

M O N T S E R R A T

MERCHANT SHIPPING BILL

No. of 2013

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I ASSENT

Governor

DATE:

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A BILL FOR

AN ACT TO IMPLEMENT THE REGISTRATION AND TRANSFER OF
VESSELS AND SAFETY OF LIVES AT SEA.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Assembly of
Montserrat, and by the Authority of the same as follows:—

PART 1—PRELIMINARY

1. Short title and commencement

This Act may be cited as the Merchant Shipping Act,
2013 and shall come into force by Order on a date fixed
by the Governor acting on the advice of Cabinet.

2. Interpretation

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

“**Montserrat citizen**” means a British Overseas Territories citizen by virtue of a connection with Montserrat, and, for the purposes of this Act, includes an individual who under the laws of Montserrat possesses belonging status or is a permanent resident of Montserrat;

“**Montserrat ship**” means a ship registered in Montserrat under this Act, and “**Montserrat vessel**” and “**Montserrat fishing vessel**” is construed accordingly;

“**British citizen**”, “**British Overseas Territories citizen**”, “**British Overseas citizen**”, and “**Commonwealth citizen**” have the same meanings as in the British Nationality Act 1981;

“**British ship**” has the meaning given in section 1(1) of the Merchant Shipping Act 1995 of the United Kingdom;

“**commissioned military officer**” means a commissioned officer in Her Majesty’s land forces on full pay;

“**commissioned naval officer**” means a commissioned officer in Her Majesty’s Navy on full pay;

“**Consular officer**”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;

“**Court**” means the High Court;

“**fishing vessel**” means a vessel for the time being used, or intended to be used, for or in connection with fishing for sea fish other than a vessel used or intended to be used for fishing otherwise than for profit, or a vessel for the time being used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;

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“Harbour Master” means the person appointed under section 2 of the Harbour Master Act (Cap. 7.02);

“length” has the same meaning prescribed in the Tonnage Regulations;

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

“Minister” means the Minister responsible for maritime affairs in Montserrat;

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

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

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

“passenger ship” means a ship carrying more than 12 passengers;

“pleasure vessel” means—

- (a) any vessel including a dive boat which at the time it is being used is—
 - (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or
 - (ii) in the case of a vessel owned by a body corporate, one on which the

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persons are employees, officers or shareholders of the body corporate, or their immediate family or friends, and

(iii) on a voyage or excursion for which the owner does not receive money for or in connection with operating the vessel or carrying a person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club;

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

“**port**” includes place;

“**Port Manager**” means the person appointed Port Manager under section 12 of the Port Authority Act (Cap. 7.09) and a person appoint to act in that capacity;

“**proper officer**” means, in relation to a port in the United Kingdom, a relevant British possession, the Republic of Ireland, or a country mentioned in Schedule 3 of the British Nationality Act 1981, any officer exercising in that port functions similar to

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those of a Harbour Master, and, in relation to any other port, a consular officer appointed by Her Majesty's Government in the United Kingdom;

“Registrar” means the person for the time being responsible for the registration of ships in Montserrat;

“Registration of Ships Regulations” means regulations made under sections 58 and 59;

“relevant British possession” means—

- (a) the Isle of Man;
- (b) any of the Channel Islands; and
- (c) any British Overseas Territories);

“ship” includes a description of vessel used in navigation;

“small ship” means a ship less than 24 metres in length;

“Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969 as amended;

“Tonnage Regulations” means regulations made under section 46;

“wages” includes emoluments.

(2) In this Act—

- (a) **“Montserrat waters”** means the sea or other waters within the seaward limits of the territorial sea of Montserrat; and
- (b) **“national waters”**, in relation to Montserrat, means Montserrat waters landward of the baselines for measuring the breadth of its territorial sea.

PART 2—REGISTRATION OF SHIPS

Registration

3. Montserrat ship

A ship is a Montserrat ship if—

- (a) the ship is registered in Montserrat under this Part; or
- (b) the ship is registered in Montserrat under Part I of the Merchant Shipping Act 1894 of the United Kingdom.

4. Qualifications for owning a Montserrat ship

- (1) For the purposes of this Act, the following persons qualified to own Montserrat ships—
 - (a) Montserrat citizens;
 - (b) British citizens;
 - (c) British Overseas Territories citizens;
 - (d) British Overseas citizens;
 - (e) British subjects;
 - (f) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (overseas);
 - (g) bodies corporate incorporated in any Member State of the European Union or European Economic Area, including the United Kingdom, and having a place of business in a Member State and registered in Montserrat;
 - (h) bodies corporate incorporated in any relevant British possession, including Montserrat, or in any overseas territory of a Member State of the European Union or the European Economic Area, and having a place of business in any such possession or overseas territory and registered in Montserrat;
 - (i) bodies corporate incorporated in a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States and registered in Montserrat.

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- (2) A person who is not qualified under subsection (1) to be an owner of a Montserrat ship may nevertheless be one of the owners of a ship if—
- (a) a majority interest in a ship, within the meaning of section 5, is owned by persons who are qualified to own Montserrat ships; and
 - (b) a ship is registered in accordance with the provisions of section 35.
- (3) In this section, “place of business” means the place where meetings of the directors of the body corporate are regularly held and, in the case of a meeting held by electronic or other mechanical means, the place where the majority of members of the body corporate taking part in the meeting are present.

5. Entitlement of ship to be registered under this Act

- (1) Subject to sections 7 and 8, this section has effect for the purpose of determining whether a ship is entitled to be registered in Montserrat under this Act.
- (2) Subject to subsection (3), a ship is entitled to be registered if a majority interest in a ship is owned by one or more persons qualified to own Montserrat ships by virtue of section 4(1).
- (3) Where—
- (a) a ship falling within subsection (2) is 24 metres or more in length; and
 - (b) the person, or each of the persons, by whom the majority interest is owned is not resident in Montserrat;
- a ship shall only be entitled to be registered if a representative person resident in Montserrat is appointed in relation to a ship.
- (4) For the purposes of this section—
- (a) one or more persons is treated as owning a majority interest in a ship if there is vested in that person, or in those persons taken together, the legal title to 33

or more, or all of the 64 shares into which the property in a ship is divided, for the purpose of registration in accordance with section 12 (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a Montserrat ship); and

- (b)* a body corporate is treated as resident in Montserrat if it is incorporated in Montserrat and its place of business is in Montserrat.
- (5)** A ship is not entitled to be registered in Montserrat if registration is precluded by an Order under section 18 of the Merchant Shipping Act 1995 of the United Kingdom.

6. Representative person

- (1)** Where the entitlement of a ship to be registered is, by virtue of section 5, conditional on the appointment of a representative person in relation to a ship, the owner of a ship shall—
- (a)* before applying for a ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to a ship; and
 - (b)* ensure that, so long as a ship remains registered, an individual or body corporate satisfying those requirements is so appointed.
- (2)** For the purposes of subsection (1), the prescribed requirements are—
- (a)* that the representative person is either—
 - (i)* an individual resident in Montserrat, or
 - (ii)* a body corporate incorporated in Montserrat and having a place of business there; and
 - (b)* requirement as the Governor acting on the advice of Cabinet may prescribe by regulation.

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

(a) on applying for a ship to be registered, notify the Registrar of the name and address of the representative person; and

(b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the Registrar of the name and address of the new representative person, or, of the new address, as soon as practicable after the change occurs;

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

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

(a) delivered to any representative person for the time being appointed in relation to a ship;

(b) sent to a person by post at the address notified or, last notified to the Registrar under subsection (3) in relation to that person; or

(c) left for a person at that address.

(5) A person who contravenes subsection (1)(b) or (3)(b) commits an offence and is liable on summary conviction to a fine of \$3,000.

7. Refusal of registration

(1) Despite that a ship in respect of which an application for registration has been made is entitled to be registered, the Minister may direct the Registrar not to register a ship if he is satisfied that having regard to—

- (a) the condition of a ship so far as is relevant to safety or to any risk of pollution;
- (b) the safety, health and welfare of persons employed or engaged in any capacity on board a ship; or
- (c) the possibility that a ship may be used for criminal purposes;

it would be detrimental to the interests of Montserrat or of international shipping for a ship to be registered.

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

8. Termination of registration

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

(a) where the Minister is satisfied that—

- (i) having regard to the matters mentioned in section 7(1)(a), (b) or (c) it would be detrimental to the interests of Montserrat or of international shipping for a registered ship to continue to be registered,
- (ii) any penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than 3 months and no appeal against the penalty is pending, or
- (iii) any summons for a contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than 3 months has elapsed since that time,

and the Minister so informs the Registrar;

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- (b) if a registered ship is no longer entitled to remain registered;
 - (c) on application by the registered owner stating that he wishes to terminate the registration of a ship;
 - (d) on a registered ship becoming a total loss or being otherwise destroyed by, *inter alia*, shipwreck, demolition, fire or sinking;
 - (e) if section 6(1)(b) is contravened.
- (2) In the event of a registered ship being in any condition referred to in subsection (1)(d), a registered owner of a ship or any share therein shall, immediately on obtaining knowledge of the event, inform the Registrar who shall make an entry thereof in the register.
- (3) Where the registration of a ship is terminated—
 - (a) under subsection (1), the Registrar shall notify all registered mortgagees of the closure of the ship's registration; and
 - (b) under subsections (1)(c) or (d), the Registrar shall immediately issue a closure transcript to the owner of a ship.
- (4) On receipt of the closure transcript referred to in subsection (3)(b), the owner shall immediately surrender the ship's certificate of registry to the Registrar for cancellation.
- (5) Where—
 - (a) the circumstances referred to in subsection (1)(a) apply, and it appears to the Registrar that subsection (1)(b) or (e) applies, he may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, within 21 days, evidence sufficient to satisfy the Minister or the Registrar, that a ship is eligible to remain on the register, and if at the expiry of that period the Minister or the Registrar, is not so satisfied, the Registrar may—
 - (i) extend the notice and ask for further information or evidence, or

- (ii) serve a final notice informing the owner or the representative person of the termination of the ship's registry, and such termination shall take effect 7 days after the service of that notice;
 - (b) the Registrar serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register; and
 - (c) a ship's registration is terminated under this subsection, the Registrar shall issue a closure transcript and the owner of a ship shall immediately surrender its certificate of registry.
- (6) A person who—
 - (a) in connection with the making of any representations in pursuance of subsection (5)(a), knowingly or recklessly furnishes information which is false in a material particular commits an offence and is liable on summary conviction to a fine of \$5,000, or on conviction on indictment to a fine of \$10,000; or
 - (b) fails, without reasonable cause, to surrender a certificate of registry when required to do so under subsection (4) or (5), commits an offence and is liable on summary conviction to a fine of \$3,000.

