and salvage due in respect thereof, shall be delivered to him;

- (b) if the wreck is not claimed by any such person as aforesaid, the Receiver shall sell the same and shall pay to the Government the proceeds of the sale, after deduction therefrom, the expenses of the sale, and any other expenses incurred by him, and his fees, and paying thereout to the salvors such amount of salvage as the Government may in each case, or by any general rule, determine.

466. (1) Where any dispute arises between any person who has delivered a statement under section 464, and the Receiver of Wreck respecting title to wreck found in any place, or where more persons than one claim title to that wreck and a dispute arises between them as to that title, that dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this part.

Disputed title to unclaimed wreck

(2) If any party to the dispute is unwilling to have the same so referred or, where it is so referred, is dissatisfied with the decision, he may, within three months after the expiration of six months from the time when the wreck has come into the Receiver's hands or from the date of the decisions, as the case may be, take proceedings in any Court having jurisdiction in the matter for establishing his title.

467. Upon delivery of wreck or payment of the proceeds of sale of wreck by a Receiver of Wreck, in pursuance of the provisions of this Chapter, the Receiver shall be discharged from all liability in respect thereof, but delivery shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck, or concerning the title to the soil of the place on which the wreck was found.

Delivery of unclaimed wreck by Receivers not to prejudice title

CHAPTER 39

SALVAGE

468. (1) Where services are rendered-

- (a) wholly or in part within the territorial waters of Bangladesh in saving life from any Bangladesh ship, or a sailing or fishing vessel registered in Bangladesh; or

Salvage payable for saving life, cargo or wreck

- (b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of Bangladesh, including the territorial waters thereof; or
- (c) by any person other than the Receiver of Wreck in saving any wreck,

there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.

(3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Bangladesh Navy or the commander or crew of any such vessel, the Government, the commander or the crew, as the case may be, shall be entitled to salvage and shall have the same rights and remedies in respect of those services as any other salvor.

(4) Any dispute arising concerning the amount payable for salvage under this section shall be determined upon application made by any of the parties to the dispute-

- (a) to the District Judge, where the amount claimed does not exceed one lakh Taka; or
- (b) to the High Court Division, where the amount claimed exceeds one lakh Taka.

(5) Where there is any dispute as to the persons who are entitled to the payment for salvage under this section, the District Judge or the High Court Division, as the case may be, shall decide the dispute, and if there are more persons than one entitled to such payment, the District Judge or the High Court Division shall apportion the amount payable among such persons.

(6) The costs of, and incidental to, all proceedings before the District Judge or the High Court Division under this section shall be in the discretion of the District Judge or the High Court Division; and the District Judge or the High Court Division

shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.

CHAPTER 40
MISCELLANEOUS

469. Nothing in this Part shall-

Savings

- (a) affect any treaty or arrangement with any foreign country to which Bangladesh is a party with reference to the disposal of the proceeds of wrecks on their respective coasts; or
- (b) affect the provisions of section 29 of the Ports Act, 1908 (XV of 1908), or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

470. (1) The Government may, by notification in the *official Gazette*, make rules to carry out the purposes of this Part.

Power to make rules respecting wreck and salvage

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

- (a) the procedure to be followed by a Receiver of Wreck in respect of the taking possession of wrecks and their disposal;
- (b) the fees payable to a Receiver of Wreck in respect of the work done by him;
- (c) the procedure to be followed for dealing with claims relating to ownership of wrecks;
- (d) the appointment of valuers in salvage cases;
- (e) the principles to be followed in awarding salvage, and the apportioning of salvage;
- (f) the procedure to be followed for dealing with claims for salvage;

- (g) the detention of property in the custody of a Receiver of Wreck for the purpose of enforcing payment of salvage; and
- (h) any other matter which is to be or may be prescribed.