9. Penal liability

- (1) Where a body corporate commits an offence under this Act or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in a capacity, he, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his

functions of management as if he were a director of the body corporate.

Procedure for Registration

10. Directions to Registrar

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

11. Register

- (1) There shall continue to be a register of Montserrat ships for all registrations of ships in Montserrat.
- (2) The register is maintained by the Registrar.
- (3) The register is so constituted as to distinguish, in a separate part, registration of small ships, pleasure vessels and submersible craft, and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.
- (4) The register is maintained in accordance with the Registration of Ships Regulations and the private law provisions for registered ships and any directions given by the Minister under section 10.
- (5) The register is available for public inspection during official working hours.

12. Entries in register

Entry in the register in relation to property in a ship is made in accordance with the following provisions—

- (a) the property in a ship is divided into 64 shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 individuals are entitled to be registered at the same time as owners of any one ship, but this rule shall not affect the beneficial title of any number of persons or of any company represented

by or claiming under or through any registered owner or joint owner;

- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding 5 may be registered as joint owners of a ship or of any share or shares therein;
- (d) joint owners are considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;
- (e) a body corporate is registered as owner by its corporate name.

13. Survey and measurement of ships

- (1) A ship shall, before registration, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations made under this Act, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of a ship as may for the time being be required by the Minister and such certificate is delivered to the Registrar before registration.
- (2) When the tonnage of a ship has been ascertained and registered in accordance with the Tonnage Regulations that tonnage is treated as the tonnage of a ship except so far as regulations provide, in specified circumstances, for a ship to be re-measured and the register amended accordingly.

14. Marking of ship

- (1) A ship, other than a pleasure vessel which is under 24 metres in length, shall before registration be marked permanently and conspicuously to the satisfaction of the Minister as follows—

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- (a) her name is marked on each of her bows, and her name and the name of her port of registry is marked on her stern, in letters of a contrasting colour so as to be clearly visible, such letters to be of a height not less than one decimetre, and of proportionate breadth;
- (b) her official number and net tonnage is permanently marked on a main part of the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;
- (c) subject to paragraph (e), in the case of a ship built before the 1st day of May, 1988, a scale of feet denoting her draught of water is marked on each side of her stem and of her stern post in Roman capital numerals or in figures, not less than 6 inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters and figures is marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;
- (d) in the case of a ship built after the 1st day of May, 1988, a scale of decimetres, or of metres and decimetres, denoting a draught of water is marked on each side of her stem and her stern post in figures at two-decimetre intervals and at intervening two-decimetre intervals, if the scale is in metres and decimetres, the capital letter "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters, coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;
- (e) a ship built before the 1st day of May, 1988 may comply with the requirements of paragraph (d).

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- (2) Unless in special circumstances the Minister directs otherwise, a pleasure vessel of 24 metres in length or over, is in compliance with subsection (1)(a) if her name and the name of her port of registry is marked on her stern in the manner provided in that subsection.
- (3) If the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of a ship commits an offence and is liable on summary conviction to a fine of \$3,000.
- (4) The marks required by this section is permanently continued, and no alteration is made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.
- (5) If an owner or master of a registered ship neglects to keep his ship marked as required by this section, or if a person conceals, removes, alters, defaces, or obliterates or suffers a person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event referred to in subsection (4), that owner, master, or person commits an offence, and for each such offence is liable on summary conviction to a fine of \$3,000 and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked a ship may be detained until the insufficiency or inaccuracy has been remedied.
- (6) It is a defence for an owner, master or person referred to in subsection (5) to prove—
- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
- (b) that the commission of the offence was for the purpose of escaping capture by an enemy.
- (7) Where a ship proceeds to sea without being marked in accordance with this section, the owner commits an offence and is liable on summary conviction to a fine of \$10,000.

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

15. Application for registration

- (1) An application for registration of a ship is made in the case of individuals by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent, and the authority of the agent is testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal.
- (2) Where the requirements of this Act preliminary to registration are not complied with by the applicant and the registration is not completed within 1 year from the date of application, the application shall lapse and cease to have effect. The lapse of the application does not absolve the person from making a fresh application to register a ship.

16. Declaration of eligibility

- (1) A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to a ship as described in the certificate of the surveyor, and containing the following particulars—
- (a) a statement of his qualifications to own a Montserrat ship, or in the case of a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Montserrat ship;
- (b) in the case of a foreign ship, a statement of its foreign name;

- (c) a statement of the number of shares in a ship the legal title to which is vested in him or, the body corporate, whether alone or jointly with any other person or persons;
 - (d) a declaration that, to the best of his knowledge and belief, a majority interest in a ship is owned by persons qualified to own Montserrat ships, and a ship is otherwise entitled to be registered.
- (2) In the application to a ship which is not wholly owned by persons qualified to own Montserrat ships, subsection (1)(a) shall have effect only in relation to persons who are so qualified.

17. Evidence of title on first registry

On the first registration of a ship such evidence of title is produced as specified in the Registration of Ships Regulations.

18. Entry of particulars in register

When the requirements of this Act preliminary to registration have been complied with, the Registrar shall register a ship in accordance with the Registration Regulations by entering in the register particulars respecting a ship as specified in the Registration of Ships Regulations.

19. Documents to be retained by Registrar

On the registration of a ship the Registrar shall retain in his possession such documents as are specified in the Registration of Ships Regulations.

20. Port of registry

- (1) The port of Little Bay, Montserrat is the port of registry of a ship registered under this Act and the port to which she belongs.

- (2) The Governor acting on the advice of Cabinet may appoint, by notification published in the *Gazette*, any other port in the Montserrat as a port of registry for the purposes of subsection (1).

Certificate of Registry

21. Certificate of registry

On completion of the registration of a Montserrat ship, the Registrar shall grant a certificate of registry comprising the particulars of the ship as specified in the Registration of Ships Regulations.

22. Custody of certificate

The certificate of registry is used only for the lawful navigation of a ship, and shall not be subject to detention to secure any private right or claim.

23. Penalty for use of improper certificate

If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of a ship, he commits an offence and, in respect of each such offence, is liable on summary conviction to a fine of \$25,000, and a ship is subject to forfeiture under this Act.

24. Power to grant new certificate

The Registrar may, with the approval of the Minister, and on the surrender to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

25. Duplicate certificates

- (1) If it is shown to the satisfaction of the Registrar that the certificate of registry has been lost, stolen or destroyed or has become defaced or illegible (“the event”), he may

issue to the owner a duplicate of that certificate, which is marked as such, and is of the same effect as the original.

- (2) Where a duplicate certificate of registry is issued, the original, if then available or if subsequently found or recovered, is immediately surrendered to the Registrar.
- (3) If—
- (a) the port where a ship is at the time of the event or, where it first arrives after the event, is not in Montserrat; and
 - (b) the master of a ship, or some other person having knowledge of the facts of the case, makes a declaration before the proper officer as to the loss, theft, destruction, defacement or illegibility of the certificate;
- the proper officer shall notify the Registrar.
- (4) On being notified of the event and being satisfied that a ship is entitled to be issued with a duplicate certificate, the Registrar shall—
- (a) send by facsimile or any other form of electronic transmission to the proper officer a copy of the duplicate certificate which the proper officer shall endorse with a statement of the circumstances under which it is granted; or
 - (b) where there are no facsimile or other electronic transmission facilities, the proper officer shall issue a temporary certificate so endorsed.
- (5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, is surrendered to the Registrar, as soon as an original duplicate certificate referred to in subsection(1)is received by the owner.
- (6) A person who fails, without reasonable cause to surrender a certificate of registry when required to do so under subsection (2), commits an offence and is liable on summary conviction to a fine of \$3,000.

26. Endorsement of change of ownership

- (1) Whenever a change occurs in the registered ownership of a ship, the Registrar may endorse the change on the certificate of registry or issue a new certificate of registry.
- (2) The master shall, for the purpose of such endorsement by the Registrar, deliver the certificate of registry to the Registrar immediately after the change.
- (3) If the master fails to deliver to the Registrar the certificate of registry as required by this section he commits an offence and is liable on summary conviction to a fine of \$3,000.

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

- (1) If a ship becomes entitled to be registered while at port in a country outside Montserrat then, subject to this section, the proper officer may, on the application of the master of a ship, grant to him a provisional certificate stating—
 - (a) the name of a ship;
 - (b) the time and place of the purchase of a ship and the names of the purchasers; and
 - (c) the best particulars respecting the tonnage, build and description of a ship which the person granting the certificate is able to obtain;and shall forward a copy of the certificate at the first convenient opportunity to the Registrar.
- (2) No provisional certificate is granted by a person under this section unless he is satisfied that an application under the Registration of Ships Regulations for registration of a ship has been made or is intended.
- (3) A provisional certificate shall have the effect of a certificate of registry until—

- (a) the expiration of a period not exceeding 3 months from its date; or
 - (b) the ship's arrival at the port of Little Bay, Montserrat;
- whichever happens first, and shall then cease to be of any effect.
- (4) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate is so granted for a ship within one year from the date of that certificate except with the consent of the Minister.

Bareboat Charter Registration

28. Registration of ships chartered by bareboat to a qualified person

- (1) Subject to subsection (3), a ship is entitled to be registered under this Act in Montserrat if—
- (a) a ship is operated under a bareboat charter which complies with the requirements set out in subsection (2);
 - (b) the charterer is a person qualified to be an owner of a Montserrat ship by virtue of section 4; and
 - (c) the requirements corresponding to those imposed on the owner of a majority interest in a ship by section 5(3) and 5 (4)(b) with respect to entitlement to registration, are satisfied by the charterer.
- (2) The requirements referred to in subsection (1)(a) are—
- (a) that the charter is in writing;
 - (b) that the demise effected by the charter is—
 - (i) made by the owner of a ship,
 - (ii) made to a charterer who has a single legal personality, and
 - (iii) for a fixed period of 2 or more years or such lesser period as may be allowed by the Minister; and

- (c) that under the terms of the charter the operation, management and control of a ship (including responsibility for the engagement or employment of the master and crew of a ship) are vested in the charterer.
- (3) Without prejudice to subsection (4), the Registrar may refuse to register a ship which is entitled to be registered under subsection(1)if—
- (a) he is not satisfied that—
- (i) the owner of a ship has consented to the registration of a ship in Montserrat, or
 - (ii) any mortgagee of a ship has consented to the registration of a ship in Montserrat;
- (b) the tonnage of a ship cannot be ascertained in accordance with the Tonnage Regulations;
- (c) a ship cannot be marked in accordance with section 14;
- (d) he reasonably believes that a ship would be precluded by some other Act to which it is subject from flying Montserrat's national colours in accordance with section 64;
- (e) the charter by demise has an unexpired period of less than 2 years at the date when the application to register a ship is made; or
- (f) it is not in the interests of Montserrat that a ship should be registered in Montserrat.
- (4) Sections 6, 7 and 8 shall apply in respect of a ship entitled to be registered in Montserrat under subsection (1) as if a ship was entitled to be registered under section 5.

29. Consequences of registration under section 28(1)

Where a ship is registered under section 28(1), it shall—

- (a) be a Montserrat ship for the purposes of this Act; and
- (b) not fly any colours other than Montserrat's national colours specified in section 64.

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

- (1) Where application is made to register a ship which is entitled to be registered under section 28(1) or, application having been made to register a ship which is entitled to be registered under section 28(1), a ship has been registered—
- (a) the provisions of this Part shall apply to a ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2); and
 - (b) any act or thing as is mentioned in this subsection, required to be done or not done under this Act by an owner of such a ship, is required to be done or not done by the charterer, and—
 - (i) the charterer is liable for doing or omitting to do such act or thing as if he were the owner of a ship, and
 - (ii) a reference to “owner” in this Act shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to “charterer” and the words “registered owner” and “registered ownership” is construed accordingly.
- (2) The modifications and adaptations to the provisions of this Part referred to in subsection (1) are as follows—
- (a) section 12(a) to (e) shall not apply;
 - (b) a ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of a ship under section 13 if there is in force in respect of a ship an International Tonnage Certificate (1969) and in such case the tonnage of such ship is deemed to have been ascertained and, on registration, registered in accordance with the Tonnage Regulations;
 - (c) the declaration required by section 16 shall include in place of the statements referred to in paragraphs (c) and (d) of that section, a statement that a ship is subject to a bareboat charter and that the person on whose behalf the declaration is made is the charterer

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of a ship under that charter and there is attached to such declaration and produced to the Registrar a certified copy of that bareboat charter;

- (d) section 17 shall not apply;
- (e) in place of the particulars required to be entered in the register under section 18 the following particulars is entered—
 - (i) the name of the charterer as if he were the owner of a ship with such annotation as may be necessary to show that a ship is entitled to be registered under section 28(1),
 - (ii) the name and address of the owner or owners determined in accordance with the provisions of section 12(a) to (e),
 - (iii) the name and address of a person who has been granted a mortgage on a ship or any share in a ship by any owner whose name is or is to be noted on the register under subparagraph (ii),
 - (iv) such details of the terms of any mortgage referred to in subparagraph (iii) as the Registrar shall require to be noted, and
 - (v) the previous name, if any, of a ship;
- (f) the Registrar shall retain in his possession, in addition to the surveyor's certificate issued under section 13, the certified copy of the charter by demise and any certified copy of a transfer referred to in section 31(1)(c) produced to him;
- (g) a certificate of registry granted by the Registrar under section 21 is granted for a fixed period of time expiring on the date on which the bareboat charter shall come to an end by effluxion of time;
- (h) a ship shall cease to be entitled to be registered within the meaning of section 8(1)(c) on the expiry of the fixed period specified in the certificate of registry or, if sooner, on either—
 - (i) the termination of the bareboat charter, or
 - (ii) the transfer by the charterer of his rights and obligations under the charter in circumstances

which cause the registration to cease under section 31; and

- (i) section 49 shall not apply.

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

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

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

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

32. Rights and obligations relating to interests in ships registered under section 28(1)

Where a ship is registered under section 28(1), the rights and obligations of the parties to any contract, bill of sale, mortgage, charge or other instrument creating or disposing of any legal or equitable interest in a ship,

whether existing at the date of registration of a ship under section 28(1) or created thereafter, shall not be affected by such registration.

33. Dispensations for ships bareboat chartered and registered outside Montserrat

- (1) Where he is satisfied that it is proper for him to do so, the Minister may grant to the owner of a ship registered in Montserrat under this Act a dispensation under this section.
- (2) The Minister shall not grant a dispensation under this section unless he is satisfied—
 - (a) that a ship is subject to a charter under which the registered owner of a ship is not responsible for the management, operation or control of a ship for the period of the charter;
 - (b) that any registered mortgagee of a ship has consented to the dispensation being granted;
 - (c) that in addition to the registration of a ship in Montserrat, a ship is intended to be registered under the law of a country outside Montserrat; and
 - (d) that on registration under the law of a country outside Montserrat, a ship will become subject to laws which implement and apply to a ship such provisions of the Collision Convention, the relevant International Labour Conventions, the Load Line Convention, the Marine Pollution Convention, the Safety Convention and the STCW Convention to the same extent as they apply in respect of a ship by virtue of her registration in Montserrat.
- (3) Where the Minister has granted to the owner of a ship a dispensation under this section, with effect from the date on which the conditions set out in subsection (4) have been complied with, sections 62(4) and 63 shall not apply to a ship and section 66(1) shall apply to a ship as though a ship was not a Montserrat ship.

- (4) The conditions referred to in subsection (3) are—
- (a) that the owner has delivered to the Registrar the following documents—
 - (i) a certified copy of the bareboat charter referred to in subsection (2)(a),
 - (ii) in exchange for a receipt, the certificate of registry granted under section 21,
 - (iii) any certificate issued in respect of a ship under this Act;
 - (b) that the owner, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has delivered to the Registrar a declaration referring to a ship and containing a statement that a ship is lawfully registered in a named country outside Montserrat and is subject to the jurisdiction of that country in respect of the enforcement of such provisions of the conventions referred to in subsection (2)(d) as apply in respect of a ship by virtue of her registration in Montserrat; and
 - (c) that the Registrar has received confirmation from the administration of the country outside Montserrat in which a ship is registered that a ship is so registered and is subject to the jurisdiction of that country.

34. Termination and revocation of dispensations granted under section 33

- (1) Any dispensation granted by the Minister under section 33 shall terminate automatically if—
- (a) a ship ceases to be registered in the country named in the declaration made under section 33(4)(b); or
 - (b) the bareboat charter terminates, whether on expiry or otherwise.
- (2) The Minister may revoke any dispensation granted by him under section 33—
- (a) on the application of any registered owner or registered mortgagee of a ship;

- (b) if he is satisfied that any declaration made for the purpose of section 33(4)(b) is false or misleading;
- (c) at the request of the country named in the declaration made under section 33(4)(b); or
- (d) if it is not in the interests of Montserrat that the dispensation should continue.

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

- (1) Where a dispensation granted under section 33 has taken effect, a ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made under section 33(4)(b).
- (2) Without prejudice to section 33(3), where a ship flies colours in contravention of subsection (1) the registered owner commits an offence and is liable on summary conviction to a fine of \$10,000.

Name of Ship

36. Rules as to name of ship

- (1) A ship shall not be described by any name other than her registered name.
- (2) A change shall not be made in the name of a ship without the previous written permission of the Registrar.
- (3) Application for that permission is in writing and if the Registrar is of the opinion that the application is reasonable he may grant permission, and thereupon require notice thereof to be published in such form and manner as he thinks fit.
- (4) On permission being granted to change the name, the ship's name shall immediately be altered in the register, in the ship's certificate of registry, and on its bows and stern.

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

37. Offences

If a person acts, or suffers a person under his control to act, in contravention of section 36, or omits to do, or suffers a person under his control to omit to do, anything required by that section, he commits an offence, and for each such offence is liable on summary conviction to a fine of \$3,000, and, except in the case of an application being made under that section with respect to a foreign ship which not having at any previous time been registered as a Montserrat ship has become a Montserrat ship, a ship may be detained until there is compliance with that section.

Registration of Alterations and Registration Anew

38. Registration of alterations

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

39. Offences

If default is made in registering anew a ship, or in registering an alteration of a ship so altered as provided in section 38, the owner of a ship commits an offence

and is liable on summary conviction to a fine of \$3,000 and, in addition, to a fine of \$100 a day during which the offence continues after conviction.

40. Procedure for registration of alterations

- (1) For the **purpose** of the registration of an alteration in a ship, the ship's certificate of registry is produced to the Registrar, and the Registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of a ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.
- (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, is entered by the Registrar in the register.

41. Registration a new on change of ownership

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

42. Procedure for registration anew

- (1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of first registry, and on the surrender to him of the existing certificate of registry, and on compliance with the other requirements for registration, or in the case of a change of ownership, compliance with such of them as the Registrar thinks material, shall register a ship anew, and grant a new certificate.
- (2) When a ship is registered anew, her former register is **considered** as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons

appearing on the former register to be interested in a ship as owners or mortgagees is entered in the new register, and the registration anew shall not in any way affect the rights of any of those persons.

Transfer of Registration between Montserrat and the United Kingdom or a Relevant British Possession

43. Transfer of registration from port of Little Bay, Montserrat

- (1) Subject to subsection (2), the registration of a ship under this Part may be transferred from the port of Little Bay, Montserrat to a port in the United Kingdom or in another relevant British possession on the application to the Registrar made by declaration in writing of all persons appearing on the register to be interested in a ship as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.
- (2) The Registrar shall transmit notice of an application to the Registrar of the intended port of registry with a copy of all particulars relating to a ship, and the names of all persons appearing on the register to be interested in a ship as owners or mortgagees.
- (3) The ship's certificate of registry is surrendered either to the Registrar or to the Registrar of the ship's intended port of registry, and if surrendered to the former, is transmitted to the Registrar of the intended port of registry.
- (4) Where an application is made under this section for the transfer of a ship's registration to a port in the United Kingdom or in another relevant British possession, the Registrar shall not proceed to deal with the application unless he is satisfied that registration of a ship under this Part at the intended port of registry is not precluded by

any Act in force in the United Kingdom or in the possession in question.