PART XII

LIABILITY OF SHIPOWNERS AND MARITIME LIEN

CHAPTER 41

LIMITATION OF LIABILITY OF SHIPOWNERS

Limitation of liability of owner for damage

471. (1) If any loss of life or personal injury to any person, or any loss of, or damage to, any property or rights of any kind, whether movable or immovable, is caused without the actual fault or privity of the owner of a ship, whether a Bangladesh ship or not, the owner shall not-

- (a) if no claim for damages in respect of loss of, or damage to, property or rights arises, be liable for damages in respect of loss of life or personal injury to an aggregate amount exceeding five thousand Taka for each ton of the ship's tonnage; or
- (b) if no claim for damages in respect of loss of life or personal injury arises, be liable for damages in respect of loss of, or damage to, property or rights to an aggregate amount exceeding fifteen hundred Taka for each ton of the ship's tonnage; or
- (c) if claims for damages in respect of loss of life or personal injury and also claims for damages in respect of loss of, or damage to, property or rights arise, be liable for damages to an aggregate amount exceeding five thousand Taka for each ton of the ship's tonnage:

Provided that, in a case referred to in clause (c), claims for damages in respect of loss of life or personal injury shall, to the extent of an aggregate amount of fifteen hundred Taka for each ton of the ship's tonnage, have priority over claims for damages in respect of loss of, or damage to, property or rights, and, as regards the balance of the aggregate amount of five thousand Taka for each ton of the ship's tonnage, the unsatisfied portion of the first mentioned claims shall rank *pari passu* with the last mentioned claims.

(2) The provisions of this section shall extend and apply to the owners, builders or other persons interested in any ship built at any port or place in Bangladesh, from and including the launching of such ship until the registration thereof under the provisions of this Ordinance.

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

(4) For the purposes of this section, a ship's tonnage shall be the gross tonnage of the ship.

472. Where any liability is alleged to have been incurred by the owner of a ship, whether a Bangladesh ship or not, in respect of any occurrence for which his liability is limited under section 471 and several claims are made or apprehended in respect of that liability, the Supreme Court, on an application made in this behalf by the owner, may-

Power of Supreme Court to consolidate claims against owners, etc.

- (a) determine the amount of the owner's liability,
- (b) distribute that amount rateably among the several claimants,
- (c) stay any proceedings pending in any other Court in relation to the same matters, and
- (d) proceed in such manner and procedure as the Supreme Court may deem fit as to-
 - (i) making persons interested parties to the proceedings,
 - (ii) the exclusion of any claimants who do not come in within a certain time,
 - (iii) the requiring security from the owner, and
 - (iv) the payment of costs.

473. All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Chapter, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Part owner to account in respect of damages

Insurance of certain risks not invalid

474. An insurance effected against the happening without the owners' actual fault or privity, if any, or all of the events in respect of which the liability of owners is limited under this Chapter shall not be invalid by reason of the nature of the risk.

Proof of Passengers on board ship

475. In any proceeding under this Chapter against the owner of a ship with respect to loss of life, the passenger lists under Part V shall be received as evidence that the person upon whose death proceedings are taken under this Chapter was a passenger on board the ship at the time of death.

Definition of owner

476. For the purposes of this Chapter "owner" shall include the charterer, manager and operator of the ships,

CHAPTER 42

MARITIME LIENS

Seaman's lien for wages, etc.

477. (1) Seaman shall have a lien on the ship, and 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 may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Ordinance shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which, according to the terms of the agreement, is to be employed on salvage service with respect of the remuneration to be paid to them for such service to be rendered by that ship to any other ship.

Master's lien

478. (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 Ordinance 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 the master has for the recovery of his wages.

(3) If in any proceeding in any Court having jurisdiction touching the claim of a master in respect of wages, or of such disbursements, or liabilities as aforesaid, any right or 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.

479. The seaman's lien under section 477 shall have precedence over all other liens or charges on the ship, and the master's lien under section 478 shall have precedence likewise except over that of a seaman.

Priorities

PART XIII

PROCEDURAL AND MISCELLANEOUS

CHAPTER 43

PROCEDURE

480. The following persons shall be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860), namely:-

Certain persons to be deemed public servants

- (a) every Director-General of Shipping, Director of Shipping, Principal Officer, Surveyor, Shipping Master, Radio Inspector, Registrar and Shipping Authority appointed under this Ordinance;
- (b) every person appointed under section 81 for the purpose of examining the qualifications of persons desirous of obtaining Certificates of Competency under this Ordinance;
- (c) every person appointed under this Ordinance to report information as to shipping casualties;
- (d) every Judge, assessor, scientific referee or other person acting under part X;

- (e) every person authorised under this Ordinance to make inquiry or investigation under Part X;
- (f) every person directed to make an investigation into an explosion or fire on board ship under section 426;
- (g) every Presiding Officer and member of a Marine Board convened under section 428;
- (h) every Receiver of Wreck, and all persons whom he calls to his aid;
- (i) every other officer or person appointed under this Ordinance to perform any functions thereunder.