- (5) Any certificate purporting to be signed by the Registrar of the intended port of registry and stating that a registration of a ship is not precluded by a provision is conclusive evidence for the purposes of subsection (4) and this subsection, of the matters stated in it.
- (6) Where the registrar of the intended port of registry grants a new certificate of registry in pursuance of an application as is mentioned in subsection (2), a ship in question shall thenceforth be considered as registered at the new port of registry, and the name of the port of Little Bay, Montserrat is removed from the ship's stern.
- (7) The Registrar shall, on being notified by the Registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of a ship in the register.

44. Transfer of registration to port of Little Bay, Montserrat

- (1) Where a ship is registered in the United Kingdom or in another relevant British possession the registration of that ship may, subject to subsections (5) and (7), be transferred to the port of Little Bay, Montserrat, if—
 - (a) an application to the registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in a ship as owners or mortgagees; and
 - (b) the documents mentioned in subsection (2) have been transmitted to the Registrar.
- (2) The documents referred to in subsection (1) are—
 - (a) a notice of the application transmitted by the registrar of the existing port of registry;
 - (b) a copy transmitted by him of all the registered particulars of a ship and the names of all the persons

appearing on his register to be interested in a ship as owners or mortgagees; and

(c) the ship's certificate of registry.

(3) On receipt of those documents the Registrar shall, subject to subsection (5)—

(a) enter in the register all the particulars and names so transmitted; and

(b) grant a new certificate of registry;

and thenceforth a ship in question is considered as registered at the port of Little Bay, Montserrat, and the name of that port is substituted for the name of the former port of registry on the ship's stern.

(4) The Registrar shall notify the registrar of the former port of registry of the grant of a new certificate of registry.

(5) Where the entitlement of a ship to be registered is by virtue of any provision of section 5 subject to any condition specified in that provision being satisfied, the registration of a ship shall not be transferred to the port of Little Bay, Montserrat under this section unless it appears to the Registrar that the condition is satisfied.

(6) A transfer of registration under this section shall not affect the rights of any of the persons mentioned in subsection (1)(a).

(7) Section 6 shall apply *mutatis mutandis* to this section.

Tonnage Measurement

45. Tonnage of ships of foreign countries adopting Tonnage Regulations

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

- (2) The Minister may order that ships of the foreign country shall, without being re-measured in Montserrat, be treated as being of the tonnage denoted by their certificates of registry or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a Montserrat ship is treated as being the tonnage of that ship.
- (3) Where the Minister orders a ship to be treated as provided in subsection (2), any space shown in the ship's certificate of registry or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a Montserrat ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Minister that the construction and equipment of a ship as respects that space do not come up to the standard which would be required if a ship were a Montserrat ship.
- (4) An order may—
- (a) operate for a limited time; and
 - (b) be subject to such conditions and qualifications, if any, as the Minister may consider expedient.
- (5) If it appears to the Minister that the tonnage of any foreign ship, as measured by the rules of the country to which a ship belongs, materially differs from what it would be under the Tonnage Regulations, he may order further that any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the Tonnage Regulations.

46. Tonnage Regulations

- (1) The tonnage of a ship to be registered under this Part is ascertained in accordance with regulations made by the Governor acting on the advice of Cabinet (“Tonnage Regulations”) and whenever the tonnage of a ship has

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been ascertained and registered in accordance with the Tonnage Regulations, the same is repeated in a subsequent registration thereof, unless any alteration is made in the form or capacity of a ship, or unless it is discovered that the tonnage of a ship has been erroneously computed, and in either of those cases a ship is re-measured, and its tonnage determined and registered according to the Tonnage Regulations.

(2) Tonnage Regulations may—

- (a)* make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
- (b)* make any regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the Regulations; and
- (c)* prohibit or restrict the carriage of goods or stores in spaces not included in the net tonnage and may provide for making the master and the owner each guilty of an offence and liable on summary conviction to a fine of \$10,000 where such a prohibition or restriction is contravened.

(3) Tonnage Regulations may make provision—

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

- (4) Tonnage Regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the Regulations by persons appointed by such organisations as may be authorised for the purpose by the Minister.
- (5) Tonnage Regulations may provide for the issue, by the Minister, or by persons appointed by such organisations as may be authorised for the purpose by the Minister, of certificates of the tonnage of a ship or of the tonnage which is to be taken for any purpose specified in the Regulations as the tonnage of a ship not registered in Montserrat, and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the Regulations.
- (6) Regulations requiring the surrender of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine of \$5,000.
- (7) In making the Tonnage Regulations the Governor acting on the advice of Cabinet shall pay due regard to the provisions of the Tonnage Convention.
- (8) Surveyors shall carry out surveys and measurements of ships in accordance with the Regulations made under this section.

Unregistered Ships

47. Liabilities of unregistered ships

- (1) Where a ship—
 - (a) is 24 metres or more in length;
 - (b) has a majority interest in a ship owned by Montserrat citizens or a body corporate established under the laws of Montserrat and having a place of business in Montserrat; and
 - (c) is not registered in Montserrat or elsewhere;

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

- (2) The purposes referred to in subsection (1) are—
- (a) payment of dues, fees or other charges;
 - (b) liability to fines and forfeiture; and
 - (c) punishment of any offences punishable under this Act.

Miscellaneous

48. Termination of overseas registration

- (1) Where a ship is entitled to be registered in Montserrat by virtue of section 5 and a ship is so registered, a ship shall not be registered under the law of a country outside Montserrat except under a dispensation granted under section 33.
- (2) Where a ship is entitled to be registered in Montserrat by virtue of section 28(1) and a ship is so registered, a ship shall not be registered under the law of a country outside Montserrat except where such registration is effected by an owner of a ship whose name is noted in the register under section 30(2)(e)(ii).
- (3) Where a ship is registered under the law of a country outside Montserrat in contravention of subsection (1) or (2), the registered owner, subject to subsection (4), commits an offence and is liable on summary conviction to a fine of \$10,000.
- (4) It is a defence for a person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of a ship under the law of the country in which a ship is registered in contravention of subsection (1) or (2).

49. Trusts, equitable interests and liabilities of beneficial interests

- (1) Subject to subsection (2), no trust, express, implied, or constructive, is registered by the Registrar.
- (2) Where on the bankruptcy of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy, that person may be registered as the owner or mortgagee of a Montserrat ship or a share therein, provided a ship remains entitled to be registered as a Montserrat ship under section 5.
- (3) The expression “beneficial interest”, where used in this Part, includes interests arising under contract and other equitable interests, and without prejudice to—
 - (a) the provisions of this Act for preventing trusts being entered in the register or received by the Registrar;
 - (b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; and
 - (c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Montserrat ships;interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.
- (4) Where a person is beneficially interested, otherwise than by way of mortgage, in a ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other enactment on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any penalties against both or either of the above-mentioned parties, with or without joining the other of them.

50. Registrar may dispense with declaration or evidence

- (1) When, under this Part, a person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the Registrar and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Minister, and on the production of such other evidence, and subject to such terms as he may reasonably think fit, dispense with the declaration or evidence.
- (2) Declarations required by this Part may be made on behalf of a body corporate by the secretary or any other officer of the body corporate authorised by it for the purpose.

51. Fees

- (1) The Governor acting on the advice of Cabinet shall prescribe the fees to be paid for the measurement of a ship's tonnage.
- (2) All fees shall be paid into the Consolidated Fund.

52. Returns to be made by Registrar

The Registrar shall, if requested by the Registrar General of Shipping and Seamen of the United Kingdom—

- (a) transmit to him a full return, at such times and in such form as the Registrar General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him;
- (b) the names of the persons, and
- (c) other particulars as may be directed by the Registrar General.

53. Evidence of certificate of registry and other documents

- (1) A person, on payment of a prescribed fee, may, on application to the Registrar at a reasonable time during the hours of his official attendance, inspect the register.
- (2) The following documents is admissible in evidence in the manner provided by this Act—
 - (a) a certificate of registry under this Act purporting to be signed by the Registrar or other proper officer;
 - (b) an endorsement on a certificate of registry purporting to be signed by the Registrar or other proper officer;
 - (c) a declaration made in pursuance of this Part.
- (3) A person is entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar, of any information contained in an entry in the register.
- (4) A person is entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in the register in respect of the registration of a ship, together with a statement certified by the Registrar showing who is for the time being the owner of a ship.
- (5) In subsections (1), (3) and (4), “prescribed fee” means the fee fixed by the Governor acting on the advice of Cabinet for the purposes of those subsections and published in the *Gazette*.

54. Forms of documents

- (1) The several instruments and documents referred to in Schedule 1 shall, subject to subsection (3), be in the form prescribed, or approved by, the Minister, or as near thereto as circumstances permit.
- (2) The Registrar shall not be required to receive and enter in the register any bill of sale, mortgage or other instrument of the disposal or transfer of a ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part, or

which contains any particulars other than those contained in such form.

(3) In this section—

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

55. Instructions as to registration

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

56. Forgery of documents

If a person forges, or fraudulently alters—

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

he commits an offence and is liable—

- (c) on summary conviction, to a fine of \$5,000 or to imprisonment for a term of 18 months, or to both; or
- (d) on conviction on indictment, to a fine of \$10,000 or to imprisonment for a term of 3 years, or to both.

57. False declarations

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

(a) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in a ship, or any share in a ship; or

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

he commits an offence and in respect of each offence is liable on summary conviction to a fine of \$10,000.

(2) A person wilfully makes a false declaration touching the qualification of himself or of any other person or of anybody corporate to own a Montserrat ship or any share therein or with respect to the entitlement of a ship to be registered, he commits an offence and is liable on summary conviction to a fine of \$15,000 and that ship or share therein is subject to forfeiture under this Act to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of a person or body corporate on behalf of whom the declaration is made.

58. Registration of Ships Regulations

The Governor acting on the advice of Cabinet may make regulations for and in connection with the registration of ships as Montserrat ships.

59. Matters to be prescribed in Registration of Ships Regulations

(1) Regulations made under section 58, may, provide for —

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- (a) the issue of certificates (including provisional certificates) of registry, their production and surrender;
 - (b) restricting and regulating the names of ships registered or to be registered;
 - (c) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
 - (d) the period for which registration may remain effective without renewal;
 - (e) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the Tonnage Regulations;
 - (f) the refusal, suspension and termination of registration specifying circumstances;
 - (g) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
 - (h) the charging of fees in connection with registration or registered ships;
 - (i) the transfer of the registration of ships to and from the register, from and to registers, or corresponding records in registries other than in Montserrat;
 - (j) inspection of the registry;
 - (k) any matter in relation to the registration of small ships and pleasure vessels;
 - (l) transitional provisions;
 - (m) any other matter which is authorised or required by this Act to be prescribed in the Registration of Ships Regulations.
- (2) The regulations may—
- (a) make different provision for different classes or descriptions of ships and for different circumstances;
 - (b) without prejudice to paragraph (a), make provision for the granting of exemptions or dispensations by the Minister from specified requirements of the

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regulations, subject to such conditions (if any) as he thinks fit to impose;

- (c) make such transitional, incidental or supplementary provision as appears to the Governor acting on the advice of Cabinet to be necessary or expedient;
 - (d) make provision for the registration of any class or description of ships to be such as to exclude the application of any private law provisions for registered ships and, if they do, may regulate for the transfer, transmission or mortgaging of ships of the class or description so excluded;
 - (e) make provision for any matter which is authorised or required by those provisions to be prescribed by regulation; and
 - (f) provide for—
 - (i) the approval of forms by the Governor acting on the advice of Cabinet, and
 - (ii) the discharge of specified functions by specified authorities or persons.
- (3) The regulations may provide that any reference in any other enactment or in any instrument, made under any other law to the port of registry or the port to which a ship belong is construed as a reference to the port identified by the marks required for the purpose by this Act and the regulations.
- (4) The contravention of any regulations made under this section is punishable by a fine of \$20,000.

60. Certified copy of entry in register to be evidence

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

PART 3—NATIONAL CHARACTER AND FLAG

61. National character of ship to be declared before clearance

- (1) A customs officer shall not grant clearance for a ship until the master of a ship has declared to that officer the name of the nation to which he claims that a ship belongs, and that officer shall thereupon write that name on the clearance.
- (2) If a ship attempts to proceed to sea without a clearance, it may be detained until the declaration is made.

62. Offences relating to Montserrat character of ship

- (1) If the master or owner of a ship which is not a Montserrat ship does anything, or permits anything to be done, for the purpose of causing a ship to appear to be a Montserrat ship then, except as provided by subsections (2) and (3), a ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 63.
- (2) No liability arises under subsection (1) where the assumption of Montserrat national character has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of a ship has terminated by virtue of any provision of this Act or the Registration of Ships Regulations, any marks prescribed by regulations displayed on a ship within the period of 14 days beginning with the date of termination of that registration is disregarded for the purposes of subsection (1).
- (4) If the master or owner of a Montserrat ship does anything, or permits anything to be done, for the purpose of concealing the nationality of a ship, a ship is liable to forfeiture and each of the master, owner and

charterer, if any, commits an offence and is liable as provided in section 63.

- (5) Without prejudice to the generality of subsections (1) and (4), those subsections apply in particular to acts or deliberate omissions as respects—
- (a) the flying of a national flag;
 - (b) the carrying or production of certificates of registry or other documents relating to the nationality of a ship; and
 - (c) the display of marks required by the law of any country.

63. Penalties

- (1) A person who commits an offence under section 62 is liable on summary conviction to a fine of \$25,000, or imprisonment for a term of 2 years or to both.
- (2) This section and section 62 apply to things done outside, as well as to things done within, Montserrat.

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

- (1) The flag that a Montserrat ship may fly is—
 - (a) the red ensign without any defacement or modification;
 - (b) the red ensign defaced or modified, whose adoption for ships registered in Montserrat is authorized or confirmed by Her Majesty by Order in Council; or
 - (c) colours allowed to be worn under a warrant from Her Majesty.
- (2) If any of the following colours, namely—
 - (a) any distinctive national colours except—
 - (i) the red ensign,
 - (ii) the Union flag (commonly known as the Union Jack) with a white border, or

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- (iii) any colours authorised or confirmed by Her Majesty by Order in Council;
- (b) any colours usually worn by Her Majesty's ships or resembling those of Her Majesty; or
- (c) the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant;
- are hoisted on board any Montserrat ship without warrant from Her Majesty, the master of a ship, or the owner of a ship (if on board), and a person hoisting them is guilty of an offence and liable on summary conviction to a fine of \$25,000.
- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine of \$5,000;
- (b) on conviction on indictment, to a fine of \$10,000.
- (4) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any customs officer in Her Majesty's dominions, or any British consular officer may board any Montserrat ship on which any colours or pendants are hoisted contrary to this section, and seize the colours or pendant, and the colours or pendant is forfeited to Her Majesty.
- (5) A Montserrat ship shall hoist the proper national colours—
- (a) on a signal being made to her by one of Her Majesty's ships (including any vessel under the command of an officer of Her Majesty's navy on full pay);
- (b) on entering or leaving any foreign port; and
- (c) if of 50 gross tonnage or upwards, on entering or leaving a port in Montserrat.
- (6) If default is made on board a ship complying with subsection (5), the master of a ship commits an offence, and for each such offence is liable on summary conviction to a fine of \$3,000.

- (7) The provisions of this section with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.

65. Proceedings on forfeiture of a ship

- (1) Where a ship has either wholly or as to any share in it become liable to forfeiture under this Act—
- (a) any commissioned naval or military officer; or
 - (b) a person appointed by the Minister under this section;
- may seize and detain a ship and bring a ship for adjudication before the Court.
- (2) Where a ship is subject to adjudication under this section, the Court may—
- (a) adjudge a ship and her equipment to be forfeited to the government; and
 - (b) make such order in the case as seems just.
- (3) No officer or person bringing proceedings under this section is liable in damages in respect of the seizure or detention of a ship, despite that a ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the Court is satisfied that there were reasonable grounds for the seizure or detention.
- (4) If the Court is not so satisfied the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

PART 4—PROPRIETARY INTERESTS IN REGISTERED SHIPS

66. Private law provisions for registered ships and liability as owner

- (1) Schedule 2 has effect in relation to the title to and the registration of mortgages over ships, except ships that are excluded from its application by any provisions of

the Registration of Ships Regulations made under section 59.

- (2) If a person is beneficially interested, otherwise than as a mortgagee, in a ship or a share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, is liable to any pecuniary penalties imposed by or under this Act or another Act, or any enactment extending to Montserrat, on the owners of registered ships.
- (3) If the registration of a ship terminates by virtue of a provision of the Registration of Ships Regulations, the termination of that registration does not affect an entry in the register so far as relating to an undischarged registered mortgage of that ship or of any share in it.
- (4) In subsection (3), “**registered mortgage**” has the same meaning as in Schedule 2.

PART 5—SAFETY AND ENVIRONMENTAL PROTECTION

67. Safety and health on ships and control of pollution by ships

- (1) The Governor acting on the advice of Cabinet may make regulations—
 - (a) to protect the health of persons on Montserrat ships;
 - (b) to protect the health of persons on ships other than Montserrat ships while they are in Montserrat waters;
 - (c) to prevent, reduce or minimize pollution from Montserrat ships and other ships while they are in Montserrat waters.
- (2) Regulations under subsection (1)—
 - (a) are not to apply in relation to a foreign ship while it is exercising a right of innocent passage, or to persons on it while it is exercising such a right; but

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- (b) are to apply in relation to such a ship, and persons on it, even though a ship is exercising such a right, to the extent that the regulations give effect to any provisions of an international agreement, ratified by the United Kingdom on behalf of Montserrat.
- (3) In subsection (1), “Montserrat ship” means a ship that—
- (a) is registered in Montserrat; or
- (b) is not registered under the law of any country but is wholly owned by persons each of whom is—
- (i) a British citizen resident in Montserrat, or
- (ii) a body corporate that is established under Montserrat law and its principal place of business in Montserrat.
- (4) The power conferred by subsection (1) extends to the making of regulations for the prevention of collisions between seaplanes on the surface of the water and between ships and seaplanes; and subsections (5) to (7) have effect accordingly.
- (5) (a) Regulations may—
- (i) authorize the making of Orders under this section;
- (ii) make provision in terms of approvals given by the Governor acting on the advice of Cabinet, or enable the Governor acting on the advice of Cabinet to specify standards or other provisions in documents that the Governor acting on the advice of Cabinet considers relevant from time to time;
- (iii) provide for the cancellation of an approval given under the regulations and for the alteration of the terms of such an approval.
- (b) an approval under the regulations is given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

- (6) Regulations may provide—
- (a) for the Minister or another person to grant, on any terms the Minister or other person may specify, an exemption for a class of cases or an individual case from a specified provision of the regulations; and
 - (b) for the alteration or cancellation of an exemption granted under the regulations.
- (7) Regulations may provide that—
- (a) where prescribed by the regulations, a ship is liable to be detained and that any enactment providing for the enforcement of ships shall have effect, with any modifications prescribed by the regulations, in relation to a ship;
 - (b) a contravention of the regulations is an offence punishable with imprisonment for 2 years and a fine, or such lesser penalty as is prescribed by the regulations;
 - (c) where prescribed by the regulations, prescribed persons shall each be guilty of an offence created by virtue of paragraph (b).

68. Provisions supplementary to section 67

- (1) Regulations under section 67 may—
- (a) be made so as to apply outside Montserrat;
 - (b) provide if a signal is used or displayed otherwise than in accordance with the regulations for compensation to be paid for any expense or loss caused in consequence of the signal being taken for a signal of distress;
- and any compensation required to be paid by virtue of regulations under paragraph (b) may, without prejudice to another remedy, be recovered in the same manner as salvage.
- (2) The Governor acting on the advice of Cabinet may, by regulation—
- (a) repeal or modify a provision of another enactment in force in Montserrat, or that applies to Montserrat ships, as he considers appropriate in connection with

any repeal or modification made or to be made under subsection (1)(a);

(b) provide for anything done under a provision repealed or otherwise modified by virtue of paragraph (a) to have effect as if done under regulations under section 67.

(3) Nothing in section 67(4) to (6), or in subsection (1), is to be construed as prejudicing the generality of section 67(1).