Jurisdiction of Magistrates

481. (1) No Court inferior to that of a Magistrate of the first class shall try any offence under this Ordinance or any rule or regulation made thereunder.

(2) No Court shall take cognizance of an offence under this Ordinance or any rule or regulation made thereunder except upon a report made by an officer authorised by the Government in this behalf.

Place of trial of the offender

482. Any person committing any offence under this Ordinance or any rule or regulation made thereunder may be tried for the offence in any place in which he may be found, or which the Government may by notification in the *official Gazette*, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Enforcement of penalties in certain cases

483. The penalties to which masters and owners of Special Trade Passenger Ship are liable under Part V shall be enforced only on information laid at the instance of the Certifying Officer, or, at any port or place where there is no such officer, at the instance of such other officer as the Government may specify in this behalf.

Special provision regarding punishment

484. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), a Magistrate of the first class may pass any sentence authorised by or under this Ordinance any person convicted of an offence under this Ordinance or rule or regulation made thereunder.

485. (1) If the person committing an offence under this Ordinance is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies, etc.

Provided that nothing in this sub-section shall render any such person liable to any punishment under this Ordinance, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, partner, manager, secretary or other officer of the company, such director, partner, manager, secretary or other officer shall also be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

486. (1) Whenever, in the course of any legal proceeding under this Ordinance instituted at any place in Bangladesh before any Court of Magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused, as the case may be, after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Judge or Magistrate in Bangladesh, or, if elsewhere, before a Marine Board or before any Bangladesh Consular Officer, shall be admissible in evidence-

Depositions to be received in evidence when witness cannot be produced

- (a) if the deposition is authenticated by the signature of the Presiding Officer of the Court or the Judge or Magistrate or of the Presiding Officer of the Marine Board or of the Consular Officer, before whom it is made;

- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examination of the witness; and
- (c) where the proceeding is criminal, if it is proved that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary proved, be sufficient evidence that he had that opportunity and that it was so made.

Procedure in
certain
allegations in
desertion cases

487. (1) Whenever, in any proceeding against any seaman or apprentice belonging to any ship for the offence of desertion, or absence 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, over-loading, improper loading, defective equipment, or for any other reason, not in a fit condition to having cognizance of the case shall take such means as may be in its power 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 may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witness whose evidence it may think is 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.

(2) A seaman or apprentice charged with desertion, or with absence without leave, shall not have any right to apply for a survey under this section unless he has before deserting or absenting himself without leave complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section, the Court shall require any Surveyor or, if such Surveyor cannot be obtained without unreasonable expense or delay, then any other competent person appointed by the Court and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the Court thinks fit to put.

(4) Such Surveyor or other person shall survey 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 it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all such powers as are specified in sub-section (3) of section 416.

(6) The costs, if any, of the survey shall be determined in accordance with the scale of fees fixed by the Government, by notification in the *official Gazette*, in this behalf.

(7) 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 shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Government.

(8) 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 master or owner of the ship shall pay the cost of the survey to the Government, and shall also be liable to pay to the seaman or apprentice who has been detained in consequence of the said proceeding before the Court under this section such compensation for his detention as the Court awards.

488. Where any area within which any Court or Magistrate has jurisdiction, either under this Ordinance or under any other law for any purpose whatever, is situated on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such Court or Magistrate shall have

Jurisdiction over ships lying off the coasts

jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the Court of Magistrate.

Jurisdiction in case of offences on board ships

489. Where any person, being a citizen of Bangladesh, is charged with having committed any offence on board any Bangladesh ship on the high seas, or in any foreign port or harbour, or on board any ship other than a Bangladesh ship to which he does not belong, or, not being a citizen of Bangladesh, is charged with having committed any offence on board any Bangladesh ship on the high seas, and that person is found within the jurisdiction of any Court or Magistrate which would have had jurisdiction to take cognizance of the offence if it had been committed on board a Bangladesh ship within the limits of its or his ordinary jurisdiction, that Court or Magistrate shall have jurisdiction to try the offence as if it had been so committed.