PART 6—SAFETY OF LIFE AT SEA

General

69. Interpretation

In this Part—

“cargo ship” means a ship that is not a—

- (a) passenger ship;
- (b) ship of war;
- (c) fishing vessel; or
- (d) pleasure vessel;

“**Cargo Ship Safety Certificate**”, “**Cargo Ship Safety Construction Certificate**”, “**Cargo Ship Safety Equipment Certificate**”, “**Cargo Ship Safety Radio Certificate**” and “**Passenger Ship Safety Certificate**” means the certificates of those names issued under section 82;

“**certificate**” means a certificate issued in accordance with the Safety Convention as defined therein;

“**fishing vessel**” means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

“**international voyage**” means a voyage between a port in one country and a port in another country where at least one of the ports is a Safety Convention Country;

“Passenger Certificate”, “Montserrat Cargo Ship Safety Certificate” and “Caribbean Cargo Ship Safety Certificate”, mean the certificates of those names issued under section 82;

“radio installation” means any radio installation provided on board a ship in life-saving appliances, in compliance with the relevant regulations;

“radio-navigational equipment” means the equipment required by the relevant regulations;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 and its Protocols of 1978 and 1988, together with such amendments thereof or replacements therefore as may be in effect in respect of Montserrat;

“Safety Convention Certificate” means a certificate that is required to be issued to a Safety Convention ship that complies with the relevant provisions of the Safety Convention and includes a Safety Certificate, Safety Construction Certificate, Safety Equipment Certificate, Safety Radio Certificate, and a certificate that is limited, modified or restricted by an Exemption Certificate;

“Safety Convention Country” means a country the government of which has accepted the Safety Convention and which has not denounced that Convention or a territory of such country to which the Convention extends and remains extended;

“short international voyage” means an international voyage—

(a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety;

(b) which does not exceed 600 nautical miles in length between the last port of call and

the final destination, no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of a ship could reasonably have prevented or forestalled;

“surveyor” includes a person or organisation, duly authorised by the Harbour Master to act as a surveyor for the purpose of surveying ships and issuing Safety Convention certificates;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature and its age is determined from the year of build as indicated on its certificate of registry;

“tons” means gross tonnage and a reference to tons in relation to a ship having alternative gross tonnages is a reference to the larger of those two tonnages.

70. Application of Safety Convention and exceptions

- (1) Subject to subsection (2), the Safety Convention, including all its related instructions, shall, unless excepted by this Act, apply to all Montserrat ships and all other ships engaged on international voyages while they are in Montserrat waters.
- (2) Unless expressly provided otherwise, the Safety Convention shall not apply to—
 - (a) ships of war and troop ships;
 - (b) cargo ships of less than 500 tons;
 - (c) ships not propelled by mechanical means;
 - (d) wooden ships of primitive build;
 - (e) pleasure vessels not engaged in trade; and
 - (f) fishing vessels.

- (3) Except as expressly provided in this Act or in regulations made under this Act nothing in the Safety Convention shall apply to Montserrat ships solely navigating the Great Lakes of North America and the River St. Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and on the north side of Anticosti Island, the 63rd meridian.
- (4) Despite that any provision of this Part or any regulations made hereunder is expressed to apply to ships that are not Montserrat ships while they are within any port in Montserrat, such provision shall not apply to a ship that would not be within a port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of a ship could have prevented or forestalled.
- (5) This Part applies to Montserrat ships wherever they may be and to other ships whilst they are in Montserrat waters, but not to fishing vessels or pleasure vessels.

71. Exemptions

- (1) The Harbour Master may exempt a ship or class of ship from any safety requirements imposed by or under this Act either absolutely or subject to such conditions as he thinks fit.
- (2) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Harbour Master, if he is of the opinion that a ship complies with safety requirements imposed by or under this Act, may exempt a ship while engaged on that voyage.
- (3)(a) Without prejudice to subsection (1), a ship which embodies features of a novel kind may be exempted from any requirements imposed by or under this Act relating to safety construction, life-saving appliances and radio-communications, the application of which might seriously impede research into the

development of such features and their incorporation in ships engaged in international voyages; provided however that such ship shall comply with safety requirements which, in the opinion of the Harbour Master are adequate for the service for which it is intended and are such as to ensure the overall safety of a ship.

- (b) An exemption as is referred to in paragraph (a) is granted, the Harbour Master shall communicate to the Organization particulars of the exemptions and the reasons therefor.
- (4) The Harbour Master may, if he considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to safety construction, life-saving appliances and radio communications unreasonable or unnecessary, exempt from those requirements individual Montserrat ships, or classes of ships, which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

72. Regulations relating to safety at sea

- (1) The Governor acting on the advice of Cabinet shall make regulations as may appear to him to be necessary and expedient to give effect to the Safety Convention and its related instruments; and to provide generally for safety at sea, referred to as “Safety Regulations” which shall prescribe the requirements for the hull, equipment and machinery of Safety Convention ships and their survey and inspection.
- (2) For the purpose of giving effect to the provisions of Chapter VIII of the Annex to the Safety Convention, the Governor acting on the advice of Cabinet may make regulations as he considers appropriate with respect to ships provided with nuclear power plants.

73. Regulations for cargo ship safety requirements and surveys

- (1) The Governor acting on the advice of Cabinet may make regulations, in this Act referred to as “Caribbean Cargo Ship Safety Regulations” and “Local Cargo Ship Safety Regulations”, prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Montserrat ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.
- (2) The regulations shall include requirements as appear to the Governor acting on the advice of Cabinet to be necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.
- (3) This section applies to—
 - (a) Montserrat cargo ships of not less than 500 tons not engaged in international voyages;
 - (b) Montserrat cargo ships of such lower tonnage and of such description as the Minister may specify; and
 - (c) foreign cargo ships of less than 500 tons while they are within Montserrat waters and while they are not exempted under this Act.

74. Regulations for small ships safety requirements and surveys

The Governor acting on the advice of Cabinet may make regulations in this Act referred to as “Small Ship Safety Regulations” prescribing requirements for the hull, equipment and machinery of small ships and requiring such ships to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed as well as specifying the examinations required for boat masters and engineers and the appointment of surveyors.

Surveys and Certification

75. Surveyor's duties

- (1) Surveyors shall, as and when required by or under this Act, carry out surveys of—
 - (a) the hull and machinery of ships;
 - (b) the equipment of ships, including its tackle, and appurtenances;
 - (c) the life-saving, fire-fighting and other safety equipment of ships;
 - (d) the radiotelegraphy and radiotelephony installations of ships; and
 - (e) the stowage and manner of loading of ships' cargoes and the stowage of dangerous goods.
- (2) The survey and inspection of ships, so far as regards the enforcement of this Part, is carried out by surveyors or, subject to such conditions as the Harbour Master may impose, by any corporation or society for the survey and classification of ships authorised by the Harbour Master.

76. Surveyor's powers of inspection

- (1) A Surveyor may at all reasonable times inspect a ship in Montserrt waters and Montserrat ships anywhere for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, Collision Regulations and the relevant regulations made under this Act.
- (2) Where the surveyor finds that the said convention or the regulations have not been complied with, he shall give written notice to the owner or master of a ship stating in what respect there is deficiency and what action, in his opinion, is required to rectify such deficiency.

- (3) A notice so given is communicated in a manner directed by the Harbour Master to the Customs Officer of any port at which a ship may seek a clearance and such clearance shall not be granted and a ship may be detained.
- (4) Where the surveyor considers such ship unsafe, or, where a passenger ship, unfit to carry passengers, or the machinery or equipment defective in a way so as to expose persons on board to serious danger, he shall detain that ship, and a surveyor may also detain a ship in respect of which any of the provisions of this Act have not been complied with, if in his opinion such detention is warranted in the circumstances.
- (5) Where, under this section, a surveyor visits a ship he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge of a ship, any questions concerning a ship as he thinks fit and a person shall fully and truthfully answer a question.
- (6) A surveyor may reasonably require of the owner or his agent, the master or chief engineer or any other person on board or in charge, or appearing to be in charge of a ship, that the machinery of a ship be activated or dismantled so that he may satisfy himself as to its condition and a person of whom such a request is made, capable of so doing, shall comply with the requirement.
- (7) A person who contravenes subsection (5) or (6) is guilty of an offence and is liable on summary conviction to a fine of \$5,000.

77. Surveyor to report to Harbour Master

A surveyor, if satisfied on inspection that he can with propriety do so, shall forward a report to the Harbour Master which shall contain a statement showing—

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

- (b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;
- (c) that the safety equipment and radio installations required under this Part are on board and in good condition;
- (d) that the master, mates and engineers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;
- (e) the class of voyage on which a ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;
- (f) if a ship is a passenger ship, the number of passengers which she may carry; and
- (g) the steam pressure that may be carried on the boilers.

78. Record of inspections and certificates

A surveyor shall keep a record of the inspections he makes and certificates he issues in such form and with such particulars respecting them as the Harbour Master may direct, and shall furnish copies thereof and any other information pertaining to the duties of his office which the Harbour Master may require.

79. Responsibilities of owner and master and compliance with ISM Code

- (1) The owner and master of a ship to which this section applies shall ensure that—
 - (a) the condition of a ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provisions of this Part applicable to a ship;
 - (b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of a ship which was subject to the survey without the approval of a surveyor, except by direct replacement; and

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- (c) whenever an accident occurs to a ship or a defect is covered either of which affects the safety of a ship or the efficiency or completeness of a ship, including its structure, machinery and equipment—
- (i) it is reported at the earliest opportunity to a surveyor, or a proper officer, and
 - (ii) if a Montserrat ship is in such a case in a port outside Montserrat it is also reported to the appropriate authorities of the country in which the port is situated.
- (2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subsection (1)(c)(i), the surveyor or proper officer, , shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.
- (3) Subsections (1) and (2) apply to—
- (a) Montserrat ships; and
 - (b) except as regards subsection (1)(a), other ships which have been surveyed under this Part.
- (4) All Montserrat ships, all other ships while in Montserrat waters and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.
- (5) For the purposes of subsection (4), “ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organization as may be amended from time to time, and “**company**” has the same meaning as in the ISM Code.

80. Procedure to be adopted when a ship, including its structure, machinery and equipment, is deficient

- (1) Where a surveyor determines that the condition of a ship to which this section applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that a ship is not fit to proceed to sea without danger to a ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Harbour Master.
- (2) Where such corrective action is not taken within a reasonable period as a surveyor may specify, the surveyor shall, at the end of that time, immediately notify the Harbour Master who may, on receipt of such notification, suspend the validity of the particular certificate issued to a ship and give notice of a suspension to the owner, and to the surveyor, who in turn shall notify the master.
- (3) This section applies only to Montserrat ships and other ships which have been surveyed under this Part.