Power to detain foreign ship that has occasioned damage

490. (1) Whenever any damage has in any part of the world been caused to property belonging to the Government, or to any citizen of Bangladesh or a company, by a ship other than a Bangladesh ship, and at any time thereafter that ship is found in any port or place in Bangladesh including the territorial waters thereof, the Supreme Court may, upon the application of any person who alleges that the damage was caused by the misconduct or want of skill of the master or any member of the crew of the ship, issue an order directed to any Principal Officer, Collector of Customs, or other person named in the order, requiring him to detain the ship until such time as the owner, master or agent thereof has satisfied any claim in respect of the damage, or has given security to the satisfaction of the Supreme Court to pay all costs and damages that may be awarded in any legal proceedings that may be instituted in respect of the damage, and the officer or person to whom the order is directed shall detain the ship accordingly.

(2) Whenever it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from Bangladesh or the territorial waters thereof, any Principal Officer or Collector of Customs may detain the ship for such time as to allow the application to be made and the result thereof to be

communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage as aforesaid, the person giving security shall be made a defendant and shall, for the purpose of such proceedings, be deemed to be the owner of the ship that has occasioned the damage.

491. (1) Where under this Ordinance a ship is authorised or ordered to be detained, any commissioned officer of the Bangladesh Navy, or any Principal Officer, Pilot or Collector of Customs may detain the ship.

Enforcing
detention of
ship

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be punishable with fine which may extend to one lakh Taka.

(3) If a ship so proceeding takes to sea, when any person authorised under this Ordinance to detain or survey the ship is on board thereof in the execution of his duty, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty thousand Taka, or with both.

(4) When any owner, master or agent is convicted of an offence under sub-section (3), the Magistrate convicting him may inquire into and determine the amount payable on account of expenses by such owner, master or agent under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

492. When an order under this Ordinance for the payment of any wages or other money is made by a Shipping Master or a Magistrate or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, may, under a warrant to be issued for that purpose by a Magistrate, be levied by distress and sale of the movable property of the person directed to pay the same.

Levy of wages,
etc. by distress
of movable
property

Levy of wages,
fines, etc. by
distress of ship

493. Where any Court of Magistrate or other officer or authority has power under this Ordinance to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master, owner or agent of a ship and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate or officer or authority, as the case may be, may, in addition to any other power it or he may have for the purpose of compelling payment, by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipment.

Notice to be
given to
consular
representative of
proceedings to
be taken in
respect of
foreign ships

494. If any ship other than a Bangladesh ship is detained under this Ordinance or if any proceedings are taken under this Ordinance against the master, owner or agent of any such ship, notice shall forthwith be served on the Consular Officer of the country in which the ship is registered, at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Service of
documents

495. Where for the purposes of this Ordinance any document is to be served on any person, that document may be served-

- (a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode;
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the persons being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship where there is no master and the ship is in Bangladesh, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in Bangladesh, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Proof of
attestation not
required

496. Where any document is required by this Ordinance to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of

any person who is able to bear witness to the requisite facts without calling the attesting witness or the attesting witnesses or any of them.

497. A Magistrate imposing a fine under this Ordinance may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which fine is imposed or in or towards payment of the expenses of the prosecution.

Application of
fines

CHAPTER 44 MISCELLANEOUS

498. (1) For the purpose of establishing or aiding institutions for training in the various trades, professions and callings provided for in this Ordinance, there shall be paid, in the prescribed manner, a monthly fee by the owner of every Bangladesh ship at such rate as may be prescribed, not exceeding ten Taka per one hundred tons gross, and different rates may be prescribed for different classes of ships.

Fee for
establishing or
aiding training
institutions

(2) If any owner fails or refuses to pay such fee, any Principal Officer may detain the ship in respect of which the fee has not been paid in accordance with the provisions of sub-section (1) until such time as the fee payable in respect thereof has been duly paid.

(3) The Government may, by notification in the *official Gazette*, make rules providing for-

- (a) the appointment of a Committee to administer the proceeds of the fees paid or collected under this section;
- (b) the rates of such fees;
- (c) the manner in which such fees shall be paid or collected;
- (d) such other matter as may be considered necessary for carrying out the purposes of this section.

Inquiry into
cause of death
on board of
Bangladesh ship

499. (1) If any person dies on board a Bangladesh foreign-going ship, the Shipping Master at the port where the crew of the ship is discharged, or the Shipping Master at any earlier port of call in Bangladesh, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log-book an endorsement to the effect, either the statement of the cause of death in the log-book is in his opinion true, or the contrary, according to the result of the inquiry.

(2) If, in the course of any such inquiry, it appears to the Shipping Master that a death has been caused on board the ship by violence or other unlawful act, he shall either report the matter to the Government or, if the emergency of the case so requires, take immediate steps for bringing the offender to trial.

(3) For the purposes of an inquiry under this section, the Shipping Master shall have all such powers as are specified in sub-section (3) of section 416.

Power to
appoint
examiners and
to make rules as
to qualifications
of Surveyor of
ships

500. The Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of ships' Surveyor at any port in Bangladesh, and may make rules-

- (a) for the conduct of such examination and the qualifications to be required;
- (b) for the grant of certificate to qualified persons;
- (c) for the fees to be paid for such examinations and certificates;
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates; and
- (e) for the suspension and cancellation of such certificates.

No person to
practise as
Surveyor of
ships unless
qualified

501. No person shall, in any port in which there is a person practising the profession of a Surveyor of ships and holding a certificate granted under section 500, practise such profession in such port unless he holds a certificate granted under that section:

Provided that nothing herein contained shall prevent any person employed by a classification society which, the Government may, by notification in the *official Gazette*, specify in this behalf, from discharging any of the duties of such employment.

502. Any person practising the profession of a Surveyor of ships in contravention of the provisions of section 501 shall, for each offence, be punishable with fine which may extend to ten thousand Taka, and shall not be entitled to maintain any suit for any fee or reward for anything done by him.

Penalty for practising as Surveyor of ships without certificate

503. Any Surveyor appointed under section 6 may, in execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipment and cargo, and may require the unloading or removal of any cargo, ballast or equipment.

Powers of Surveyors

504. The decision of a Bangladesh Consular Officer on any matter under this Ordinance shall be final, and shall not be called in question in any Court or before any authority, until the ship in respect of, or in relation to which such decision is taken, returns to the final port of discharge in Bangladesh.

Decision of Consular Officer to be final until ship returns to final port of discharge in Bangladesh

505. If any person hinders or obstructs any Judge, assessor, officer or other person who is empowered by this Ordinance to make any inquiry or, investigation or to board, survey, inspect or detain a ship, or otherwise impedes him in the execution of his duties or the exercise of his powers under this Ordinance, he shall, if no other punishment is provided in this Ordinance for the offence, for each offence, be punishable with fine which may extend to ten thousand Taka.

Penalty for hindering or obstructing execution of duties, etc.

506. Without prejudice to any power to make rules or regulations contained elsewhere in this Ordinance, the Government may, by notification in the *official Gazette*, make such rules as it may deem expedient generally to carry out the purposes of this Ordinance and to give effect to the provisions of international conventions adopted by the International Maritime Organisation and accepted by the Government and all rules duly made to give effect to such conventions shall be deemed to form part of this Ordinance and shall have effect accordingly.

General power to make rules

Penalty and procedure for breach of rules and regulations

507. In making a rule or regulation under this Ordinance, the Government may direct that a contravention of the provisions thereof shall, unless a penalty for such contravention has been expressly provided in this Ordinance, be punishable with fine which may extend to five thousand Taka and, if the contravention is a continuing one, with a further fine which may extend to five hundred Taka for everyday after the first during which the contravention continues.

Power to appoint officers to try certain offences, etc.

508. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, the Government may, by notification in the *official Gazette*, appoint one or more officers to try, within such local areas as may be specified therein, an offence of any breach of, or failure to comply with, any rule for the safety of ship or of crew, passengers, goods, mails and other things carried thereon or for preventing ships from endangering other ships, persons or property; and any such officer trying an offence shall, for the purpose of the trial, be deemed to be a Magistrate of the first class appointed under that Code and any proceedings before and any sentence passed by him shall have effect accordingly.

(2) An officer appointed under sub-section (1) may try an offence triable by him in a summary way in accordance with the provisions of sections 262 to 265 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) Where an officer has been appointed under sub-section (1) to try an offence specified therein, no Court other than such officer shall try that offence.

Power to appoint Committees on rules and scales

509. (1) For the purpose of advising it when considering the making or alteration of any rules or scales under this Ordinance, the Government may appoint such Committee or Committees as it may deem fit consisting of such persons as it may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There shall be paid to the members of any such Committee such travelling and other allowances as the Government may fix.

510. Notwithstanding anything contained in this Ordinance, the Government may, upon such conditions, if any, as it may think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Ordinance or dispense with the observance of any such requirement in the case of any ship, if it is satisfied that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case.