81. Issue of certificates to Montserrat ships engaged on international or short international voyages

- (1) When a survey or surveys to meet the requirements set out in this Part and regulations made under sections 72 or 74 are satisfactorily completed the Harbour Master, or any other person authorised by him, shall issue—
 - (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless a ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate is issued;
 - (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;

- (c)* in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; or
 - (d)* in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.
- (2) A Cargo Ship Safety Certificate may be issued as an alternative to the certificates referred to in subsections (1)(b), (c) and (d).
- (3) Whenever in this Part reference is made to a Cargo Ship Safety Construction Certificate, a Cargo Ship Safety Equipment Certificate, or a Cargo Ship Safety Radio Certificate, it shall apply to a Cargo Ship Safety Certificate where it is used as an alternative to these certificates.

82. Issue of certificate to Montserrat ships not engaged on international voyages and ships not less than 500 tons

When a survey or surveys, to meet the requirements set out in this Part or in regulations made under section 73 are satisfactorily completed the Harbour Master shall issue—

- (a)* in the case of a Montserrat passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;
- (b)* in the case of a Montserrat cargo ship of 500 tons or over not engaged on international voyages, a Montserrat Cargo Ship Safety Certificate; or
- (c)* subject to regulations made under section 74, in the case of a Montserrat cargo ship of less than 500 tons, a Caribbean Cargo Ship Safety Certificate.

83. Form of certificate

- (1) A Passenger Ship Safety Certificate, Cargo Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificates is in the form prescribed by the Safety Convention.
- (2) A Passenger Certificate, Montserrat Cargo Ship Safety Certificate and Caribbean Cargo Ship Safety Certificate is in such form as may be prescribed by the Governor acting on the advice of Cabinet and a Passenger certificate shall indicate compliance with the provisions of this Act and state—
 - (a) the limits (if any) beyond which a ship is not fit to ply;
 - (b) the number of passengers which a ship is fit to carry; and
 - (c) any condition with which a ship has to comply.

84. Duration and validity of certificates

- (1) The duration of certificates issued under section 81 is as follows—
 - (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate is issued for a period of validity not exceeding 12 months;
 - (b) a Cargo Ship Safety Radio Certificate, a Cargo Ship Safety Equipment Certificate, a Cargo Ship Safety Construction Certificate or a Cargo Ship Safety Certificate is issued for a period of validity not exceeding 5 years.
- (2) The duration of certificates issued under section 82 is as follows—
 - (a) a Passenger Certificate is issued for a period of validity not exceeding 12 months;

(b) a Montserrat Cargo Ship Safety Certificate and a Caribbean Cargo Ship Safety Certificate is issued for a period of validity not exceeding 5 years.

(3) A certificate shall cease to be valid—

(a) if its period of validity has been exceeded and the certificate has not been extended when permitted by section 86;

(b) if annual intermediate or periodical surveys have not been carried out in accordance with this Part and the certificate has not been endorsed; or

(c) on the transfer of a ship to the flag of another State.

85. Issue and duration of exemption certificates

(1) When an exemption is granted to a ship in accordance with the relevant provisions applicable to a ship, a certificate called an Exemption Certificate is issued in addition to any Certificate issued under section 81.

(2) An Exemption Certificate is issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An Exemption Certificate is subject to the same extension and other provisions as the certificates to which it refers.

(4) Where an Exemption Certificate has been issued, a statement to this effect is included on the certificate to which it refers.

86. Extension and other provisions

(1) Where a Montserrat ship, at the time when a certificate issued under section 81(1) or (2) expires, is not in a port in Montserrat or the port in which it is to be surveyed, the Harbour Master may extend the period of validity of the certificate but this extension is granted only for the purpose of allowing a ship to complete its voyage to a port in Montserrat or the port in which it is to be

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surveyed, and then only in cases where it appears proper and reasonable.

- (2) No certificate is extended for a period longer than 3 months, and a ship to which the extension is granted shall not, on its arrival in a port in Montserrat or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Montserrat without having obtained a new certificate.
- (3) The Harbour Master may extend a certificate issued under section 81(1) or (2) which has not been extended under subsection (1) for a period of grace of up to one month from the date of expiry stated on it.
- (4) In the case of a Montserrat ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Harbour Master may, at the request of the master of a ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respects to life-saving appliances stated on the certificate.
- (5) The memorandum referred to in subsection (4) is attached to the certificate during the particular voyage and is returned to the Harbour Master at the completion of the voyage.
- (6) In the case of a ship that has transferred from the registry of the government of another country to Montserrat registry, the Harbour Master, subject to such survey requirements that may be considered to be necessary, may issue one or more of the certificates prescribed by sections 81 and 82 for a period to be determined by the Harbour Master, but for not longer than the period of validity of the certificate or

certificates issued by or on behalf of the government of that other country if satisfied that—

- (a) a ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the government of that country would have remained valid had the registry of a ship not been changed;
- (c) the condition of a ship, including its structure, machinery and equipment, has been maintained so as to comply with the relevant regulations applicable to a ship; and
- (d) after any of the surveys referred to in paragraph (a) have been completed, no material change has been made to a ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other State or the Harbour Master except by direct replacement.

87. Issue and endorsement of certificates by another government

The Harbour Master may request, through a proper officer or otherwise, the government of a country to which the Safety Convention applies to survey a ship and, if satisfied that the requirements of the Convention are complied with, to issue to a ship the certificates referred to in section 81 or to authorise such issue, and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Harbour Master.

88. Ships not registered in Montserrat and to which the Safety Convention applies

- (1) The Harbour Master may, at the request of a government of a country to which the Safety Convention applies, survey a ship registered in that Country and, if satisfied

that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to a ship one or more of the certificates referred to in section 81 and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Harbour Master.

- (2) Where a memorandum, issued by or under the authority of the government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the Safety Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.
- (3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that there is in force a certificate or certificates required by this Part, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of section 79 are being complied with.

89. Other ships which are not Montserrat ships

- (1) When a survey or surveys of ships which are not Montserrat ships, to meet the requirements set out in this Part, are completed in accordance with this Part—
 - (a) the Harbour Master shall issue, in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or

(b) the Harbour Master shall issue, in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Certificate.

(2) A certificate is subject to the requirements of this Part as though they were issued under section 82.

90. Cancellation of a certificate

(1) The Harbour Master may cancel a certificate issued to a Montserrat ship where he has reason to believe that—

(a) the certificate was fraudulently issued;

(b) the certificate was altered without permission;

(c) the certificate was issued on false or erroneous information; or

(d) since any survey required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Harbour Master may require that a certificate issued to a Montserrat ship which has expired or has been cancelled be surrendered, as directed.

(3) A person who—

(a) intentionally alters a certificate referred to in this Part;

(b) intentionally makes a false certificate referred to in this Part;

(c) in connection with any survey required by this Part, knowingly or recklessly furnishes false information;

(d) with intent to deceive, uses, lends, or allows to be used by another, a certificate referred to in this Part; or

(e) fails to surrender a certificate required to be surrendered under subsection (2);

is guilty of an offence and is liable to a fine of \$5,000.

91. Availability of certificates

The owner and master of a ship issued with a certificate in accordance with this Part shall ensure that it is readily available on board for examination at all times.

92. Prohibition on proceeding to sea without the appropriate documentation

- (1) No Montserrat ship shall proceed to sea unless it has been surveyed and there is in force the following certificate or certificates—
 - (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if a ship is only engaged on short international voyages, a short international voyage Passenger Ship Safety Certificate;
 - (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
 - (c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate;
 - (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Certificate;
 - (e) in the case of a small ship, a certificate of inspection.
- (2) No ship registered in a country to which the safety Convention applies shall proceed to sea from a port in Montserrat unless there is in force such Convention certificates that would be required if a ship was a Montserrat ship. The extension provisions in section 86 shall apply to such certificates as if a ship was a Montserrat ship and the government of the country in which a ship is registered is substituted for the Harbour Master.

- (3) No cargo ship of 500 tons and over not engaged on international voyages shall proceed to sea from a port in Montserrat unless it has been surveyed and there is in force a Montserrat Cargo Ship Safety Certificate, unless there is in force a Cargo Ship Safety Certificate as referred to in this Part.
- (4) Subject to regulations made under section 74, no cargo ship of less than 500 tons shall proceed to sea from a port in Montserrat unless it has been surveyed and there is in force a Caribbean Cargo Ship Safety Certificate.
- (5) No ship registered in a country to which the Safety Convention does not apply shall proceed to sea from a port in Montserrat unless a ship is in the possession of documentation which shows that either a ship has been surveyed for compliance with the relevant regulations applicable to a ship as though it was a Montserrat ship or it has been surveyed and is in compliance with the relevant regulations applicable to a ship.
- (6) Where a certificate is issued subject to conditions, or specifies sea areas in which a ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, , that a ship only operates in the specified sea areas.
- (7) The master of a ship shall produce to an officer of customs from whom a clearance for a ship is demanded for an international voyage the certificates or documentation referred to in this section, and a clearance shall not be granted and a ship may be detained until those certificates are produced.

93. Prohibition on proceeding on a voyage or excursion without the appropriate certificate

- (1) Subject to regulations made under section 74, a passenger ship engaged on voyages which are not international voyages shall not proceed on a voyage or excursion unless it has been surveyed and there is in

force a Passenger Certificate applicable to that voyage or excursion.

- (2) Where a certificate is issued subject to conditions, a ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

94. Limit on the number of passengers on passenger ships

The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's passenger Ship Safety Certificate or Passenger Certificate.

95. Offences

- (1) Where a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the regulations made under sections 72 to 74, the owner and master of a ship are each guilty of an offence and liable on summary conviction to a fine of \$5,000.
- (2) Any contravention of section 79(1), section 92(1) to (6) or section 93 is an offence by both the owner and master, and each is guilty of an offence and liable on summary conviction to a fine of \$5,000.
- (3) Where a ship proceeds to sea without section 91 being complied with, the owner and master are each guilty of an offence and liable on summary conviction to a fine of \$5,000.
- (4) Any contravention of section 94, is an offence by both the owner and master and each is guilty of an offence and liable on summary conviction to a fine of \$20,000, or on conviction on indictment to a fine of \$20,000, or imprisonment for a term of 2 years, or to both.
- (5) Any contravention of section 92(7) is an offence by the master and is punishable on summary conviction by a fine of \$3,000.