Power to exempt ships from the provisions of the Ordinance

511. No suit or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Ordinance.

Indemnity

CHAPTER 45

REPEALS AND SAVINGS

512. (1) Subject to the provisions of sub-section (2), the Bangladesh laws specified in Part I of the Schedule and, in so far as they apply to, and operate as part of the laws of Bangladesh or any part thereof, the Acts of the Parliament of the United Kingdom specified in Part II of that Schedule, shall stand repealed upon the coming into force of all the provisions of this Ordinance.

Repeals

(2) Where different provisions of this Ordinance are brought into force on different dates, only so much of the aforesaid Bangladesh laws and Acts as may correspond to the provisions so brought into force shall stand repealed upon the coming into force of such provisions.

513. Notwithstanding the repeal of any law by section 512, and without prejudice to section 24 of the General Clauses Act, 1897 (Act X of 1897),-

Savings

- (a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any such law shall have effect as if it had been issued, made or granted under the corresponding provision of this Ordinance;

- (b) any officer appointed and any body elected or constituted under any such law shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under the corresponding provision of this Ordinance;
- (c) any document referring to any such law shall be, construed as referring, as far as may be, to this Ordinance or to the corresponding provision of this Ordinance;
- (d) mortgages of ships recorded in any Register Book maintained at any port in Bangladesh under any such law shall be deemed to have been recorded in the Register Book maintained under the corresponding provision of this Ordinance; and
- (e) any licence, certificate or document issued, granted or made under any such law and in force on the coming into force of this Ordinance, or of any specified provision thereof, shall continue in force and be deemed to have been issued, granted or made under the corresponding provision of this Ordinance.

THE SCHEDULE

(Vide section 512)

PART I

BANGLADESH LAWS

1. The Merchant Shipping Act, 1923 (XXI of 1923).
2. The Merchant Seamen (Litigation) Act, 1946 (XXI of 1946).
3. The Control of Shipping Ordinance, 1959 (XXII of 1959).
4. The Bangladesh Merchant Ships (Registration) Ordinance, 1982 (XIX of 1982).

PART II
ACTS OF PARLIAMENT OF UNITED KINGDOM

1. Merchant Shipping Act, 1894 (57 & 58 Vic. c. 60).
2. Merchant Shipping Act, 1897 (60 & 61 Vic. c. 59).
3. Merchant Shipping (Liability of Ship-owners) Act, 1898 (61 & 62 Vic. c. 14).
4. Merchant Shipping (Mercantile Marine Fund) Act, 1898 (61 & 62 Vic. c. 44).
5. Merchant Shipping (Liability of Ship-owners and Others) Act, 1900 (63 & 64 Vic. c. 32).
6. Merchant Shipping Act, 1906 (6 Edw. 7 c. 48).
7. Merchant Shipping Act, 1907 (7 Edw. 7 c. 52).
8. Merchant Shipping (Seamen's Allotment) Act, 1911 (1 & 2 Geo. 5 c. 8).
9. Merchant Shipping Act, 1911 (1 & 2 Geo. 5 c. 42).
10. Merchant Shipping (Certificates) Act, 1914 (1 & 2 Geo. 5 c. 57).
11. Merchant Shipping (Certificates) Act, 1914 (4 & 5 Geo. 5 c. 42).
12. Merchant Shipping (Salvage) Act, 1916 (6 & 7 Geo. 5 c. 41).
13. Merchant Shipping (Wireless Telegraphy) Act, 1919 (9 & 10 Geo. 5 c. 38).
14. Merchant Shipping Act, 1921 (11 & 12 Geo. 5 c. 28).

15. Merchant Shipping Acts (Amendment) Act, 1923 (13 & 14 Geo. 5 c. 40).
 16. Merchant Shipping (Equivalent Provisions) Act, 1925 (15 & 16 Geo. 5 c. 37)
 17. Merchant Shipping (Safety and Load Line Conventions) Act, 1932 (22 & 23 Geo. 5 c. 9).
 18. Merchant Shipping Act, 1937 (1 Edw. 8 & 1 Geo. 6 c. 23).
 19. Merchant Shipping (Superannuation Contributions) Act, 1937 (1 Geo. 6 c. 4).
 20. Merchant Shipping (Salvage) Act, 1940 (3 & 4 Geo. 6 c. 43).
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