- (6) It is a defence for a person charged with an offence under this Part to prove that he took all reasonable steps to ensure that the Part was complied with.

96. Power to detain

Where a ship does not comply with the requirements of this Part, a ship is liable to be detained.

97. Arbitration

- (1) Should an owner or any other person making application for a survey required by this Act, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within 21 days of the completion of the survey, on the person responsible for issuing the particular certificate under section 81 or 82 that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him or if there is no agreement to an Arbitrator appointed by the Minister.
- (2) A person is not qualified for appointment as an arbitrator under this section unless he is—
- (a) a person holding a certificate of competency as Master without limitation or as a Chief Engineer without limitation, or a person holding a certificate equivalent to a certificate;
 - (b) a naval architect;
 - (c) an attorney at law with at least 10 years experience in shipping law; or
 - (d) a person with special experience of the shipping industry.
- (3) In connection with his functions under this section, an arbitrator shall have the powers of inspection conferred by the relevant provisions of this Act.

Miscellaneous

98. Penalty for non-compliance with conditions of exemption certificates

Where an exemption certificate, issued in respect of any Montserrat ship, specifies conditions on which the certificate is issued and any of those conditions is not complied with, the owner and the master of a ship is guilty of an offence and each is liable on summary conviction to a fine of \$5,000.

99. Inspection of ships holding Safety Convention Certificates

- (1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship, it is accepted and a ship is exempted from surveys or inspection under this Part, unless there are clear grounds for believing that the condition of a ship or of its equipment does not correspond substantially with the particulars of the Certificate or that a ship and its equipment are not in compliance with regulations made under this Act respecting the maintenance of conditions of the ships and their equipment after survey.
- (2) Where a Certificate is not acceptable due to the circumstances referred to in subsection (1), or if a Certificate has expired or ceased to be valid, a ship shall not be granted clearance and is detained until it can proceed to sea or to the appropriate repair yard without causing danger to a ship or persons on board, and the following person is notified in writing of the circumstances, namely—
 - (a) the local Consular officer of the ship's flag State or, in his absence, the nearest diplomatic representative of the ship's flag State; and
 - (b) nominated surveyors or recognised organisations responsible for the issue of the Certificate referred to in subsection (1).

- (3) A ship referred to in subsection (2) is unduly detained or delayed, it is entitled to compensation for any loss or damage suffered as a direct result of such undue detention or delay.

100. Ships to carry stability information

- (1) A Montserrat passenger ship, regardless of size, and a Montserrat cargo ship having a length of 24 metres and upwards, shall carry on board such information about the ship's stability as may be prescribed.
- (2) The information, a copy of which is sent to the Harbour Master, is based on the determination of the ship's stability by means of an inclining test of a ship but the Harbour Master may allow the information to be based on a similar determination of the stability of a sister ship.
- (3) Where a ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and master are guilty of an offence and each is liable on summary conviction to a fine of \$3,000.

101. Regulations for local safety certificates including fishing vessels

- (1) The Governor acting on the advice of Cabinet may make regulations prescribing safety requirements and providing for the issue of local certificates in respect of—
- (a) fishing vessels;
 - (b) pleasure vessels; and
 - (c) such other classes or classes of vessels as may be designated.

- (2) In making regulations respecting fishing vessels the Governor acting on the advice of Cabinet shall have due regard to the International Convention for the Safety of Fishing Vessels, 1977, as amended by the Protocol of 1993.

SCHEDULE 1

(Section 54)

**INSTRUMENTS AND DOCUMENTS FOR WHICH FORMS
ARE TO BE PRESCRIBED OR APPROVED**

1. Certificate of survey.
2. Declaration of ownership by individual owner.
3. Declaration of ownership on behalf of a corporation as owner.
4. Certificate of registry.
5. Declaration of ownership by individual transferee.
6. Provisional certificate.
7. Declaration of owner taking by transmission.
8. Declaration of mortgagee taking by transmission.
9. Bill of sale.
10. Mortgage to secure principal sum and interest.
11. Mortgage to secure account current, etc. (individuals or joint owners).
12. Transfer of mortgage by individual or joint owners.
13. Transfer of mortgage by body corporate.
14. Deletion Certificate.
15. Transcript of Register.
16. Caribbean Ship Record.
17. Notice of name proposed for Montserrat ship.

18. Ships carving and marking note.
 19. Application to register a ship.
 20. Appointment of authorised officers for a body corporate.
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SCHEDULE 2

(SECTION 66)

PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

DEFINITIONS

1. In this Schedule—
 - “**mortgage**” means an instrument creating a security for the repayment of a loan or for the discharge of another obligation;
 - “**prescribed**” means prescribed in the Registration of Ships Regulations;
 - “**registered mortgage**” means a mortgage registered under section 8(3).

GENERAL

2. (1) Subject to any right or power appearing from the register to be vested in another person, the registered owner of a ship or of a share in a ship may absolutely dispose of it in accordance with this Schedule and the Registration of Ships Regulations.
- (2) Subsection (1) does not imply that an interest arising under a contract or another interest cannot subsist in relation to a ship or a share in a ship; and such an interest may be enforced by or against the owner or a mortgagee of a ship in respect of his interest in a ship

or the share in a ship in the same manner as in respect of any other movable property.

- (3) The **registered** owner of a ship or of a share in a ship may give an effectual receipt for money paid or advanced by way of consideration on a disposal of a ship or the share in a ship.

TRANSFERS, ETC. OF REGISTERED SHIPS

3. (1) A transfer of a registered ship, or of a share in a registered ship, is effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in a ship ceasing to have a Montserrat connection.
- (2) If a ship or a share has been transferred under subsection (1), the transferee shall not be registered as owner of a ship or share unless—
- (a) he has made the prescribed application to the Registrar; and
- (b) the Registrar is satisfied that a ship retains a Montserrat connection and that he would not refuse to register a ship.
- (3) If an application under subsection (2) is granted by the Registrar, the Registrar shall register the bill of sale in the prescribed manner.
- (4) Bills of sale is registered in the order in which they are produced to the Registrar for the purposes of registration.
4. (1) If a registered ship, or a share in a registered ship, is transmitted to a person by lawful means other than a transfer under section 3 and a ship continues to have a Montserrat connection, that person is not to be registered as owner of a ship or share unless—
- (a) he has made the prescribed application to the Registrar; and
- (b) the Registrar is satisfied that a ship retains a Montserrat connection and that he would not refuse to register a ship.

- (2) If an application under subsection (1) is granted by the Registrar, the Registrar shall cause the applicant's name to be registered as owner of a ship or share.
5. (1) If the property in a registered ship or a share in a registered ship is transmitted to a person by lawful means other than a transfer under section 3, but as a result a ship no longer has a Montserrat connection, the Court may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, are to be paid to that person or otherwise as the Court directs.
- (2) The Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case, as the justice of the case requires.
- (3) An application is made within the period of 28 days beginning with the date of occurrence of the event by which the transmission took place, or within such further time (not exceeding one year) as the Court may allow.
- (4) If—
- (a) an application is not made within the time allowed by or under subsection (3); or
- (b) the Court refuses an order for sale;
- a ship or share that was transmitted is liable to forfeiture.
6. (1) If a court, whether under section 5 or otherwise, orders the sale of a registered ship or a share in a registered ship, the order of the Court shall contain a declaration vesting in a named person the right to transfer a ship or share.

- (2) The person so named may transfer a ship or share in the same manner and to the same extent as if he were the registered owner of a ship or share.
 - (3) The Registrar shall deal with an application relating to the transfer of a ship or share made by the person so named as if that person were the registered owner.
7. (1) The Court may, without prejudice to the exercise of another power, on the application of an interested person, make an order prohibiting for a specified time any dealing with a registered ship or a share in a registered ship.
- (2) The Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.
 - (3) The order, when a copy is served on the Registrar, is binding on him whether or not he was made a party to the proceedings.

MORTGAGES OF REGISTERED SHIPS

8. (1) A registered ship, or a share in a registered ship, may be made the subject of a mortgage.
- (2) The instrument creating a mortgage is in the form prescribed or approved under the Registration of Ships Regulations.
 - (3) If a mortgage executed in accordance with subsection (2) is produced to the Registrar, he shall register the mortgage in the prescribed manner.
 - (4) Mortgages are registered in the order in which they are produced to the Registrar for the purposes of registration.

PRIORITY OF REGISTERED MORTGAGES

- 9.** (1) If 2 or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves is, subject to subsection (2), to be determined by the order in which the mortgages were registered and not by reference to another matter.
- (2) The Registration of Ships Regulations may provide for the giving to the Registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the Regulations that, when recorded in the register, determine the priority of the interest to which the notice relates.

REGISTERED MORTGAGEE’S POWER OF SALE

- 10.** (1) Subject to subsection (2), a registered mortgagee may, if the mortgage money or part of it is due, sell a ship or share in respect of which he is registered, and give an effectual receipt for the purchase money.
- (2) If 2 or more mortgages are registered in respect of the same ship or share, a subsequent mortgagee may not, except under an order of a court of competent jurisdiction, sell a ship or share without the concurrence of a prior mortgagee.

PROTECTION OF REGISTERED MORTGAGES

- 11.** If a ship or share is subject to a registered mortgage, then—
- (a) except in so far as may be necessary to do so to make a ship or share available as a security for the mortgage debt, the mortgagee is not because the mortgage to be treated as owner of a ship or share; and
- (b) the mortgagor is to be treated as not having ceased to be the owner of a ship or share.

TRANSFER OF REGISTERED MORTGAGE

- 12.** (1) A registered mortgage may be transferred by an instrument made in the form prescribed or approved under the Registration of Ships Regulations.
- (2) If such an instrument is produced to the Registrar, the Registrar shall register the transferee in the prescribed manner.

**TRANSMISSION OF REGISTERED MORTGAGE
BY OPERATION OF LAW**

- 13.** If the interest of a mortgagee in a registered mortgage is transmitted to a person by lawful means other than by a transfer under section 12, the Registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of a ship or share in question.

DISCHARGE OF REGISTERED MORTGAGE

- 14.** If a registered mortgage has been discharged, the Registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

SPEAKER

Passed the Legislative Assembly this day of ,
2013.

CLERK OF THE LEGISLATIVE ASSEMBLY